

TOWN OF FITZWILLIAM

PLANNING BOARD

Minutes

June 20, 2023

Planning Board Present: Suzanne Gray, Chair; Barbara Young, Secretary; Ed Goodell; Richard Mays; Kevin Woolley; and Martin Nolan, Selectmen's Representative.

Planning Board Absent: Tom Rothermel, Vice Chair; and Robin Peard Blais, Alternate.

Staff Present: Lori Nolan, Land Use Coordinator.

Guests Present: Steve Filipi.

Chair Suzanne Gray called the public meeting to order at 7:00pm and held roll call.

Public Hearing, continued

Case # 22-11: Filipi Contracting LLC – Minor Subdivision (3-lots) at Upper Troy Road. [Map 15, Lot 6-12 – Residential/ Rural Districts]

Gray welcomed Steve Filipi to the meeting. She summarized the case to date and reported that the Planning Board received the final report from David Maclean (Verdantas). Goodell commented that the report seemed to contradict the previous expert findings to say that the aquifer has no effect on house placements and that the builder just needs to respect setbacks. Gray appreciated the comments in regards to the cisterns and wells. Woolley found the report explained the old water system and how it cannot be used with today's requirements. Goodell asked if the Planning Board can require the wells be permanently sealed. Gray did not feel that Planning Board could ignore the issue and felt it could be addressed through a condition of approval for it to be properly decommissioned or fenced in. Filipi agreed and felt the wells must be addressed. However, there are four abutters that have deeded rights to the wells, dating back to the 1800s.

Gray commented that there are abutters who have concerns about effects from filling in the wells. The Planning Board spoke with the DPW Director, who felt with two engineered curb cuts, the design will better channel the water than what is currently existing. Ditches and culverts will direct water to the catch basins, which will ultimately have a positive effect on runoff in this area. Filipi explained that he will be required to create three foot deep ditches, in addition to culverts, per DPW. He will complete the ditching himself, anticipating doing the work in 2024. If the market is good, he will build in 2024 as well.

Gray asked the Planning Board if there should be a condition of approval for the developer to return to the Planning Board with the building plans, including stonewalls, runoff and vegetation changes. Filipi stated that he will use a certified wetlands scientist (Sharon Monahan) to obtain permits from the State, but he is willing to reflag the property. He is unsure, at this time, if he will need any wetlands crossing and/or dredge and fill permits. Young felt there is no need to return as there are regulations in place already in regards to the siting of structures.

Gray asked if access to Lot 12 will continue to use the existing common driveway. She also asked if any repairs or maintenance of the driveway is needed. Filipi stated that only normal maintenance is needed. Currently there are no culverts under the common driveway, including to the top of the hill. Gray commented that NHDES recommends using the same materials as existing. Filipi added that there is a turn-around area for EMS approximately 300 feet down common driveway and another turn-around 600 feet further down by the residential house.

The Planning Board then discussed the Findings of Fact and conditions of approval.

Gray motioned to approve the following Findings of Fact. Mays seconded. Motion passed unanimously.
Yes: 6 [Gray; Young; Goodell; Mays; Woolley; M. Nolan]; No: 0; Abstained: 0

Findings of Fact:

1. Proposal is for a 3-lot subdivision where Lot 6-12 will be divided into three lots. Lot 6-12 will become 42.27 acres with 257.93 feet of frontage; Lot 6-16 will be 3.25 acres with 140 feet of frontage; and Lot 6-17 will be 2.0 acres with 137.18 feet of frontage.

2. Lots 6-16 and 6-17 will be completely within the residential district; while Lot 6-12 will be in both the residential and rural districts.
3. Lot 6-12 has a deeded easement for a cell phone tower with access provided through an existing common drive.
4. Lot 6-12 will be accessed by an existing gravel road, which is a common driveway currently servicing two residential lots and one lot with a cell tower to avoid wetlands impact and reduce impact to forested areas.
5. Lots 6-16 and 6-17 will require new curb cuts from the DPW.
6. Building envelopes are shown on the proposal plan and perc test were completed for each lot.
7. Wetlands have been identified on the property, which when developing the lots, will require wetlands crossings and engineered driveways with culverts.
8. There was a prior subdivision plan in 2007. A report by hydrologist *Covel and Associates* depicted a “no build zone” because of a bedrock aquifer area. *Covel and Associates* is no longer in business, and despite attempts, the consultant who completed this report could not be located.
9. With permission of the applicant, the Planning Board hired David A MacLean, hydrogeologist with *Verdantas* (Manchester, NH) for opinion on the proposed subdivision on the bedrock aquifers, potential contamination of the aquifers and if the “no-build” zone depicted by *Covel and Associates* is still relevant and list of usage conditions is necessary. David MacLean and members of the Planning Board, Conservation Commission and concerned abutters conducted a site walk on May 5, 2023.
10. The Conservation Commission was consulted and submitted a report dated Jan 31, 2023, citing concern for the amount of water flow in the area which would present challenges for development. The Conservation Commission supported the Planning Board hiring an expert for consultation.
11. The Planning Board received public comment from three (3) abutters, concerns were raised around water run-off issues.
12. The Planning Board consulted with the DPW Director regarding culverts, swales and the addition of another residence on the existing common driveway.
13. The Town of Fitzwilliam does not have a bedrock aquifer ordinance or zone.
14. Upper Troy Rd is a Class 5 town-maintained road.
15. Findings of Verdantas in letter dated June 2, 2023:
 - a. No technical rationale for the “no-build” zone. There had been a former drinking water system in this area, which has been abandoned. There are three historic cisterns in the area of this project, which were reportedly connected to the village water system at one time. They would not be a viable resource due to surface water contaminants, which was confirmed with NHDES.
 - b. *Verdantas’* conclusion is *Covel and Associates’* intent was to protect the cistern water system from contamination.
 - c. NHDES has requirements for securing well covers and these wells/cisterns must be secured in accordance with Section 485.37; Title L “Water Management and Protection Chapter 485, NH Safe Water Drinking Act.
 - d. Single family residential lots are routinely developed within mapped aquifer areas with proper septic design and wetland setbacks.

Gray motioned to approve the application for Filipi Contracting LLC for a minor Subdivision (3-lots) at Upper Troy Road. [Map 15, Lot 6-12 – Residential/ Rural Districts], subject to conditions. Young seconded. Motion passed unanimously.

Yes: 6 [Gray; Young; Goodell; Mays; Woolley; M. Nolan]; No: 0; Abstained: 0

Gray motioned to add the following conditions to the approval. Woolley seconded. Motion passed unanimously.

Yes: 6 [Gray; Young; Goodell; Mays; Woolley; M. Nolan]; No: 0; Abstained: 0

Conditions:

1. Driveway permits include stormwater management systems including culverts and ditches as approved and monitored by the DPW Director.
2. Condition of approval is to pay the expert’s fee.
3. Delineate and flag wetlands prior to construction.

4. Must comply with Section 485.37; Title L "Water Management and Protection Chapter 485, NH Safe Water Drinking Act, Private Water Sources.
5. Common drive shall remain 16 feet wide in keeping with the aesthetics of the neighborhood.
6. Compliance with all applicable town and state regulations and permits.

Therefore, the application for Filipi Contracting LLC for a minor Subdivision (3-lots) at Upper Troy Road [Map 15, Lot 6-12 – Residential/ Rural Districts], subject to conditions, was approved.

REVIEW OF MINUTES

After a brief discussion and two minor edits, **Young motioned to approve the minutes of May 16, 2023 as amended. Goodell seconded. Motion passed.**

Yes: 6 [Gray; Young; Goodell; Mays; Woolley; M. Nolan]; No: 0; Abstained: 0

OLD BUSINESS

Enforcement: The Planning Board briefly discussed the letter received from NHDES in regards to Turnkey Lumber.

Master Plan: The Planning Board agreed to hold a working session to work on the first five chapters of the Master Plan on July 18 at 6:00pm.

With no further business to discuss, **Young motioned to adjourn the meeting. Mays seconded. Motion passed unanimously.**

Yes: 6 [Gray; Young; Goodell; Mays; Woolley; M. Nolan]; No: 0; Abstained: 0

The meeting was adjourned at 9:01 pm.

Respectfully Submitted,
Lori Nolan
Land Use Coordinator

Minutes approved as written on July 18, 2023.