



PLANNING BOARD

Town of Greenland • Greenland, NH 03840

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MINUTES OF THE PLANNING BOARD PUBLIC HEARING

Thursday, September 19, 2013 – 7:00 p.m. – Town Hall Conference Room

Members Present: Chair Stu Gerome, Chip Hussey, John McDevitt, David Moore, Paul Sanderson, Rich Winsor, Alternate Steve Gerrato

Members Absent: Selectmen's Rep Mo Sodini

Staff Absent: Dylan Smith – RPC Circuit Rider

Chair Gerome opened the Planning Board meeting at 7:00 p.m. A roll call was taken by the Chair; he announced a quorum was present and the meeting was being recorded.

1. Adoption of Revised Planning Board Rules of Procedure

The revised Planning Board Rules of Procedure were reviewed by the Board. Mr. Sanderson stated that the Rules of Procedure were incomplete and did not deal with the pre-preliminary, conceptual or design review procedures, a check list for determining if an application is complete, or deadline dates. Also to be addressed are: a time frame for design review, the number of continuances that are acceptable, or when re-noticing should occur. He felt those items were an important part of the procedural process and should be available. The Board briefly discussed adopting the Comprehensive Application as part of the procedural rules.

Chair Gerome opened the meeting to public comments; there being none, he closed the public hearing and returned to the Board for discussion. Mr. McDevitt stated that if Board members had specific revisions, they needed to forward them to Mr. Smith for the next work session.

The revision of the Rules of Procedure will be continued to the work session on Thursday, October 03, 2013.

2. Subdivision of Land: 945 and 1031 Portsmouth Avenue [Map R10, 30; Map R10, 31A]

Owners: Troy and Diane Thibodeau; Brian Beck

Applicant: Ambit Engineering

The owners and applicant are proposing to consolidate 945 and 1031 Portsmouth Avenue, and to develop the combined lot as a Conservation Subdivision.

The owners and applicant requested a continuance to the October public hearing.

MOTION: Mr. Hussey moved to continue 945 & 1031 Portsmouth to the public hearing on Thursday, October 17, 2013. Second – Mr. Sanderson; all in favor. MOTION CARRIED

3. Subdivision of Land: 410 Breakfast Hill Road [Map R 1, 10]

Owner: Breakfast Hill Road Trust I, II & III

Applicant: Chinburg Builders

The owner and applicant are proposing a ten (10) lot residential subdivision development with approximately 1300' of roadway on 29.6 acres of land.

Christian Smith, Beals Associates and representing the owner and applicant, addressed the Board. Also present were Scott Gove, The Gove Group, Peter Doyle, attorney for the Sewall's, and Mary Ann and Steven Sewall, Breakfast Hill Trust I, II, & III. Mr. Smith noted for the Board that DOT approval had been received. They received a request from the Conservation Commission for surface water sampling of the standing swamp water; the results were given to the Board. All of the volatile or semi-volatile organic compounds came in completely undetectable. There were some hits on sodium, calcium, metals, sulfur, and other minor substances you would find in a standing water swamp.

Mr. Smith reviewed the outstanding items with Altus (copy on file).

- The DOT permit has been received.
- The construction cost estimate will be done upon conditional approval.
- They have met at the site with the Coakley Landfill Group, EPA and DES regarding the existing wells. Mr. Smith stated it's the owners understanding that the wells were installed as part of the Rye Landfill closure. The EPA has requested that the wells remain; the developer is in agreement with that request. Mr. Smith continued that one of those exists within the drainage easement for the retaining pond; the easement could be extended to capture the second well, adding to the easement that the EPA has access to the wells for sampling purposes.
- A DOT permit has been received for the highway access plan.
- Cross Sections: The location of the cistern had to be moved after discussion with the Fire Chief. The cistern is at a high point in the road, and culverting is not necessary. This has been corrected and the culverts on the cross sections have been eliminated.
- Cistern details have been corrected. Mr. Smith did have plans indicating the changes. The DOT permit was included, as well as a revised cross section sheet.

Mr. Smith also responded to the Circuit Rider's comments. The outstanding issue was the memo from the EPA. The engineer received a memo from them on September 13, indicating they had a final vote with the Coakley Landfill Group, EPA and DES; they were in agreement they wanted to maintain the monitoring wells.

Mr. Smith also discussed the email dated September 16, which recommended the Board not make a decision until the EPA drafted a memo. Mr. Smith continued that he had discussed the email with the Town Engineer. If a condition of the approval were to be satisfactory resolution of any issues in the memo from the EPA and/or DES, the Town would not have any liability. If there are irreconcilable differences, it's a moot point. If the EPA decides they are going to encumber the entire parcel with the groundwater management zone (GMZ), again it's a moot point. In Mr. Smith's opinion, the Town Engineer didn't feel it was putting the Town in a liability position.

Mr. Hussey asked Mr. Smith why the analytical reports were not included in the initial submission of the application. He added it was the first time the Board had seen the memo. Mr. Smith responded they were submitted to the Town on April 16, 2013 by NHDES. There was a discussion about where on the property the sample was taken. Mr. Smith showed the Board on the plan where the samples were taken. He stated that they have not seen the results from the residential well that was tested. Mr.

Hussey continued that the Conservation Commission had no objections to the project with the exception of the wells. Mr. Hussey further stated that he did not want the Town to have to pay to run water to the development if something were found at a later date. Mr. Smith agreed and felt that would never be the case. He continued that whatever resolution took place with the EPA and DES, it will be spelled out in the event there was a hit for positive on this property. Mr. Smith reiterated there have not been any positive hits. However, mitigated measures would be built in, and there would be clear and concise details on who was responsible for what; the Town was not contemplated to be.

The private well indicating the 1,4-Dioxane is approximately two (2) lots beyond the railroad tracks (500' to 1,000'). The groundwater flow is northwest from the Coakley Landfill. Mr. Smith stated they have been in contact with the Rye Landfill Group. The groundwater contours run from that site across Rt. 1 and into Rye; the proposed development is up-gradient from a groundwater perspective.

Mr. Winsor asked where the GMZ was going to be extended. Mr. Smith explained that the contemplated revision is a very thin swath which includes the headwaters, residential well R3, and along the railroad bed. The engineer was recently made aware that extending into the property was being considered.

The only outstanding issue for the Board was the water. Mr. Smith was asked what the resolution would be if there was a positive hit at a later date. He responded there could be individual treatment means or the Town could go back to the Rye Water District; the edge of the Rye Bethany Church parking lot is 250' from the property line.

Mr. Sanderson stated that all the issues had been dealt with and they were ready for a conditional approval. He explained that a conditional approval was an interim step; the Board could add a condition preceding dealing with the resolution of the water. He continued that the Board did not want to participate in regulatory taking. This was an issue for the EPA and DES, not the Town of Greenland. Mr. Smith added that if the Board granted a conditional approval, the owners would be protected with a vested value of a baseline ten (10) lot subdivision, as opposed to a blank piece of land.

Mr. Smith responded to Mr. Winsor's concerns that State and Federal approvals are commonplace conditions of approval. The State statute doesn't require any administrative decision-making by the Planning Board. Mr. Winsor continued that if the GMZ was extended onto the property, what would be the remedial actions if there is a hit? Is the Town involved, and does the Town have a voice in that discussion? Mr. Smith assured him that they would keep the Board and Town informed of any and all documentations and meetings with the EPA and DES.

Mr. Smith continued that if the GMZ is extended over the property, that would be considered taking. They would eliminate the property owners civil rights of free ownership. At that point, the parcel would likely be undevelopable and reach a monetary solution.

Mr. McDevitt asked if he was correct that in the letter they were concerned that the extraction of groundwater from the ten (10) wells on site may interfere with the remedy downstream at the site. Mr. Smith agreed partially, adding they fear it could draw water from contaminated groundwater in either direction. Mr. Smith continued that they walked the site to view the wells in mid-August, and a decision was reached three (3) weeks later. On September 13 they sent an email stating that they would like to keep those; if they were a visual problem, they would make them flush mounted wells and would like documentation and photographic evidence at the completion of the project. On September 16 an email contrary to the September 13 email was sent.

Mr. Moore asked who would be responsible for monitoring the wells. Mr. Smith responded it would probably be part of the document received on Monday. All wells will be initially tested, but thought it would be the homeowners responsibility.

Chair Gerome suggested some type of expertise be provided. Mr. Smith stated there was the potential to hire a geologist as discussed with Mr. Ramos. A pump study would involve all the wells in the area, including the golf course and nearby residential areas. Chair Gerome stated that the science behind the inability of ten (10) wells to reverse groundwater flow would be helpful.

Mr. Hussey agreed with Mr. Sanderson, adding that the Planning Board needed to protect the residents and Town. He suggested that as part of an agreement with the EPA a well in the development must be tested and monitored. Mr. Smith responded that that a well had already been tested and all others would be done as they were installed. He continued that before a well could be dug, there would need to be a resolution. There will be full disclosure to potential buyers.

Chair Gerome opened the meeting to public comments. Peter Doyle, attorney for the owners, addressed the Board. He stated they were in complete agreement with the developers. A conditional approval was helpful to all concerned. Mr. Doyle felt the conditional approval would address the Board's concerns in dealing with the EPA, and was in the best interest of all concerned. The public would be protected with a conditional approval. There being no other comments, Chair Gerome closed the public hearing and returned to the Board for discussion.

Chair Gerome stated that from a Board perspective they would like to see a document created to deal with drawing contaminated groundwater. Mr. Sanderson stated that the evidence presented by the applicant indicates clean water. If they did a study based on existing conditions, the result will be clean water. Rather than more expert data, what is needed is something to deal with the GMZ and the Coakley Group. He continued that the condition should be if the EPA and DES will have some sort of regulatory control over the water or not. Water quality testing is not required on any other residential well in any other subdivision before the Board. Chair Gerome added that the Board is trying to ensure safety. The issue was not the clean water samples now, but when ten (10) wells were drawing water—could that be a potential problem? Mr. Hussey asked if there was any way for the EPA to intercept problems before they reached the homeowner. Mr. Smith added that all of the five (5) year reports he's read indicate that the plume is not moving; Mr. Ramos agreed with him and said they needed to confirm that the 1,4 Dioxane was coming from the landfill. Mr. Sanderson added that if something were to happen to the water, the liability goes to the PRP's, or Coakley people; it would not be the Town because the Town doesn't supply water or guarantee that water is healthful or will stay healthful on any residential well.

Mr. Sanderson suggested that the conditional approval be based on the Subdivision Regulations, indicate it is a condition preceding, and the applicant must show there is an adequate supply of healthy water with every building permit: a well would be tested at the time it is drilled in order to obtain a building permit. It was further suggested that approval must be granted by the EPA and DES.

The only open condition preceding is to provide stamped construction costs. The condition preceding of granting building permits would be Subdivision Regulation Article 4.4.9: prior to the issuance of a building permit, water test results must be provided. It is also a condition for a Certificate of Occupancy Permit.

MOTION: Mr. Winsor moved to grant a conditional approval for a ten (10) lot residential subdivision development with approximately 1300' of roadway on 29.6 acres of land, located at 410 Breakfast Hill Road, Map and Lot R1, 10. The following conditions apply:

- All concerns illustrated in the Town Engineer's comments of September 13, 2013 and the Circuit Rider's comments of September 18, 2013 are to be addressed satisfactorily and must meet the regulations of the Greenland Zoning Ordinance and Subdivision Regulations. Any deviations from the existing regulations, or changes to plans as submitted by Beals Associates (dated April 16, 2013 and revised September 10, 2013), must be presented to the Town of Greenland Planning Board.
- Applicant must comply with Article 4.4.9 of the Subdivision Regulations.
- Water test results must be provided prior to the issuance of a building permit.
- No building permit shall be issued until the mylar is signed.
- Any and all State and/or federal permits shall be obtained and made part of the file.
- No occupancy permit shall be issued until such time as the requirements of the fire protection system have been installed, tested and accepted in accordance with the Site Plan Review Regulations.
- Any and all fees due to the Town of Greenland and its consultants must be paid before the mylar is signed and recorded.
- A road construction security and inspection agreement must be completed with the Town of Greenland before the mylar is signed and recorded.
- The Town Engineer can agree to minor road plan adjustments in the field. All such agreements are to be reported to the Planning Board. All other changes must be referred to the Planning Board with the proper request and revised plans.
- The applicant must provide the Town of Greenland with "as built" plans for the construction of the roadway, all drainage facilities and utilities prior to the release of the road construction security and inspection agreement.
- For the duration of the roadway construction phase of the project, the applicant shall be required to maintain construction warning signs notifying motorists of construction in progress. This must be coordinated with the Greenland Police Department.
- A pre-construction meeting must be held with the Building Inspector prior to any building permits being issued.
- The Town Engineer, paid for by the applicant, must inspect the installation of erosion and sedimentation control measures, septic or sewer system installations and stormwater drainage systems to ensure compliance with the approved plan.
- Boundary monumentation must be set and certified with the Certificate of Monumentation received for the file before the mylar is signed and recorded.
- Any variances or waivers granted must be keyed to the final plan.
- No changes to the approved plan(s) can be made without appearing before the Planning Board.
- The mylar must include a note requiring that street numbers for new homes be assigned by the appropriate Town of Greenland official, and must be visible from the road.
- Erosion control measures must be in place and maintained throughout the duration of project construction.
- The applicant must submit a final full plan set (22"x34") and an 11"x17" plan copy as part of the Planning Board file.
- The applicant must submit digital (CD ROM or thumb drive) of the final full plan set as part of the Planning Board file.

Second – Mr. McDevitt

DISCUSSION: Mr. Winsor included comments from the Circuit Rider, which were not discussed, and included compliance with AOT standards. Mr. Smith responded they have discussed this with the Town Engineer, and he has signed off. Safe drinking water has been discussed; landscaping was addressed at an earlier meeting. Also of concern was that boundary monumentation had to be set before the mylar was signed. Normally, an escrow is set aside for the installation of boundary monumentation after the house is built, not before the construction process starts. Mr. Smith added they include monumentation costs as part of the construction cost estimate and is bonded.

MOTION: *Mr. Winsor moved to approve the motion as amended to include: Boundary monumentation must be included as part of the construction cost estimate. A certified Certificate of Monumentation must be received for the file prior to the issuance of an Occupancy Permit. Second – Mr. Moore; all in favor. MOTION CARRIED*

4. Approval of Minutes: Thursday, September 05, 2013

MOTION: *Mr. Winsor moved to approve the minutes of Thursday, September 05, 2013. Second – Mr. Moore; six (6) in favor, one (1) abstain (Mr. McDevitt). MOTION CARRIED*

5. Topics for the Work Session: Thursday, October 03, 2013

Planning Board Rules of Procedure will be added with the requested revisions (see Item 1, above).

6. Other Business

There was a very brief discussion regarding emails to be included as part of the file for 945 and 1031 Portsmouth Avenue. This was continued to the public hearing on Thursday, October 17, 2013.

Zoning Ordinance deadlines were reviewed by Mr. Sanderson.

7. Adjournment

MOTION: *Mr. Hussey moved to adjourn at 8:10 p.m. Second – Mr. Winsor; all in favor. MOTION CARRIED*

NEXT MEETING

Thursday, October 03, 2013 – 7:00 p.m., Town Hall Conference Room, Work Session

Respectfully Submitted – Charlotte Hussey, Secretary to the Boards

Approved: 