

PLANNING BOARD MINUTES
August 14, 2017
CASCO COMMUNITY CENTER
7:00 P.M.

MEMBERS PRESENT: Bob Barnes, Ray Grant, Jim Macklin, Edward Phipps
& Lynne Potter

MEMBERS ABSENT: Ted Beckner & Stan Buchanan

STAFF PRESENT: Alex Sirois, CEO; Jim Seymour, Town Planner & Sandy Fredricks,
Planning Assistant

PUBLIC PRESENT: Beverly Chamberlain, Brian Chamberlain, Tom Smith, Debbi
Webber and Mark Kingston

Lynne calls the meeting to order at 7:00 p.m.

Lynne states the first item on the Agenda is approval of the July 10, 2017 Minutes.

Ray moves to approve the Minutes as written.

Jim seconds.

Any discussion? None.

All in favor? 5 yes (Bob, Ray, Jim, Edward & Lynne) – 0 no – 0 abstain

Lynne states the next item on the Agenda is an application filed by Thomas F. Smith, Esq. on behalf of Brian and Beverly Chamberlain for Site Plan approval for property known as Map 8, Lot 14-A located on West Fountain Hill Road and commonly known as Settlers Village. Site Plan review is requested to divide the property into individual lots pursuant to the Contract Zoning Agreement approved by Town Meeting on June 14th, 2017.

Tom reintroduces himself to the Board and those present and thanks Jim Seymour for the Review Memo and further states that Brian will be addressing most of the items raised in that Memo as he has been handling those issues.

Tom continues that the Homeowners Association documents have been recognized by the State as a Non-Profit entity. He goes on to explain that as lots are sold, the Chamberlains will be deeding the Common Areas to the Homeowners Association. The Amended Contract Zone Agreement has been forwarded to the Registry for recording, however the recorded document has not been received as of this date.

Tom turns the presentation over to Brian to address the items in Jim's memo. Brian addresses the Board by stating as far as he knows everything is going along. He continues that Alex and P & K were both on-site last Friday regarding the road and they will be doing more work to meet the standards requested. Additionally, he states that they built a bridge over the little river but still have to build some areas up and put in walkway over one of the culverts so that no one is walking directly on the culvert.

Brian continues that they have closed off the false door on the one building as requested by the Fire Department; additionally all the houses will be numbered as requested by the Fire Department; we have the numbers but they haven't been put on yet. He further states he will get them up soon.

Bob asks Alex if he's visited the site. Alex states he was there last Friday; it's all looking good. He continues that P & K is supposed to be there next week for additional work.

Lynne asks Jim S. about items 1 through 9 in the Memo to be noted on the Plan. Jim S. states that yes, the items from the CZA approved at Town Meeting there were six (6) notations to be on the Plan. He continues that in the Technical Review portion of the Memo there are nine (9) additional items to be addressed as follows:

1. The Planning Board will need to approve to amend the actual Subdivision Recording Plan and note that this plan amendment supersedes previous lot of record. (Those plans shall be noted with recording date, book and page reference). The Plan to be recorded will need to also include a note that will reflect that the plan will need to meet the requirements of the new CZ Zoning Requirements. (Notes to previous Board of Appeals changes to setbacks shall be removed as this is part of the new CZ action. The plan shall be called Amended Subdivision for Settler's Village.
2. The Plan shall appropriately show all the wooded buffers that were established around the entire parcel as shown on the final CZ drawing.
3. Actually all of the mutual covenants that were made in the CZA should be noted or shown on the drawing
4. There will be a need to condition the plans for development and recording of a homeowner's agreement to discuss common road improvements, utility replacement/repairs, or maintenance.
5. The road repair has been partially completed, a report will be required to give the Planning Board an update of what has been completed, what is needed, and when the private street repairs and improvements will be completed.
6. Our recollection was that there were several cross easements needs for many utilities to benefit one or more lots, by crossover lines, (sewer, water, & electrical). Those too should be discussed and noted on the plans, as well as the final location for each lots final septic disposal field.
7. The final plan will require that property irons or monuments be set on all the newly formed lot corners and on the actual road ROW to define curves.

8. Since this is an amended subdivision plan the Board will need to determine if any of the other criteria for Final Subdivision Plan is needed.
9. The Subdivision Plan shall reference the date of CZA approval and recording as well.

Jim continues that once the road is found acceptable, the date should be noted and acknowledged either by Alex or himself.

Jim continues to review the items required as follows:

A - We need to be sure the current Plan shows the correct buffer

B – We need to be certain the Notes referring to the current CZA are also on the Plan.

C - We need a Note on the Plan clearly stating that this Plan supersedes the previous plan.

D – We need the Mutual Covenants Noted on the Plan.

E – A Note needs to be on the Plan that their Homeowners Association has been established and recorded.

F – Now that it is no longer condos, we need to see either the cross-easements or a Note on the Plan that the cross easements will be contained in the individual Deeds.

G – We need to see the symbols on the Plan for the pins being set for each lot.

Jim continues that clearly the Board can accept the Site Plan application and process it through next meeting and give Final approval.

Lynne states she would like to see the updated Final Plan at the next meeting.

Jim M. moves to accept the application as complete.

Bob seconds.

Any discussion? None.

All in favor? 5 yes (Bob, Ray, Jim, Edward & Lynne) – 0 no – 0 abstain

Lynne asks if there is anything from the public as this is a Public Hearing. Being no one who wishes to comment or question, Lynne closes the Public Hearing.

Lynne asks what the Board's wishes are.

Bob states he also would like to see the updated Plan and if it is all in order, the Board can sign it.

Jim S. suggests that Brian give the list of Notes needed from his Memo to the surveyor.

Bob asks for clarification that the Homeowners Association has been accepted by the State and that that is an annual process.

Tom explains that it is an annual process and as the properties are conveyed, the Deeds will have reference in them to any Easements as necessary and will have the information about the Homeowners Association taking over maintenance from Chamberlains.

Bob moves to table this matter until next meeting with the understanding they are going to amend the Plan per Jim Seymour's Memo and complete the road work as noted.

Jim seconds.

Any discussion? None.

All in favor? 5 yes (Bob, Ray, Jim, Edward & Lynne) – 0 no – 0 abstain

Lynne states the next item before the Board is a discussion only with Ray Grant regarding a Zoning Change from Village to Commercial for properties on Route 302.

Ray states he has copies of the two (2) lots that he would like put into the Commercial zone. He continues that these lots have been engineered, had the water run off addressed, soils tests have been done and would like to know what he needs to do to change them to Commercial.

Jim S. asks how close the Village district is; is the cemetery Village zone. Alex states the cemetery is Village. He continues that it is Village underlying the Wetlands protection; there is about 1000' of Commercial zone across the street from this property.

Bob asks what Alex sees as hurdles. Alex states that hurdles will be Town Meeting. Alex states that technically, it can only be done if it abuts Commercial property which is across the street.

Ray states the land next to the cemetery is held in Loon Echo Land Trust so it can't be developed. He continues that the property before his is owned by Eel Weir and if they were part of the zone change, it would increase their value, but wouldn't be useful to them.

Jim S. states if we are going to look to change the zone for two properties, we should change them all, or at least, the owners should be approached.

Bob asks if the abutting properties would be notified. Jim S. states, yes, they would as part of the process. Jim S. asks why Ray is looking to change the zoning from Village to Commercial. Ray states it is for the uses allowed.

Bob states it makes sense to him to look at this; he doesn't believe it would be desirable for residential.

Lynne states the other side of that start picking the Town's zoning here and there we are on a slippery slope. She asks how many accidents are in that area and states she can see it as a traffic and accident issue.

Alex states that his next comment was going to be about those issues. Stan was in his office last week inquiring what the process would be to have the speed limit changed there due to the number of accidents from the area of Hawthorne's Attic and those businesses. Alex asks Jim S. if traffic can be taken into consideration by the Board. Jim states that it is a factor.

Jim S. states that the buffers are the same whether it is in Village or Commercial if it is a Commercial use.

Ray states that Commercial zoning would have greater setbacks. Jim S. states that Village is 40' and Commercial is 80'. Alex states that Village vs. Commercial the uses are fairly similar, but it limits the size in the Village. Jim S. states that the lot sizes have to be larger in Commercial; Commercial has to be 80,000 s.f. and these lots are 60,000 s.f.

Lynne asks what the "squares" are on the plan; Ray states they are proposes building envelopes.

Alex and Jim agree that the lots would have to be combined into one commercial lot.

Bob asks how far off the road the lots are located. Jim S. states that currently they are 40' and if it is changed, it would need to be 80'. Jim S. further states that nutrients from Commercial use would have to not go over the property lines.

Jim S. states that to avoid the potential of Spot Zoning, he believes the abutting property should be advised of the possibility of the zone change.

Ray states it may be in the Village Zone, but they are a Commercial use.

Alex states we don't have an Industrial Zone so our Commercial Zone is for all those types of uses like auto body shops et cetera that you don't want in the Village zone.

Jim S. states that during Site Plan Review, you have all the Performance Standards as well.

Lynne asks what happens if a business is allowed, but then it leaves the location, does it then come back to the Planning Board. Alex states that it depends on the type of use; it could be through Staff Review.

Alex explains that the Board either needs to carry this forward or if Ray needs to pursue one of the other two avenues available.

Lynne states she, personally, doesn't feel comfortable with five people looking at this and doing spot changes. She continues that she would like to see it as a petition.

Bob states that he feels it is a good concept, but he feels it should include Eel Weir otherwise he has a problem with it being spot zoning.

Jim M. states he would like to see input from the abutters to see if they are supportive of the change or not.

Lynne states she doesn't have a problem with the concept, she has a problem with spot zoning.

Jim S. states they are supportive of the Commercial uses but would like to see input from abutters.

Alex explains the different ways to go ahead with the requested change. Ray states that by going through the Board, he felt they would have more control over things. Lynne states she would just like more input from the abutters and/or the Board of Selectmen. Bob states that if the Planning Board wants input from the Board of Selectmen, we can ask for it.

Ray states the Eel Weir property cannot be Commercial as the lot is too small; it wouldn't be advantageous to him even though the value of the land would be greater, it can't be utilized.

Jim S. asks Alex if the zone were changed, would that lot (Eel Weir) be grandfathered. Alex states he is trying to figure that out, because it would be making a non-conforming lot even more non-conforming regarding expansion.

Ray states he doesn't see this being resolved here, so he will either go to the Board of Selectmen or Petition.

Lynne states that the Board has received an inquiry regarding change of procedure in the Ordinance for Variances. Mark Kingston steps to the microphone and states he is here to discuss this topic with the Board.

Alex states the rules are set by State Statute and/or Comprehensive Plan.

Mark states that §4353 tells what they need to do to qualify for a variance. If you follow State law, you should follow all the sections. He continues that reasonable return shouldn't be a criteria. He states he lives on a private road and doesn't affect anyone else who doesn't live on his road. The setback are too high and they aren't part of the State Statute. He hands out a paper and states he is grandfathered because he has his property since before 1971 and we have the right for extra structures.

Jim S. states that 1971 was when Shoreland Zoning came into effect. He continues that he feels he Board may need to ask for legal assistance from Natalie on how it gets revised or change and what process the Town has to follow.

Ray states it was the Board of Selectmen and the Comprehensive Plan that created this. He continues that he believes Mr. Kingston should be talking about this issue to the Board of Selectmen.

Jim S. states that he believes we should find out from Natalie what are the ways to get this accomplished and proper procedures to do so either way.

Mark states that the Certified Mail is not necessary; he doesn't see why he can't just get letters from each person stating they are in agreement. Bob states if this were to be done, each letter would need to be notarized.

The Board ends discussions.

Bob moves to adjourn.

Jim seconds.

Any discussion? None.

All in favor? 5 yes (Bob, Ray, Jim, Edward & Lynne) – 0 no – 0 abstain