PLANNING BOARD
TOWN OF PETERBOROUGH, New Hampshire

Minutes of February 14, 2011

Members Present: Chairman Leandra MacDonald, Richard Freitas, Michael Henry, Rick Monahon, Ivy Vann, William Groff and Barbara Miller.

Also Present: Carol Ogilvie, Director Office of Community Development, Laura Norton, OCD Administrative Assistant; and Dario Carrara, Code Enforcement Officer.

The Peterborough Planning Board held its regular monthly meeting on February 14, 2011 in the Selectmen's Meeting Room of the Town House, beginning at 6:30 p.m. with a Public Hearing on the Wetland Proposal. The agenda also included a Preliminary Consultation with the Well School to merge two lots and create an Open Space Development consisting of five existing cottages and eleven new single-family homes; and a request for an approval extension for RiverMead.

Chair MacDonald called the Hearing to order at 6:30 p.m. She welcomed the audience and introduced the Board members and staff. She asked that anyone wishing to speak please state their name for the record. Chair MacDonald noted that the Planning Board met every month "whether we have cases or not" and invited the audience to "come and visit us anytime." Chair MacDonald noted that while this was their regularly scheduled monthly meeting they would begin with a Public Hearing on the Wetland Proposal for 2011.

Ms. Ogilvie did a brief presentation for the members and audience that basically consisted of two slides. The first slide pointed out the highlights of the revised proposal including:

-The existing 50-foot buffer was to be designated as a naturally vegetated area
-The buffer shall apply to all wetlands over 10,000 square feet
-The buffer edge shall be monumented with identification tags

The second slide reviewed the Exceptions for pre-existing storm water management devices, sedimentation/detention basins or ponds, Accessory structures and/or additions to legally existing non-conforming one or two-family primary structures (provided they do not encroach any closer to the wetland). This slide also included Conditional Use Permits from the Panning Board that included streets and driveways within the overlay district and accessory structures and/or additions to legally existing non-conforming multi-family or non-residential primary structure (provided they do not encroach any closer to the wetland).

Ms. Ogilvie noted this was the fifth Public Hearing on the Wetland Proposal, adding "the draft dated 2-14-11 is a radical change from the proposal you have been seeing over the past year." She reiterating the change in the minimum square footage for a wetland (from 20,000 square feet to 10,000 square feet), the fact that the point system "goes away" and the Special Exception process would now be a function of the Planning Board through Conditional Use Permits. Ms. Ogilvie concluded by noting "that is basically it."

Jim Stewart introduced himself and asked about the monumentation process. He noted the language under Site Plan Review adding "it looks similar to a zoning regulation where it talks about the general application and guidelines the applicant must follow for their project" then asked "where do they differ?" Mr. Stewart also noted "keeping and maintaining signs on property needs to be in zoning by law I think." Ms. Ogilvie replied "it has never been suggested that the monumentation tags be considered signs or fall under our current sign ordinance." Mr. Stewart responded by reading a portion of the sign ordinance with Chair MacDonald noting the Board would seek legal advice on the matter.

Tammy Christy introduced herself and asked abut the motivation or intention of the changes in the proposal. Chair MacDonald gave a brief review of the need for an engineered plan when requesting a wetland crossing. She noted the expense involved "to get a thumbs up or thumbs down decision." She added "our thought is for more of a planning action where you can look at other aspects of the proposal to weigh the best place for a crossing while in a planning mode." Chair MacDonald also added that as she understood it, the State wanted Planning Boards to be more involved a planning function versus the Special Exception function. Ms. Christy asked if the ZBA supported the proposal with Maude Salinger replying "we are not taking a position as a Board – one way or the other" adding "individual members may have expressed opinions." "What is yours?" asked Ms. Christy.

Before Ms. Salinger replied Mr. Stewart noted "I would be happy to answer that." He went on to note "I understand what you are trying to do" adding "but for the average property owner to delineate their wetlands for streets, driveways or other access ways is a financial burden." He went on to note the current system was used by 234 towns adding "it is a good system." He noted the process of reducing the buffer when Chair MacDonald interjected "reduce? There is no reducing, no reductions at all." Chair MacDonald briefly reviewed the §233-51 *Conditional Use Permits* that may be granted by the Planning Board for changes in ***uses*** within the Wetland Protection Overlay Zone. A brief discussion about Conditional Use Permits, Waivers, Regulations and potential conflicts in the RSA and the Standards used to make waiver decisions followed. It was noted §233-48 *Waivers and Modifications of Regulations* was located in Site Plan Review.

Ms. Salinger noted she felt the process would be confusing to an applicant with Chair MacDonald relying "we do them all the time" adding "we cannot however waive the wetland setback – we *can not* do that." Ms. Salinger asked "so this replaces §245:15?" with both Ms. Ogilvie and Chair MacDonald replying "yes" (the first part of the proposal). A brief discussion about the Article in Site Plan Review followed. Chair MacDonald concluded this discussion by reiterating "any encroachment to a wetland must go to the ZBA. That has not changed." Ms. Salinger asked about Shore land and Aquifer protection with Chair MacDonald noting "they still have to go to the ZBA." Ms. Salinger concluded by noting "I am not convinced this is a smoother process for a variety of reasons." A brief discussion of how the process used to work (with an applicant being tossed between the two Boards several times) followed. "That was cumbersome" said Chair MacDonald noting "the planning process is different than the zoning process. Through conceptual reviews we have an opportunity to figure out what they need to do." She mentioned Shaw's Supermarket as an example adding "we never saw then until after the Variances had been determined."

Gil Duval introduced himself and noted "you need to go into conference with the ZBA, iron out the differences and move on." John Kaufhold introduced himself and stated "there are a lot of wetlands in town." He asked the Chairman "are rivers and streams considered wetlands?" with Chair MacDonald replying "yes."

Mr. Kaufhold then moved to the white board and proceeded to draw a picture of the parcels he owns on Concord Street. He pointed out four properties "all about one acre, with taxes of about $5,000.00 each per year." Mr. Kaufhold then wrote "unfair taxing, unfair taking" on the board. He noted "I said this 20 years ago and I will say it again now" adding "we are losing the right to use our land freely." He went on to note "we cannot cut trees or make a lawn. We cannot build a gazebo or cut down bushes without coming here for permission and then probably get denied." Mr. Kaufhold concluded by noting "I am paying yet what do I have for it? This is unfair taking and unfair taxing."

Mr. Duval commented on his 1000 feet of river frontage at this home on Route 136. He noted he had been there for 58 years and the land is eroding. He noted that when he tried to find a solution to this problem he was told "too bad, you should not have bought land along the river" adding "that is what they said to me." Mr. Duval went on to say "you are taking the rights away from people. You are destroying the rights of the taxpayers." He added "you are saying to property owners we want to devaluate the value of your property" giving an example of "a puddle wet for more than two days "being declared a wetland." He said "you call it a wetland and slap the regulations on it. This is stupid." Chair MacDonald noted Mr. Duval did not have the right to insult the members of the Board and asked him to leave. "I will not leave" he replied. "Are you done?" asked Chair MacDonald. Mr. Duval replied "I am done" adding "I wish you were done."

Dr. John Patterson introduced himself and asked a specific question about his property. A brief discussion about water impoundments followed.

John Lord introduced himself and asked about signage. Specifically he asked "would the entire property have to be monumented or just the immediate (wetland) area?" The members agreed that was a discussion that would take place at Site Plan Review.

Jeff Gasner introduced himself and noted the original recommendation had been 100 feet of setback "why the change?" he asked. Chair MacDonald replied "there was not a political will to do it (extend the buffer/setback by an additional 50 feet). She added "so we agreed to keep it at the original 50 feet and regulate it." She noted monumentation was important "to let people know where the boundary is." She added "if people want to maintain a 100 foot buffer they would get a round of applause from this Board." A brief discussion about non-point source pollutants followed. Chair MacDonald noted that wetland protection "does not just protect the wetland behind you, it protects the wetlands downstream as well." A brief discussion about aquifers and wells followed.

Fran Chapman introduced himself and asked about monumentation. He noted the word "tags" got him upset saying "a tag is a tag and a sign is a sign. If you identify it as a tag isn't it a sign?" "They are the same thing" interjected Mr. Stewart. Mr. Chapman went on to talk about the color and orientation of the text of the monumentation tags adding "deer are color blind and are the

worst offenders." He also talked about the size and how the tags may be negative to some and positive to others "but the negative affects value." He concluded by noting "I think they ought to be small in size and should be limited to where they go. I think there ought to be some limits."

Rod Christy introduced himself and asked about the changes from the earlier proposed ordinance. He asked "is the process pretty much the same except (an applicant) starts with the Planning Board?" Code Enforcement Officer Dario Carrara explained what typically happens when an applicant comes in for a building permit. He noted "we look at the property and if it looks like it is close (a wetland is involved) you would need to delineate it through professional means." A brief discussion of possible scenarios involving subdivisions, steep slopes and wetland crossings followed. Chair MacDonald noted "but remember, if encroachment to the wetlands is involved then you must go to the ZBA. That has not changed."

Mr. Christy noted the ZBA denial of a development request involving a Planning Board member and read an old newspaper clipping involving the decision. A brief discussion regarding this specific and unrelated request followed.

Mr. Carrara went back to the question of the necessity of having a sign permit for posting monuments to delineate the wetland buffer. He noted "when a sign is required by local government no permit is necessary and there is no cost involved" Mr. Chapman noted there may be a significant amount of signs going up and asked "how will you maintain and check them?" He added "this will be a code office expense of some amount, how significant it will be or not be is unknown but we must think about getting it in the budget." Chair MacDonald interjected "well pretty much the Code Officer will only be involved when an application is received or something is reported." She concluded by noting "we will take the sign thing under advisement." Mr. Stewart had a few more questions about the monumentation tags and a brief discussion about the 50 foot designation being a political and arbitrary line followed. Mr. Duval asked the Board "why try to devaluate peoples' properties?" adding "that is what this is doing de-valuating properties."

Loretta Laurenitis introduced herself and asked about the language on page six of the draft. She read a portion noting "applications for a Conditional Use Permit shall demonstrate compliance with any of the following standards that are relevant to the proposal, *or others that the Planning Board deems relevant*." She looked to the Board and said "I feel like this leaves it too wide open." A brief discussion followed. Ms. Laurentis also questioned the language of §233-52 (B) which involved wetland crossings. She noted "again this is kind of watered down" adding "it is not very precise." A discussion about this paragraph and Special Exception request criteria followed. Finally Ms. Laurenitis asked about other towns and their ordinances as well as other models used in Conditional Use Permits.

Ms. Ogilvie noted that Mr. Freitas and Mr. Lundsted were both involved with the Wetland Workgroup Committee and were both present. She noted the workgroup had reviewed many other ordinances including the state model. "They have taken a lot into consideration to create this draft" she said.

Ms. Salinger asked about incorrectly designated wetlands with Ms. Vann pointing out the Boundary Disputes section on page 2 of the draft. Ms. Salinger also asked if the appeal process for a Conditional Use Permit involved Superior court with Chair MacDonald replying "yes, as it is currently."

Mr. Chapman thanked the members for not going over-the-top on the acronyms or "alphabet soup." "I like the layman terms, thanks" he said. The members also discussed the word "inviolate buffer" (Page 3, H (2) of the draft).

The Pubic Hearing closed at 7:45 p.m.

Preliminary Consultation with the Well School:

Jeff Kevan of TF Moran was present to review a proposal that would merge two lots and create an Open Space Development consisting of five existing cottages and eleven new single-family homes. Akhil Garland was quick to note that it was the Garland Family Realty Trust that was considering the plan, not the Well School.

Mr. Kevan reviewed a diagram of the plan noting the concept was to create a cluster development. He noted the parcel was 52.5 acres of combined space and that the long term goal may be to upgrade some of the current cottages to single family homes. He pointed out a chicken coop and other accessory buildings on the parcel. He noted some land would most likely be reserved for agricultural uses with other areas being a mixture of uses for the common space.

Mr. Kevan noted the totality of the plan would encompass about 7 acres for the development with the balance left for open space. Chair MacDonald noted Mr. Garland would have to apply for a waiver for the ¾ acre lot size for that district. Another member added "we will also have to look at the building separation regulations."

Mr. Kevan continued by pointing out the parking area (located toward the front, not by the units). He noted "this is really a conventional subdivision" adding "we will follow the existing road" as he pointed out two wetland crossings that had already been established. A brief discussion about the density calculation followed.

Chair MacDonald noted "the biggest thing is the road" and asked "is it built to standards and can the Fire Department access it?" A brief discussion followed with Chair MacDonald concluding "well, all the squares seem to fit. This is better than what we usually get." Mr. Monahon interjected "and a point of this exercise is to show a yield, and the ultimate number." A brief discussion about yield and density bonuses followed. They also discussed how to incorporate the other out-buildings, how they would fit into the plan and if they should remain in place. Mr. Monahon noted there were many similarities between this plan and the Nubanusit Neighborhood in West Peterborough.

Members asked questions about specifics in the development (parking, fences etc.) that Mr. Kevan noted would depend on the covenants that were put into place. He also noted the

buildings would have their own lots and the neighborhood would share the maintenance costs and taxes on the open space.

Chair MacDonald asked about the maintenance for the accessory structures (meeting area, yoga studio, etc.) that may be created. Mr. Carrara noted the current cottages were accessory to the school (on a separate lot) and asked "how will that classification go forward? Will they still be accessory to the school?" A brief discussion followed.

Mr. Kevan went on to note that two of the cottages would not be upgrades and a brief discussion of what they may be used for followed.

When asked about the road Mr. Garland replied "it is12 feet wide and gravel, used for educational and agricultural uses." Chair MacDonald noted her concern about the quality of the road on the parcel and a discussion about dwellings on private roads followed. Mr. Garland noted his concerns to keep the small quaint feeling of the parcel. "We don't want a big road coming in through here" he said adding "the buildings are tiny." A discussion about the water draw and septic system limitation followed. Mr. Carrara spoke about upgrading the road to town standards with Mr. Kevan replying "we would like to keep the character of the roadway as much as possible." A brief discussion about the road width and grade as well as minimum standards for firefighting capabilities followed.

There were no other questions from the members. Mr. Monahon concluded by noting "I really like the plan."

Request for Extension from Rivermead:

Mr. Kevan was also representing RiverMead in this request. He referenced a letter sent to the Board explaining the existing site plan approval "but it is up in April" he said. He went to formally request a year long extension of the approval. One member asked "would the change in the wetland regulation be any kind of an issue?" with Mr. Kevan replying "no, we have maintained the 50-foot buffer."

Mr. Kevan went on to review the project plan adding the goal was to begin construction this fall or winter. There were no other questions and a motion was made/seconded (Vann/Miller) to grant a one year extension to RiverMead with all in favor.

Before adjourning the members once again discussed the sign/tag issue that had come up earlier. Mr. Carrara noted "it does not matter what you call it. It does not require a permit if it is mandated by local government" adding "it is a moot point." Ms. Vann spoke briefly about the extent of management of the tags and how that would be determined by the Planning Board and/or the Code Enforcement Officer.

Chair MacDonald concluded the meeting by reviewing small changes in the wording of the draft. She recommended they change the current width of a path to 6 feet (currently 5 feet) to match the state ordinance; in Paragraph H (2) changing the word "notwithstanding" to "excepting"; and moving the reference to "grazing" down to the agriculture section. On page 4 of the draft (h) she

suggested they take out the words “small structure” altogether. On page 7 under §233-53 *Wetland Monumentation* the graphic should not say wetland boundary but wetland **buffer**. “Let’s make it consistent with what it is” she said.

In conclusion a motion was made/seconded (Vann/Miller) To recommend the proposed wetland ordinance be moved to ballot with all in favor.

A motion was made/seconded (Vann/Henry) to accept the Minutes of December 13, 2010, January 10, 2011, January 14, 2011, January 24, 2011 and January 31, 2011 as written with all in favor.

The meeting adjourned at 8:30 p.m.

Respectfully submitted,

Laura Norton,
Administrative Assistant