

**PLANNING BOARD**  
**TOWN OF PETERBOROUGH, NH**

Minutes of January 11, 2016

**Members Present:** Chair Ivy Vann, Ed Juengst, Joe Hanlon, Rich Clark, Alan Zeller and Jerry Galus.

**Staff Present:** Peter Throop, Director, and Laura Norton, Administrative Assistant, Office of Community Development

Chair Vann called the meeting to order at 6:30 p.m. “This is the regularly scheduled Planning Board meeting for January” she said, then introduced the members and staff.

**Minutes:**

A motion was made/seconded (Galus/Zeller) to approve the Minutes of December 21, 2015 as written. All were in favor with the exception of Chair Vann who abstained.

Mr. Throop took a moment to explain there was one member who had not been present at the previous meeting. “I just have a few questions” he said as he asked Mr. Galus “did you read the minutes of December 21<sup>st</sup>?” Mr. Galus replied “yes.” Mr. Throop went on to ask “have you reviewed the plan set and staff reports?” Mr. Galus again replied “yes.” Lastly Mr. Throop asked “do you have any questions?” Mr. Galus replied “no.”

**Public Hearing:**

Chair Vann noted the only item on the agenda for the evening was a continuation of a Subdivision, Condominium Site Plan Review and Conditional Use Permit under the Traditional Neighborhood Design Ordinance proposing an eight lot subdivision of Parcel No. U017-100-000 located at the end of Vine Street in the General Residence Zoning District. The subdivision will develop the parcel into an eight-unit single family residential “cottage style” condominium subdivision. The subdivision is being developed under Zoning Ordinance Section 245-15.3 *Traditional Neighborhood Overlay Zone* which requires issuance of a Condition Use Permit by the Planning Board. The condominium project is also subject to Site Plan Review.”

Chair Vann looked up and noted “this case was continued so that Mr. Brannon could come back and address concerns raised last month and so that we could review missing documentation.”

Chad Brannon introduced himself as a Civil Engineer with Fieldstone Land Consultants, PLLC located in Milford, New Hampshire. He also introduced John Stabile of the Stabile Companies (Nashua, New Hampshire).

Mr. Brannon then told the members “this is a continued discussion on an eight-lot subdivision on Parcel No. U017-100-000” adding “we did a formal presentation of the application and went through the Traditional Neighborhood Overlay Zone and Conditional Use Permit criteria at the last meeting. We are here tonight to review the outstanding items from the December 14<sup>th</sup> meeting.”

Mr. Brannon then reviewed the list:

*Heating system for the units:* propane or oil furnaces with no exterior apparatus such as heat pumps. “A note to this effect will be added to the plan” he said.

*Off-site improvement:* Mr. Brannon reviewed the modified sidewalk plan extending 157 linear feet down Vine Street and meeting up with the existing sidewalk system. Chair Vann asked “is the standard 4 or 5 feet?” Mr. Brannon replied “the sidewalk is 4 feet with a vertical curb and is designed to match the existing system.”

*Removal of rain garden:* Mr. Brannon confirmed the removal of a rain garden that was originally located on the southern corner of the lot. He noted the drainage report that was confirmed by the Board’s consultant, CEI, indicated that the project would not increase storm water flows over the existing condition.

*Landscaping:* Mr. Brannon pointed out landscaping around the transformer units to satisfy the request by the Board.

*Rendering of walk-out unit (Number 8):* Mr. Brannon noted the Board’s concern about the architectural consistency of walkout style of this unit and provided three new renderings for the Board’s consideration.

*Separation between units:* Mr. Brannon noted the distance between the units has increased from 20 to 21 feet.

*Waivers:* Mr. Brannon noted three driveway waivers from the Department of Public Works had been requested “and we have obtained all of them” he said. He also explained that the original design had 10-foot radii and the DPW Director was willing to compromise “with a 15 foot radius which is very large” he said. Mr. Throop explained the justification for 15-foot radius (“it has a lot to do with how the driveways approach town roads” said Mr. Brannon) but indicated that the Department of Public Works *may be willing to* reconsider the 15 feet if the Board recommends the shorter radii.

*Traffic letter:* Mr. Brannon noted the report by the Stephen G. Pernaw & Company, Inc. and told the members “the conclusion for a project of this size is that there will not be a perceivable impact on traffic.”

*Third party drainage design:* Mr. Brannon told the members the report by Comprehensive Environmental a (CEI) “concurred with our drainage analysis and supporting calculations for the subdivision.” He cited a letter from the company dated January 4, 2016 and indicated that all comments from the letter had been addressed.

*Modified grading site:* Mr. Brannon noted the modified grading provided more of an even transition of the area between units 5 and 6, and units 6 and 7. He showed the Board that retaining walls had replaced the steeper slopes on either side of Unit 8.

Mr. Brannon looked to the Board and said “and I believe that is it.”

Chair Vann noted a written correspondence from Mr. Weeks who wrote that the impervious surfaces for the lot exceeded the lot coverage allowed by 140 sf. Mr. Weeks memo continued “please note that there are no provisions in Peterborough Zoning Ordinance in §245-14 that permits the applicant to use the removal of off-site impervious surfaces to satisfy the onsite impervious surfaces requirements as provided for in the Groundwater Protection Overlay Zone and a Variance would be required. ”

Mr. Brannon replied “I can touch on that” and went on to review the minimum requirements for the ordinance’s lot coverage. “I would like to state for the record that the design is less than 600 square feet over the threshold and we are proposing to provide 600 sf porous pavement material on one of the driveways. As we stated last month, we are also showing the common walkway as porous pavement, as depicted on the plan” adding “the porous pavement on the driveway enables us to reduce our impervious surface below the existing condition.”

Mr. Brannon then asked about the potential to reduce impervious surfaces within the Vine Street right of way instead of providing the porous pavement. “After talking with the staff and reviewing the ordinance, we *would* like to propose, narrowing Vine Street along the section of Vine Street just north of the site” (pointing to the graphic). He told the members “this would push the sidewalk out (to the north) about ten feet and allow a nice transition of the new sidewalk to the existing one for pedestrian traffic and narrows Vine Street to a width of 30 feet. It allows us to cut a large area of asphalt not in use for anything. We’d then be looking at using regular asphalt for the driveway and the common walkway on the site.”

Chair Vann interjected “so what is gained in impervious area is more than what you were short?” Mr. Brannon replied “yes, about 1400 square feet.” We would like to take advantage of this reduction in the impervious calculations for our project.” Chair Vann replied “less asphalt is always better.” She then asked about the driveway radius of 15 feet. “I think it is too big a radius, how much paving do we really want? I would like the DPW director to reconsider and ask (the Board) request we go back to 10 feet.” The members agreed they would make that recommendation to Public Works Director.

With reference to the impervious lot coverage proposal Mr. Throop told the members “we have looked at it closely.” Chair Vann asked “did you get town counsel opinion on it?” Mr. Throop replied “yes” adding “the conclusion is that ordinance language cannot anticipate every situation and the Board does have some discretion in how to interpret the ordinance with the understanding that if the interpretation is appealed, the appeal is heard by the ZBA, not to Supreme Court.” He noted the purpose and intent of the ordinance is to protect public health, safety and general welfare and to protect existing and potential groundwater supply areas, to protect surface waters that are fed by groundwater and/or recharge groundwater supplies “which is really what this site does.” “It is an interpretation and you have the authority to make those interpretations” he told the members.

Chair Vann replied “pulling up 1400 feet of pavement on Vine Street, I am comfortable with that” and asked “what is the Board’s sense?”

Mr. Galus asked “who owns it?” Mr. Throop replied “the town, it is a public right-of-way.” Chair Vann reiterated the applicant would remove pavement adjacent to their lot and it was reasonable that the deduction be counted in the lot coverage. Mr. Galus asked “would we continue to own and maintain it?” Mr. Throop replied “yes” adding “and it will provide an additional area for snow storage. It will lower

the amount of pavement maintained and increase the snow storage.” Mr. Galus asked about the possibility of setting a precedent for future applicants. Chair Vann interjected “the applicant was asked to make a benefit to the town and they complied” adding “and the property is immediately adjacent and so related to the project.” Mr. Throop added “in the question of setting a precedent let the record reflect the criteria that exists.” He said “the Board had determined it was a priority for the applicant to continue the sidewalk down Vine Street. It asked the applicant to do that and that alone will remove 1028 sf of pavement which should be considered part of the project.” “A positive good for the town” interjected Chair Vann. Mr. Throop continued “the additional 1400 sf was proposed by the applicant and the area is immediately contiguous to the applicant’s project.” He warned the members “you must feel comfortable with this criteria” so if another applicant comes along they would know what criteria they would need to meet. The members all agreed they were comfortable with it.

Chair Vann continued with Mr. Week’s second concern. He wrote that as proposed, the light trespass exceeds 0.1 foot-candles at the boundary of the property regulated by §245-33D7 which will require a Special Exception before the ZBA (see §245-33I) if the Board does not find that it meets the exemption provided in §245-33D.8.i. The Board should discuss and make a determination as to whether the lighting trespass for the pedestrian sidewalk meets the intent of §245-33D.8.i. Please note that the proposed light trespass is beyond the proposed public sidewalk that gives pedestrian access to the lot but it appears to be within the 20 foot limitation provided for in the exemption.”

As he pointed it out on the plan Mr. Brannon noted “this affects one light that could be moved.” Mr. Throop interjected “*unless*” and proceeded to note 245-33 D.8.i *Light and Glare* which states “exceptions to lighting and glare standards: driveway or other access ways to properties are allowed to have light trespass not to exceed 0.1 foot candles up to 20 feet in the public right-of-way.” Chair Vann replied “it is an access in my sense of things but I am only one member of the Board.” The other members unanimously agreed the pedestrian walkway constitutes an access and was a valid exception under the ordinance.

In closing Mr. Weeks noted he had no comments on the proposed evaluation drawings for compliance with the Building Design requirements (height, scale, massing of building, rooflines, orientation and spacing of doors and windows) or Architectural Features (porches, entry ways, roof forms, building details) in the Site and Building Design Guidelines “as nothing was included in the Planning Board packets distributed prior to the meeting.”

Chair Vann asked to Mr. Brannon to review Unit 8 located on the southern corner of the lot. Mr. Brannon reiterated the three new proposed elevations for this unit and a brief discussion followed before Chair Vann opened the hearing to the public.

Judith Garabrant introduced herself as an abutter. She told the members she had reviewed the updated plan late last week and had several questions and observations. These included pointing out sidewalk concerns, storm water management and drainage issues (from the east on to her property) and a chain link fence that runs along the east side of her property. "I would like the engineer to speak to these please" she said.

Mr. Brannon reviewed the drainage to the west of Mrs. Garabrant's property and noted "after analysis the proposed system is ultimately better and the third party reviewer agreed with us. It is better because there is less impervious surface." "So less runoff" interjected Chair Vann. "Right" replied Mr. Brannon.

Mrs. Garabrant noted from her kitchen window she can see where the lot curves west and asked "will that slope be leveled off so that less runoff is headed west?" Mr. Brannon replied "you are correct about the slope." He pointed out a high point between units 1 and 2 and said "only runoff from the front yards will drain towards the road." When Mrs. Garabrant noted the excessive amount of salt used by DPW in the winter time Chair Vann suggested she take that issue up with the Department of Public Works.

Mrs. Garabrant then asked about the sidewalk plan. "At the last meeting it was made clear that Rodney Bartlett stipulated the sidewalk go straight up Vine Street in line with the existing sidewalk but according to this plan that is not so. It does not seem to be compliance with what Mr. Bartlett asked for" she said. Mrs. Garabrant also mentioned then pointed out a portion of her property that the town had paved without her permission. "I am still paying taxes on it but have no use for it" she said.

Mr. Brannon explained the field survey review down Vine Street that had been conducted, as well as the alignment of the sidewalk further to the west. He pointed out existing catch basins in line with the proposed sidewalk as well the vertical curb that will limit runoff. "It will be intercepted by the granite curb and directed to the catch basins" he said. He then pointed out the area of imperious pavement scheduled to be removed with subsequent replacement of loam and grass seed. He looked at Mrs. Garabrant and said "your permission must be obtained to do that."

Mrs. Garabrant replied “with all due respect I was not asked about paving it in the beginning.” She went on to say “I have come to accept this is going through and obviously I do not like it. It is an extreme violation of my privacy. I would at least like to have some privacy along the property line so I don’t have to look at them and they don’t have to look at me.” Chair Vann interjected “that is something you would have to talk to the applicant about” adding “you may think about a stockade fence.” Mrs. Garabrant replied “I am not suggesting a fence, I have been there for 42 years. I bought the house because it was private and I am losing all my privacy. I don’t like it and I don’t think anyone else would either.”

Mrs. Garabrant asked for an explanation of the re-routing of municipal water in the area with Mr. Brannon reviewing the realignment of the waterline and location of a new fire hydrant. When Mrs. Garabrant noted the current drainage flows down behind the fire station and into the river Chair Vann interjected “you are right, it is an absolute mess up there and it is going to be rebuilt. DPW is addressing it.”

Lastly Mrs. Garabrant asked about the placement of the unit garages and why some of them could not be under the unit (particularly Unit 8). Chair Vann replied “it is our architectural preference that we not do garage *unders*, it is not our vernacular form” adding “it is not seen often and not very attractive.” Mr. Hanlon added “and with that unit they would drive out right on the corner.”

Patricia Lange introduced herself as an abutter. “I don’t have a questions so much as a request for a timeframe” she said adding “can you give us a ballpark figure on the start time and how long the project will go on?” Mr. Stabile replied that the site construction would begin immediately after the 30-day appeal period. “We will have a model and spec home built and then see what Mr. Peterson (Peterson’s Real Estate) can do for us” he said. Ms. Lange asked “what is your normal build out?” Mr. Stabile replied “normal is two units a month if we have the demand.” Mr. Stabile then took a moment to address the members about the pervious/impervious material at a construction site. He noted “I understand there is not a track record on this stuff” adding “but with the salt and sand usage we are seeing things being repaved within two years.” A brief discussion about the durability of pervious materials followed.

Chair Vann spoke briefly about the potential of guttering and drywells for roof runoff before she realized Mr. Clark was correct when he noted the drainage problem had been solved. “You are right and I was wrong” said Chair Vann adding “removing the impervious material on Vine Street and the town road answers that.”

Mr. Throop read the prepared draft motion for the Conditional Use Permit approval as follows:

Grant a Conditional Use Permit in conjunction with Zoning Ordinance Section 245-15.3 Traditional Neighborhood Overlay District Zone as applied to an eight (8) unit single family condominium subdivision shown on a plan entitled “Condominium Subdivision and Site Plan, ‘The Overlook at Peterborough’ Tax Map Parcel U017-100-000, Vine Street Peterborough, NH”, plan dated November 17, 2015 and revised January 6, 2016, prepared for Stabile Companies on land of the Roman Catholic Bishop of Manchester, by Fieldstone Land Consultants, and consisting of 14 pages. The findings of fact included:

1. The proposed units will be served by Municipal water and sewer
2. There are no existing buildings on the property.
3. The proposed density of eight (8) single family units in the General Residence District is less than the permitted density under the Traditional Neighborhood Design ordinance of nine (9) single family units.
4. There being no existing developed residential lots on the same side of the street, the proposed setbacks from the street of between 15 and 20 are within the range of permissible front setbacks. Further the proposed separation of buildings from the side and rear are greater than the minimum required side and rear separation of 20 feet.
5. The building designs including: the height, scale, and massing of the building; the size orientation and spacing of the windows and the shape and orientation of the rooflines are reflected in other existing residences within 300 feet of the property; primary entrances to the new buildings are oriented to the street; garage doors are a minimum of 20 feet beyond the front façade of the building; and, architectural features such as porches, gable roofs, dormers, building details and materials that are consistent with traditional New England neighborhoods.
6. Proposed area of impervious surfaces is lower than the 35% maximum lot coverage by impervious surfaces excluding driveways, and is lower than the pre-existing land area covered by impervious surfaces.

**After the draft motion was read a motion to approve the draft was made/seconded (Hanlon/Zeller) with all in favor.**

Mr. Throop then read the draft motion for the subdivision and site plan approval as follows:

Approve the Subdivision and Site Plan for the eight (8) unit single family condominium development as shown on the plan referenced above, subject to the following conditions prior to signature of the plan:

1. The plan shall be revised to show the following:
  - a. Vertical granite curb along the new sidewalk, as required by the town's street design standards.
  - b. A reduced width of pavement on Vine street north of Parcel U017-100-000 as shown on a revised plan presented during the public hearing, subject to final approval by the Public Works Director.
  - c. Addition of typical construction details for the retaining walls.
  - d. Replacement of the proposed pervious pavement associated with the driveway and walk way for Unit 5 and for the pedestrian walkway in the common space, with asphalt pavement.
  - e. Other minor plan corrections or changes as discussed during the public hearing and/or as mutually agreed to by the applicant and staff.
2. The applicant shall obtain written permission from the land owner of Parcel U017-102-000 on Vine Street for the encroachment required to bring the sidewalk into alignment with the existing sidewalk on Vine Street. Permission will also be required from this landowner to remove existing road pavement on parcel U017-102-000, south of the proposed sidewalk and to loam and seed this area. In the event that written permission cannot be obtained, the applicant shall amend the plan to show an alternative sidewalk design, subject to approval by the Public Works Director.
3. Easement language for drainage, water line and road maintenance areas, as shown on the plan shall be provided to the town and approved by the Town Attorney.
4. Condominium documents for the project shall be provided to the town and approved by the Town Attorney.

**After the draft motion was read a motion to approve the draft was made/seconded (Galus/Hanlon) with all in favor.**

Chair Vann briefly reviewed the changes which included the changes to Vine Street (narrowing the street, removing impervious material and aligning the sidewalk); replacing pervious surface material with impervious on the driveway for unit 5 and common walkway areas; revisiting the driveway radius and requesting it go back to 10 feet ("we will have to have DPW sign off on that one" she said) and having something in writing regarding any re-use of the church building would

require adequate parking facilities. “This would have to be a condition of issuance of a certificate of occupancy” she said.

While Mr. Brannon made it clear the applicant had no interest in the church building “we want to separate ourselves from the church” he said adding “but for the record we have a letter from the Diocese in Manchester stating their intent to tear it down.” Chair Vann interjected “I for one am unwilling to tie these two parcels together” with unanimous agreement from the members.

Mr. Throop concluded “the only other thing on your agenda is that you have a Workshop schedule for next Monday which is a Holiday.” He suggested meeting the following Wednesday (January 20<sup>th</sup>) instead to work on zoning amendments. After a brief discussion the Workshop was scheduled for that date at 6:30 p.m.

Chair Vann concluded by thanking the members as well as the audience. “Thank you for your eye on this project” she said adding “your concerns and hard work helps us do a better job.”

**Next Meeting:**

January 20, 2016 at 6:30 p.m. for a Workshop

The meeting adjourned at 8:05 p.m.

Respectfully submitted,

Laura Norton  
Administrative Assistant