

PLANNING BOARD

TOWN OF PETERBOROUGH, NH

Minutes of December 17, 2018

Members Present: Ivy Vann, Dario Carrara, Joe Hanlon, Bob Holt, Tyler Ward, Jerry Galus, Sarah Steinberg Heller and Alan Zeller

Staff Present: Peter Throop, Laura Norton, and Kristin Bixby - Office of Community Development

Chair Holt called the meeting to order at 6:30 p.m., welcomed the audience and introduced the Board and Staff.

Minutes:

A motion was made/seconded (Galus/Zeller) to approve the Minutes of November 13, 2018 as written with all in favor.

A motion was made/seconded (Carrara/Galus) to approve the Minutes of November 19, 2018 with all in favor except Mr. Zeller who had not attended the meeting.

Continued Public Hearing –Two Lot Subdivision of a 13.4-acre parcel owned by Elias E. Olmeta and Carmen L. Blohm Living Trust, located at 110 Hunt Road, Parcel No. U011-011-000. This parcel is partially located in the Family Zoning District and partially located in the Rural Zoning District. The existing parcel includes a single-family home and two barns clustered near the home, all accessed from a common driveway. The Applicant proposes to subdivide the property using Zoning Ordinance Section 245-26 “Open Space Residential Development (OSRD)” so that the existing barn can be converted into a single-family home on a separate lot.

The Planning Board opened the public hearing on this proposal at its meeting on November 13, 2018. During this hearing, the Applicant added a second parcel (U008-009-000) to the project, an approximately 1-acre parcel located in the Family District with no road frontage, no structures and no driveway access. Under the subdivision proposal, the lot containing the existing single-family home would be approximately 8.3 acres and the lot containing the existing barns and the merged parcel U008-009-000, would be approximately 6.1 acres. The entirety of the added parcel is proposed to be included in the protected open space required under the OSRD ordinance.

Chad Brannon stood and introduced himself as a Civil Engineer with Fieldstone Land Consultants, PLLC located in Milford, New Hampshire and representative for the applicant. He gave a brief overview of the previous preliminary presentation noting an extra parcel had been added resulting in a continuation as additional abutters had been identified and had to be officially notified. “There have been no changes to the plan since the November 13th meeting” he said.

Mr. Branon briefly reviewed the parcel consisting of a single-family home and two barns clustered near the residence. He briefly reviewed a list of proposed findings initiated by Staff which included consideration of minimum setbacks, a pre-existing shed, vegetation within the 75-foot perimeter buffer, access to the parcels, shared driveway and parking and access easements,

protection of open space by deed restriction as well as any further provisions that may be recommended by the Town Attorney and Town Staff without further review by the Planning Board. “We have no problem with those findings” he said.

Chair Holt thanked Mr. Branon and asked if the Board had any additional questions or concerns. Mr. Throop interjected a concern about ownership of the property beyond the current owners. “For instance, I could see a potential owner of the lot which included the existing house wanting their own driveway in the future” he said and suggested they add a note indicating that such a request could be approved administratively by the OCD director in consultation with the Planning Board Chairman and issuance of a driveway permit from the Department of Public Works. The members agreed that this provision could be added to the list of conditions and Chair Holt opened the hearing to the public.

With no public comment, the Board reviewed and voted unanimously to make the following findings:

1. The proposal for reduced side setbacks of a minimum of 20 feet along the new internal parcel boundary is consistent with the purposes of the OSRD ordinance and is permitted.
2. The location of the existing shed in the 75-foot buffer around the perimeter of the original parcel is a pre-existing condition, does not contribute to adverse impacts to abutting properties, is consistent with the purposes of the ordinance and is therefore permitted to remain. No other new structures or expansion of the existing structure shall be permitted in the 75-foot buffer.
3. The existing vegetation within the required 75-foot perimeter buffer is sufficient to meet the intent of the ordinance and no additional vegetative screening will be required.
4. Access to the two parcels will be provided by an existing, shared driveway and parking area. Shared access easements will be prepared to address this condition. The owner of Parcel Number U011-011-000 shall be permitted to add a dedicated driveway serving this parcel without further Planning Board approval, provided that the cross access easement is extinguished if so requested, and subject to OCD Director administrative approval of the driveway location and design (in consultation with the Planning Board Chair) and subject to the issuance of a Driveway Permit from the Town.
5. Given that the size of both parcels is greater than 5 acres, State subdivision approval will not be required.
6. Under Zoning Ordinance Section 245-26, further subdivision of either new parcel will not be permitted. However, each parcel may develop one accessory dwelling unit in accordance with the Zoning Ordinance.
7. Given that the subdivision will include only two residential lots, no homeowner’s association will be required and the permanently protected open space may be split between the two individual lots rather than held in common, and there shall be no requirement that the protected open space on each lot be accessible by the owner of the other lot.
8. The designated protected open space, as shown on the approved plan, shall be permanently protected by deed restriction that runs with the land. No new structures shall be permitted in the protected open space. Said deed restriction shall indicate uses that will be permitted in

the open space, which are consistent with the uses set forth in Zoning Ordinance Section 245-26.E, provided that:

- a. No stumping shall be permitted in areas designated as within the Wetland Protection Overlay Zone or on any slopes in excess of 15%.
 - b. The owner of Parcel Number U011-011-000 may maintain or replace an existing well, water line, and electric service to the well, that is located in the protected open space.
9. Any additional provisions of the deed restriction that are recommended by the Town Attorney may be added without further review by the Planning Board.

A motion was then made/seconded (Vann/Carrara) to approve the Merger of two lots U011-011-000 and U008-009-000 and the two-lot subdivision of the combined lot as shown on the plan entitled Consolidation and Subdivision Plan, Open Space Residential Development Tax Map Lot U011-011-000 and U008-009-0000 at 110 Hunt Road. Prepared for Elias E. Olmeta & Carmen L. Brown Living Trust, dated October 15, 2018 and revised November 13, 2018, at a scale of 1"=60' subject to the following conditions prior to signature of the plan:

1. Deed restriction language shall be reviewed and approved by the Town Attorney. Final deed restriction covenants shall be added as a note to the plan.
2. A note shall be added to the Plan indicating that in accordance with Zoning Ordinance section 245-26, no further subdivision of either parcel shall be permitted but an ADU may be developed on each lot.
3. A note shall be added to the plan indicating that in accordance with Zoning Ordinance section 245-26, the protected open space shall not be eligible for any current use taxation assessments under RSA 79-A.
4. Cross access easement language for the shared driveway shall be reviewed and approved by the Town Attorney.
5. A note shall be added to the plan indicating that the owner of Parcel No. U011-011-000 may request to add a dedicated driveway serving this parcel without further Planning Board approval, provided that the OCD Director, in consultation with the Planning Board Chair, may administrative approve of the driveway location and design, and issuance of a Driveway Permit shall be required;

with all in favor.

Continuation of Public Hearing: Four lot Subdivision and Conditional Use Permit of a .499-acre parcel owned by GATO Properties, LLC located in the General Residence Zoning District and Traditional Neighborhood Overlay Zone I (TNOZ I), Parcel No. U024-021-000, located at 59 Union Street. The project proposes to remove an existing two-family home and subdivide the property into four residential building lots under the Traditional Neighborhood Overlay Zone I Ordinance.

Following the public hearing held on September 17, 2018, the Applicant is proposing to modify the original plan to incorporate a boundary line adjustment to settle a boundary line dispute and to change the subdivision to be a three (3) lot subdivision with one of the lots containing a duplex building.

Chad Branon stood and introduced himself as a Civil Engineer with Fieldstone Land Consultants, PLLC located in Milford, New Hampshire and representative for the applicant.

Mr. Branon presented a brief review of the revised plan that reworked the layout of the project. This included the removal of the single-family home on the southeast corner of the lot, combining the two lots on the north side and the introduction of a duplex structure. "It is a new concept with one driveway off Prospect Street" he said. He went on to note the concept was very similar to the one the Board had seen back in the beginning "but consolidated (reducing impervious cover) with a common drive through the center of the project" adding "and it promotes a better sense of community for the residents."

Mr. Branon spoke briefly about the removal of the Union Street driveway (slope and backing out hazards) and told the Members "we feel this satisfies the Traditional Neighborhood Overlay Zone I (TNOZ I) and parking requirements. It appeases the boundary line dispute with the abutter to the east (see letter below) and consolidates the number of curb cuts (which was a concern of the abutters)."

Mr. Branon went on to review a revised grading plan (showing the structures served by the 14-foot wide common driveway accessed off Prospect Street). He pointed out the elimination of all the 2:1 grade on the plan as well as a small four-foot retaining wall ("a modest wall" he said) on the right side of the duplex structure.

Mr. Branon noted a revised stormwater management plan that addressed concerns on drainage design, snow storage function issues and stormwater runoff going directly into the southwest drainage structure without passing through the infiltration structure.

Mr. Branon concluded by reiterating he was looking for input and feedback from the Board and that he was prepared to complete and submit detailed plans as well as landscaping and architectural renderings to share with the Board at a future hearing.

Chair Holt read a letter received December 14, 2018 from Attorney Thomas Hanna.

Dear Chair Holt and Members of the Board:

As you may know, I represent Joni Doherty, owner of the property at 57 Union Street, which abuts the GATO property. Ms. Doherty had disputed the location of the Doherty/GATO common boundary line as shown on previous plans presented to the Board. She also had concerns with prior development proposals.

However, I am pleased to report that Ms. Doherty and GATO have reached an agreement concerning the boundary line and her concerns with the development. She accepts the proposed boundary line as shown on the attached plan that GATO recently submitted to the Board. See attached plan entitled "Site Plan," dated May 15, 2017, with a revision date of November 27, 2018 described as "Revise Layout W/Potential Lot-Line Adjustment." In addition, Ms. Doherty withdraws her objections to the proposed development assuming approval in substantially the same configuration and detail as shown on the above-referenced plan. She supports the single driveway as shown on the plan and considers that

proposal to be innovative and good for the neighborhood. She would object to a driveway being installed from Union Street to the unit immediately adjacent to her 57 Union Street property.

Ms. Doherty is appreciative of the Board's consideration given to her previous concerns, and she is delighted that she has reached this accommodation with GATO.

Thank you.

Tom Hanna

As he finished Chair Holt noted he would take comments and questions from the Board.

Ms. Vann began with "I have a few observations, the first being the driveway is wider than it needs to be." Mr. Branon noted "it is 14-feet wide" with Ms. Vann replying "12-feet is wide enough." Ms. Vann also noted the amount of paving facing the street was not ideal and suggested an easy fix as she got up to point out her idea that involved a flip-flop of the layout of the house on the southeast corner lot.

"Lastly" she said the rendering of the home on the Prospect Street side "needed something" (porch or windows) to which Mr. Branon noted they'd reviewed that at the last meeting and had come up with a solution agreeable to the Board at that time. Ms. Vann also expressed she was sorry not to see a porch on the Union Street side of the house on the southwest corner "as a part of the spirit of the ordinance is to have residents engage the street."

Mr. Zeller asked for clarification on the graphic depicting the lot line adjustment for the abutter at 57 Union Street. Mr. Branon briefly described a discrepancy between the abutter's mortgage survey and the deed research they had done. He told the Members the survey was not stamped and (he) believed inaccurate. He went on to tell the Board "by eliminating the fourth lot we had the flexibility to work with her and create a lot line adjustment." Mr. Ward interjected "thank you, I appreciate you working with the abutter and it was a good move to make it three lots." Attorney Prolman interjected that with the lot line adjustment shift to the left (west) "both sides are giving up a driveway easement" adding "this creates a nice, clean property break between the two lots." He also noted screening of some sort (fencing or shrubs) would be introduced along the new lot line.

Mr. Throop noted the Driveway Regulations allow shared driveways "but one driveway may only serve up to three residences" adding "so you may have to get a waiver for that." Mr. Throop noted he would follow up with the Department of Public Works on that for the next meeting. He also noted other requirements for shared driveways including maintaining a 50-foot Right-of-Way and submission of a maintenance agreement clearly defining each property owner's rights and responsibilities through an HOA or Condominium Association.

Chair Holt asked about the walkway with Mr. Branon replying there were no sidewalks along the north side of that part of the street (most likely due to the steep grade) and that they did not intend to install any sidewalks. He did however explain the access plan and interconnection of homes from the Prospect Street side.

Ms. Heller echoed Ms. Vann's concerns earlier about the home on the Prospect Street side needing something, like a porch or a window. "It seems a shame there is no space like that" she said with Ms. Vann adding "it *is* pretty cut off from the street." Chair Holt added "the concern is

as you walk down the street you are able to wave to your neighbor.” A brief discussion about the constraints of the lot and the Overlay’s setbacks followed. When Mr. Branon noted he would discuss a potential change with the architect. Mr. Ward interjected “I think you are sensing the vibe, that would be nice.”

With no other comment or concerns for the Board Chair Holt opened the hearing to the public. There were no public comments or questions.

A motion was made by Ms. Vann to continue the public hearing to a date and time certain of January 21, 2019 at 6:30 p.m. as long as all supporting documents are received no later than December 31, 2018. “If not, we will bump you to February.”

Mr. Branon replied, “bump us to February” with Mr. Prolman in agreement.

A motion was made/seconded (Vann/Carrara) to continue the public hearing to a date and time certain of February 11, 2019 at 6:30 p.m. with all in favor.

Continued Public Hearing: – “Village at Stone Barn LLC”, is seeking Subdivision and Site Plan Review approval for a proposed 33-unit multi-family residential condominium development and a non-residential accessory retail use of a farm to table café, on property currently owned by “Peterborough Highland Farm LLC”, located at 63 Old Street Road, Parcel No. U002-039-000.

At a public hearing held on November 19, 2018, the Planning Board voted to grant a Conditional Use Permit for a proposed encroachment into the Wetland Protection Overlay Zone and a Conditional Use Permit under Zoning Ordinance Section 245-15.4 “Traditional Neighborhood Overlay Zone II (TNOZ II)” for the subdivision of more than three lots and for an accessory nonresidential use. At this continued public hearing, the Board will be considering final subdivision and site plan approval for the project.

Chair Holt acknowledged the Waiver and Conditional Use Permit Approvals granted at the December 19, 2018 meeting telling the Members “we will not have any discussion on those pieces of business.” Chair Holt went on to say, “tonight we are looking at the subdivision and Site Plan approval.”

Chad Brannon stood and introduced himself as a Civil Engineer with Fieldstone Land Consultants, PLLC located in Milford, New Hampshire and representative for the applicant. He then requested a five minutes recess to await the arrival of Project Manager Amelia Tracy “who is on her way.”

As Ms. Tracy arrived Mr. Branon noted the purpose of the hearing “was for continued discussion and site plan approval.” He noted the receipt of the Stormwater and Drainage review from Comprehensive Environmental Incorporated (CEI) Report, condominium submission and the ownership of the land (common space, limited common space, the restaurant area and agricultural) and architectural plans for the interior condominiums. “We will work with Staff and Town Council on the condo submission of the project and the final delineation of ownership units and management of common areas and lands” he said.

Mr. Branon went on to note while they had just recently received the engineering review “we have no objection to their comments except #12” (noting no drainage feature to collect or treat runoff from the farm area where activities such as gardening, crops and raising livestock would take

place). He noted the report suggested the runoff be collected and treated to remove contaminants prior to being discharged to the wetland. “We disagree” he said adding “the reality is that there is no regulation on it, so it is not required that we address it.”

He told the Members the Staff Report also mentioned *the landscaping plan needs to be updated to reflect additional landscaping proposed in and around the stormwater management system in the Wetland Protection Overlay Zone* and indicated that some of this landscaping would be determined in part by the farmer.

Mr. Branon also addressed the comment about landscaping in accordance with Appendix B of the Site Plan Regulations being added to the plan. He noted the interior requirements involved a ratio of unpaved planting areas for trees based on the number of parking spaces (and) the authority of the Board to reduce those requirements as stipulated. “We would like to request a formal waiver” he said noting “we have spent a lot of time with this plan carefully orienting the lot and its position so as to *not* impact abutters and *not* be viewable to the general public. These are the two primary intents of the ordinance.” He went on to say, “adding landscaping to the interior of the parking lot (and accommodating maintenance and plowing) would require the lot to be larger than it is.”

Mr. Branon then addressed the other points of the Staff Report: site demolition plan, updated floor plans and assigned parcel numbers; perimeter requirements for parking landscape; lighting plan to include all light fixtures be full cutoff; addressing snow storage and removal from the north parking lot and how it may impact the function of the stormwater management system; clarification on how snow removal will be managed in the smaller parking lots; whether or not a wetland permit will be required for the proposed dredging of the existing farm pond (this will be under the State’s jurisdiction “but dredging will result in a healthier pond” said Mr. Branon); a plan for landscaping in and around the stormwater management system and WPOZ (addressed earlier) and the addition of construction details for landscape material to the plan. He indicated that these would be addressed with staff and reflected in the final changes to be made to the plan prior to final signature.

Mr. Branon concluded by summarizing his request for a waiver to Appendix B Interior landscaping requirements for the parking lot and that adjustments to the condominium documents be addressed by Town Staff and the Town Attorney as necessary. He thanked the Board for their continued support noting “we seek conditional approval tonight.”

A motion was made/seconded (Vann/Hanlon) to grant a waiver of requirements for Appendix B of the Site Plan Regulations because the parking lots have been designed to minimize visual impact to Old Street Road and the abutters with all in favor.

Chair Holt asked, “any other discussion?” Mr. Throop suggested one other thing to consider was recommending a condition that the sewer extension be guaranteed by the applicant and approved by the Director of Public Works

A motion was made by Ms. Vann to approve a Condominium Subdivision and Site Plan for 33 residential units (the primary use of the property), a nonresidential unit to accommodate a Farm to Table Café (a permitted accessory use), and one or more units to accommodate agricultural uses of the property, all as shown on a plan entitled “Site Development Plans, The Village at Stone Barn”, Parcel No. U002-039-000, located at 63 Old Street Road, Peterborough, NH, Plan dated August 24, 2018 and last revised October 15, 2018, as it may be revised to meet conditions of

approval, prepared by Fieldstone Land Consultants, consisting of 14 Pages and architectural floor plans, elevations and renderings prepared by KCS Architects consisting of 13 pages. Subject to the following conditions to be met prior to signature of the plan:

1. Submit Revised plans showing minor modifications as directed by the Office of Community Development, the Boards Drainage Consultant, and the Public Works Director including but not limited to the following:
 - a. Add a plan showing demolition and site preparation and including details for how invasive species will be removed and disposed of (if on-site, the location and method of disposal.)
 - b. Add parcel numbers assigned by the Assessing Department to the recordable plat and clarifying delineations of the boundaries for each condominium unit, all common areas, limited common areas, and any convertible areas on said plat as needed. Final approval of the land-based unit delineations and the common area designations may be approved by the OCD Director in consultation with the Planning Board Chair.
 - c. Update landscaping plan to reflect “shrubs and transitional vegetation” to be planted within and around Stormwater systems in the Wetland Protection Overlay Zone (see minutes of 11/19/18).
 - d. Add typical construction details for planting of landscaping materials.
 - e. Add a note to the lighting plan indicating that all external light fixtures shall be full cut-off fixtures.
 - f. Update utilities plans as directed by the DPW Director, including adding fire suppression and domestic water service detail.
 - g. Add clarifying notes to the site plan addressing snow removal and storage for driveways and smaller parking areas on the south side of the property and addressing questions about potential adverse effects of the proposed snow storage on the stormwater management system function around the north lot.
 - h. Make such other plan modifications as may be needed to address minor comments raised by Town Staff.
2. Demonstrate receipt of a NHDES Wetlands Permit for the 1,800 square foot wetland fill and for dredging of the farm pond *if* required by NHDES.
3. Address the comments made by the Board’s stormwater consultant and make such modifications to the plan as necessary, to be approved by the Board’s Stormwater Consultant. Enter into agreement with the Board’s Stormwater Consultant for provision of inspection services related to installation and maintenance of erosion control measures and installation of stormwater management systems, to be paid for at applicants expense.
4. Demonstrate that a “guaranteed sewer extension” will be constructed in accordance with Town Code, to be approved by the Town Administrator and Board of Selectmen.
5. Submit Condominium Documents to be approved by the Town Attorney.

Mr. Hanlon questioned the language of #3 (*address the comments made by the Board's stormwater consultant and make such modifications to the plan as necessary, to be approved by the Board's Stormwater Consultant.*) He noted that while the modifications should comply with the consultant's report the approval should come from the Planning Board or its appointed designee.

A second motion was made/seconded (Vann/Hanlon) to maintain the bulk of the original motion but change #3 to read "Address comments made by the Board's stormwater consultant and make such modifications to the agricultural stormwater plan as necessary, to be approved by the Office of Community Development in consultation with the Board's stormwater consultant." With all in favor.

Other Business:

Mr. Throop noted the Board would be turning their attention to minor zoning amendments for the new year. "I hope to have the first draft before you at your meeting January 14th" he said. Mr. Throop also briefly updated the Board on the effort to create a plan for engaging a consultant to assist the Board with outreach and graphics for the zoning amendment in 2020.

Lastly Mr. Throop noted he had received a request to amend the Wetland Protection Overlay Zone (WPOZ) for the 2019 Town Meeting. "This request came from the Conservation Commission (ConCom)" he said. He went on to say, "their concern is that with increases in density there will be more instances where the WPOZ could be impacted and how that storm water will be managed. They do not want to see detention basins permitted in the wetland buffers."

Mr. Carrara noted an example would be the application they just conditionally approved. A brief discussion about the importance of the wetland buffers and detention basins infiltrating and filtering the water of sediment and chemicals as it works its way through to the wetlands followed.

Mr. Throop cited the outreach and work invested in 2007, 2008, 2010 and the ballot work in 2011 which led to the passing the Overlay Amendment in 2012. "It was a long process to get to what we have today" he said adding "but tonight I would like your input on how to proceed."

Ms. Vann replied, "we have talked about this for months and the problem is that for some people you can *never* have the wetlands undisturbed enough. It is appropriate to have detention basins in the wetland buffer, it's the last line of defense before reaching the wetlands. Agriculture is an appropriate use as well."

Ms. Heller wondered if a change in the WPOZ and elimination of detention basins would have an effect on other innovative and interesting projects. "Projects like the Stone Barn" she said.

Mr. Throop suggested they not discuss the merits of the request but more so the process. "Would you consider a joint meeting with the ConCom?" he asked adding "or would you prefer to start with a workshop amongst yourselves?" Mr. Carrara suggested the Conservation Commission demonstrate the problem. "I'd like to see something in writing" he said adding "then we can sit down and discuss it."

A brief discussion of 245-15 3.b. *Exemptions* to permitted uses within the buffer area which includes sedimentation/detention basins or ponds followed with Ms. Vann suggesting they go back to the process "and review how we arrived on this (exemption) and what might be an acceptable compromise." Mr. Throop added "allow a detention basin is a change to the natural buffer and I know their comments as related here are concerned about the scope of change.

Ms. Vann added the state regulates wetlands pretty comprehensively as well adding her concern that they may not have adequately thought about storm water management in infill projects as right now it all has to stay on the property. “But that is another conversation” she said.

Chair Holt redirected and asked, “so what do we want to do?” Mr. Ward suggested encouraging the ConCom to move forward with their concern, “it will be beneficial to listen to them and consider what they have to say then we can get into the history and what may of changed since then” he said adding, “it would be a bad move not to listen to them, they know what they are talking about. It is only fair to listen them.”

Another brief discussion of the research done for the exemption including classification of wetlands by functions and values followed. Mr. Throop advocated an avenue for review and potential compromise. “We can remove it, leave it or make it a permitted use by Conditional Use Permit” he said (quickly) adding “how it functions and if it functions well depends on how you write the criteria.”

Mr. Throop confirmed their next meeting for January 14, 2018 and a tentative date for January 21 for the joint meeting, but would have to poll the Conservation Commission on their availability (January 21st is a Holiday and the Town Hall is closed).

Mr. Carrara acknowledged and thanked the staff for its work with applicants, as well as preparation of all the documentation and motions. “It makes for a smooth-running meeting” he said.

The meeting adjourned at 8:15p.m.

Respectfully submitted,

Laura Norton

Administrative Assistant