

PLANNING BOARD
TOWN OF PETERBOPROUGH, NH

Minutes of September 10, 2018

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

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

Chair Holt called the meeting to order at 6:30 p.m. and introduced the Members and Staff.

Minutes:

A motion was made/seconded (Vann/Ward) to approve the Minutes of August 13, 2018 with all in favor. Mr. Ward noted those Minutes had reflected the Minutes of July 9, 2018 had been approved as written but there had been a correction noted and asked that be reflected in these Minutes for the record.

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, 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.

A motion was made/seconded (Vann/Hanlon) to continue the application to a date and time certain of September 17, 2018 at 6:30 p.m. in the Board of Selectmen's Meeting Room with all in favor.

Public Hearing: Conditional Use Permit for a proposed Professional Use, Home-Based Business on a parcel owned by Wendy Mason and Earnest Merritt, located in the Rural District, Parcel No. R004-004-000, located at 53 Old Jaffrey Road. The applicant proposes to use part of an existing barn as an art studio to illustrate greeting cards and to pack and ship the cards. The applicant plans to hire two part-time employees and expects 2-3 outgoing shipments per week.

Phil Runyon introduced himself as the representative for the applicants who were currently residing in California, "but are hoping to move to town if they get a favorable decision." Mr. Runyon told the members the applicants, a married couple

have a small home business where they do the artwork for greeting cards and stationery. As he handed out their catalogue and samples of their product he noted “the company is called *Dear Hancock*” and with a smile added “but we won’t hold that against them.”

Mr. Runyon went to a projected graphic and pointed out the buildings (house and barn) and parking area on the property. “The business will be on the second floor of the barn. There will be no sign or customers onsite” he said adding “their business would be conducted via online and mail orders. They will do their artwork on the premises, but the printing will be done offsite. No noise, no fumes, no disturbance to the neighbors at all. They ship in bulk, so they expect two to three outgoing shipments a week.” Mr. Runyon concluded by noting the applicant intended to hire two part-time employees and reiterated the necessary parking (4 spaces) was already in existence. “No other outside activities, no customers, no noise. The premises will not change in any way” he said as he referred to the dimensions of the barn that had been projected on to the screen. He reviewed those dimensions noting the current parcel owner, David Baum has run a consulting office from the barn for years “and you wouldn’t know he is there, this will be a similar arrangement here.”

Mr. Throop briefly reviewed the three tiers of 245-24 Home Based Business which included *Home Occupation*, *Professional Services* and *Home Industries* noting the difference between the categories related to the scale and intensity of the business. He told the Members that the Code Officer agreed this request fit the requirements of a Professional Services Home Based Business and therefor required a Conditional Use Permit from the Planning Board. Mr. Throop reviewed the General Provisions that apply to all Home-Based Businesses noting Mr. Runyon had addressed (activity operated by residents, activity incidental and secondary to use as a residence, does not change the character of the neighborhood, required parking, activity conducted entirely within the residence or accessory building (in this case the barn) and no more than 4 people (including the residents) be employed. “I just wanted to make sure this was clarified for the record” concluded Mr. Throop.

With no additional questions from the Board, Chair Holt opened the hearing to the public. With no additional questions or concerns from the audience Chair Holt closed the Public Hearing.

A motion was made/seconded (Vann/Carrara) to grant a Conditional Use Permit for a Professional Uses Home-Based Business to be located in an accessory building, located at 53 Old Jaffrey Road, Parcel Number R004-004-000, with the following findings:

All the general provisions that apply to all Home-Based Business category as set forth in Zoning Ordinance 245-24-A.1 and stipulated by the applicant, will be met.

All the provisions that apply to “Professional Uses” Home-Based Business category as set forth in 245-24.C and stipulated by the applicant, will be met, **with all in favor.**

Chair Holt proceeded to the last item on the agenda as the representative and presenter for the next case on the agenda was stuck in traffic.

Preliminary Consultation: Conceptual review of a possible reconfiguration of an existing three lot subdivision, all lots owned by Brian Nelson and located on Denise Drive, a private road off General Miller Road, in the Rural District, Parcel Nos. R007-043-000/021/022. The applicant is seeking guidance on reconfiguring the three 11-acre parcels into two 3-acre parcels and one 27-acre parcel.

Chair Holt reminded the Members and audience “this is a non-binding consultation for input and advice.”

Brian Nelson introduced himself and began with an orientation of his parcels off General Miller Road. “I bought three 11-acre lots recently” he said as he pointed out where he would like to build his house. He told the Members he learned the subdivision regulations stated that “in the Rural Districts (except for Open Space Residential Developments) individual lots that are accessed by a private road must be a minimum of ten acres.” He noted his road, 20 or more years ago, was approved as a private road “and is treated as such” he said. Mr. Nelson noted he wanted to explore whether the Planning Board would consider making an exception to the minimum 10-acre provision [in the subdivision regulation’s private road standard], “and I hope you would consider that” he said.

Mr. Nelson told the Members his plan was to create a Home Owners Association that would provide maintenance for the private road while keeping the road’s density controlled. He indicated a desire to adjust the boundary lines to make two (2) 3-acre lots and one (1) 27-acre lot where we would build his home. He noted the value in this transaction as he did not plan to further subdivide his parcel. “I am willing to put that in the Deed” he said noting the actual plan for buildings surrounding the cul-de-sac would remain the same with open space to the west. Mr. Nelson told the Members he planned to sell the other two lots and mentioned the transfer taxes as well as future property taxes for the town. “I will have more land with two neighbors” said Mr. Nelson “and everything else will remain the same.”

Mr. Nelson concluded by noting another method to circumvent the 10-acre minimum requirement would be to petition the town to take over the private road as a town road (knowingly a detriment to both parties as he would have a large expense to bring the road up to town standards and the town would be indentured to its ongoing maintenance).

Mr. Nelson concluded by noting if all else failed he would keep and maintain all three lots and the land would remain in current use. He reiterated that if an exception was granted six acres of prime land development would come out of current use and be taxable by the town. "I believe this is the easiest and most beneficial decision" he said.

When Ms. Vann asked, "how long can a dead-end street be?" (1000 feet) Mr. Nelson replied his road was about 500 feet long. Mr. Throop reminded the Members that regulations in 1997 are different than they are today but all the rights are grandfathered "so the road can be 16-wide wide and gravel."

Mr. Throop also suggested Mr. Nelson get on the agenda for the next Board of Selectmen's meeting (September 18th) to confirm they would issue Building Permits for the parcels if the minimum 10-acre provision was waived. "We are a town that has homes on private roads" said Mr. Throop adding "but the select board has final say in issuing building permits. You would be wise to get their confirmation that they would do so under the proposal." Mr. Throop concluded by noting there are other stipulations in the regulations regarding Class VI and Private Roads, including signing and recording a release of Town liability for maintaining the private road.

Mr. Ward asked if they may be setting a precedent in this case with Mr. Throop replying he did not think so. "Each project is unique and stands on its own." he said. Ms. Vann interjected the goal of the 10-acre parcel regulation was to reduce the number of parcels and total acreage being developed. Ms. Vann also noted "I am happy to see a 16-foot wide road serving three houses in the Rural District, let me make that clear." Mr. Carrara indicated he thought it was a reasonable proposal but that if a waiver was provided, they should think about the private road liability release as a condition of approval.

When Chair Holt opened the hearing up to the audience Susan Brown introduced herself and asked about the location and flow of the creek. Mr. Nelson pointed out how the creek ran along the western side of his property line and beyond.

Chris Conway of 267 Old Greenfield Road introduced himself and said he thought the proposal looked reasonable. "I have no objection to it" he said.

Dave Ballard introduced himself as an abutter and asked how property taxes in the neighborhood may be affected. Ms. Vann gave a short explanation of how the town taxed on assessed values of parcels as well as the fact that the town does not maintain private roads. “So there is no problem there” she said.

Preliminary Consultation: Conceptual review of a possible 17 to 26 lot subdivision of two parcels owned by EAM Peterborough Holdings, LLC, located at 69 and 75 Concord Street, in the General Residence, parcel numbers U016-041-000 and U016-042-000.

As with the previous Preliminary Consultation Chair Holt reminded the Members and audience “this is a non-binding consultation for input and advice.”

Chad Branon of Fieldstone Land Consultants, PLLC introduced himself as a Civil Engineer and representative for the applicant. Referring to a graphic he pointed out Parcel No. U016-041-000 (.7 acres, highlighted in pink) was the lot next door to the current Woodman’s Florist parcel (also purchased by the applicant) which currently had an apartment building on it that was not in great repair, as well as Woodman’s Florist, Parcel No. U016-042-000 (5.6 acres, highlighted in orange) which has a number of structures on it. Mr. Branon pointed out the commercial buildings, garage, nursery and an apartment over the store. He noted a portion of the lots were in the Family District and a portion were in the General Residence District.

Mr. Branon explained the plan for redevelopment of the site which included 20 units (12 single-family houses and 4 duplexes). “We need 20 units to be viable” he said adding “they will range in square footage from 920 to 1150 square feet, so they are not very large structures.” Mr. Branon noted the applicant was applying the Traditional Neighborhood Design I Overlay for the project and noted the structures were roughly 24 by 38 and 24 by 48 with building orientation to the street and a single car garage located 20 feet behind the front façade of the house. “We feel we meet the objectives and are consistent with the requirements of the Overlay” he said as he reiterated the lot to be served by town water and sewer, creating density in close proximity to the Downtown and police, fire and emergency services and creating housing opportunities that reflect changing household demographics. Mr. Branon also noted a continuation of the sidewalk for greater pedestrian connectivity.

A brief discussion on the topography and steep slopes (especially to the south) followed with Ms. Vann suggesting the 20-foot wide loop road could be reduced, thus reducing the amount of impervious surface on the site. Mr. Brannon then presented an alternative of a narrower one-way access road with the entrance near

Sand Hill Road, and a change in the layout going up the hill that relocated the duplex from the end of the road and moved one single family house off the hill and incorporated it into the front. The alternative showed the turn-around relocated between the two duplex units

Chair Holt questioned the frontage of one parcel noting “it looks to be just shy of 50 feet” with Mr. Branon replying “we are still quite early in the process but in our opinion this plan can meet all the requirements for the Traditional Neighborhood Overlay Zone I.”

Mr. Zeller asked about the existing curb cuts and if they would serve the project. Mr. Branon replied, “that is an excellent question: adding “Concord Street is a NH DOT jurisdictional road and we will be going from four to two accesses.” He pointed out the current curb cuts and the proposed new accesses in the (generally) same area. Mr. Zeller then asked “will this be a private road? With Mr. Branon replying, “this is proposed to be a private road.”

Mr. Hanlon asked about the slope on the hill at the rear of the parcel and a brief discussion about grade (8 to 10% road to access the top proposed unit) followed.

Ms. Vann noted an excess of asphalt that she “was not in love with.” She cited TND’s “not more than” lot coverage clause adding “and you are definitely *more* than.” Ms. Vann also commented that she thought this proposal was better than the original one “but I am still concerned how far up the slope you are going.” A brief discussion on accommodating the differential from top to bottom followed.

Mr. Carrara asked about a mix of residential styles with Mr. Branon noting the plan was for 12 single-family homes and 4 duplexes. “20 units total” he said.

Mr. Galus asked about the other side of the road. Mr. Branon noted existing driveways that were not centered on the homes.

Mr. Throop noted the proposed 12-foot one-way lane “is a new model for us, we’ll need to work out a few things.”

With no other questions from the Board, Chair Holt opened the hearing to the public.

Mackenzie Nichols introduced herself as an abutter and asked about the applicant’s plans for the existing trees. Mr. Branon noted they had not designed and graded the site yet “but the goal is to grade the lot in a fashion to maintain vegetation along the street line. Ms. Nichols noted her concern that the houses higher on the hill would be completely visible. “We’ll be starring right at them” she said.

Mary Reis introduced herself and noted her concern about drainage. “Concord Street is notorious for flooding and the trees help” she said.

Lockward Row introduced himself as an abutter and resident of the One Sand Hill Road Condominium complex. He asked about the provisions for maintaining the road when it needed maintenance with Mr. Branon replying “the HOA will maintain it. There will be fees that go into a capital improvements fund for the road.”

Ann Twichell introduced herself as an abutter. She noted her home at One Sand Hill Road was the closest to the proposed project, pointed out the vast amount of vegetation by the condominium’s tennis court and said, “I hope that stays that way.”

Mr. Branon told the audience any drainage plan would be managed in accordance with the stormwater regulations of the Subdivision Regulations. He added “the lot is very sandy and can be infiltrated with relative ease. (and) “the plan is reviewed by a third-party engineering company.” He also told the audience “there *will* be some cutting. The engineering designs will determine the limits as we get further into the project, but we obviously will not be cutting any trees off our property.” Mrs. Twichell interjected “there is good screening now.” Mr. Branon promised greater detail as the project moved forward. Ms. Nichols asked if the buildings were going to be two-story structures. Mr. Branon replied, “two-stories at this time.”

Dennis Cilley introduced himself and asked about the need for retaining walls (especially on the east side). He added “there is not a lot of space there, only about 40 feet from the line to the tennis court.”

Vicki Brock introduced herself as the property manager for the One Sand Hill Condominiums. She expressed her concern that the area was “all sand” and if a torrential rain were to fall without vegetation everything could be washed away. “You may have to put in a retaining wall” she said. Mr. Branon noted they would have to address that with the design “but we as engineers like working with sand.”

Ms. Nichols asked about the lot size for the structures with Mr. Branon noting 5000 square feet for single family homes and 7500 square feet for duplexes. Ms. Nichols then asked if the development may look similar to the recent development on Vine Street. “Are all the houses going to look like each other?” she asked with Mr. Branon noting it was too early to speculate on that.

Lavinia clay introduced herself and noted her deep concern about the sand and its movement. She noted a loss of land due to sand erosion years ago and asked if there were any town records on reimbursement to the Brothers who inhabited the Old Common Seminary at the time. She also noted a portion of her property being fluid

in the construction of the One Sand Hill condominiums adding “it is the same sand as in 1996 when we had a problem. I see a replay of that here.” Mr. Branon noted the rules, regulations and policies in place today were much more stringent from a design monitoring and construction standpoint. “An engineered design and appropriate construction sequencing will handle any work in conjunction with the slopes we’ll be encountering” he said adding “with that engineered plan come plans for erosion, sedimentation and stabilization that are reviewed by the Board, town staff and an independent third- party drainage firm.” He concluded by noting there may be State permitting involved as well with an Alteration of Terrain permit from the State. Mr. Throop reminded the Members the parcel is within the Groundwater Protection Zone and impervious surfaces are limited to 20% of the land area. “You can go over that 20% as long as you infiltrate back into the site itself” he said.

Broadrick Kaufhold introduced himself and noted his concern with the visual effects. “It is shocking and overwhelming” he said. Mr. Kaufhold then suggested screening the units with the existing trees. Ms. Nichols interjected “I second Brodie’s idea” and noted her concern about “cookie-cutter” houses above the elevation of the current street level homes.

A motion was made/seconded (Vann/Carrara) to continue the application (per request of the applicant) to a date a time certain of October 8, 2018 at 6:30 p.m. in the Board of Selectmen’s Meeting Room with all in favor.

Other Business:

Mr. Throop confirmed a Site Visit for the Stone Barn was cancelled. “The Town Attorney advised against making a site visit without an application” he said. Citing two Preliminary Consultations that had already taken place Ms. Vann replied “we need to fix that. The whole idea and goal is to get the conversation going *before* a lot of money has been spent.”

Ms. Vann then gave the Members an update on the status of the RFQ for a Consultant to work with the Board and lead the public process to conclude the zoning work they’d been doing for the past five years. Ms. Vann noted she’d spoken with Rodney (Bartlett, Town Administrator) about re-submitting it and they agreed it was too late and they still may not get a response. “The juice isn’t worth the squeeze” she said adding, “\$8,000.00 is just *not* a big enough job.” Ms. Vann went on to suggest dispensing the money for principal services. “I talked with Sue Chollet and she is willing to lead four public forums for zoning outreach. We will notice the entire town with a postcard and a choice of four dates in September and

October. We'll start with a revision of the new code for last spring with an updated map" she said.

Fora Dates:

Monday September 24, 2018 at Bass Hall (6:30 p.m.)

Saturday, October 6, 2018 at the Peterborough Masonic Hall, West Peterborough (10:30 a.m.)

Thursday, October 11, 2018 at Hilltop Golf Resort (6:30 p.m.)

Saturday, October 13, 2018 at Sheiling Forest (10:30 a.m.)

It was noted that people would be encouraged to attend the forum at the location closest to their home but that all were welcome to attend any one or all of the forums.

Mr. Throop noted he was preparing a list of zoning changes and would have it for distribution at their meeting Monday night (September 17th). Ms. Vann stressed "we are looking for public engagement and effectiveness, we want to hear concerns and answer questions, and we hope to see some new faces, but this is by no means a technical event."

Mr. Throop asked for a bit more clarity on what the forums were seeking to obtain. The members agreed an updated map and a poster or list of proposed changes would be helpful. Mr. Carrara suggested a "before/after" type list of changes with Mr. Juengst adding "we especially need to get input from the public that led to the successful political demise of the ordinance." Mr. Throop noted he's had a few and Kristin and Ed held a few meetings with some of the more vocal community members to provide an opportunity to better understand their concerns. Mr. Juengst concluded by noting he felt this was a much better use of the potential consultant's monies. "This is a much better idea" he said. Mr. Carrara advised to keep the big picture in mind. "We were unanimous last year and we are unanimous this year as well. We are listening and making changes" he said. Mr. Juengst agreed adding "there will be compromises for sure, we have to wiling to do so to get this done."

Mr. Ward made an observation that he had heard some supporters of the amendment selling it as an affordable housing push on voting day. "Not from this Board" replied Ms. Vann. Mr. Ward concluded by noting the importance of really listening to the public, "not cutting them off and not making them feel dumb. Let's be true to what is actually happening" he said.

Next Meeting:

September 17, 2018 at 6:30 p.m.

The meeting adjourned at 8:20 p.m.

Respectfully submitted,

Laura Norton
Administrative Assistant