

Planning Board Minutes 02/10/2014

Planning Board
Preliminary Meeting Minutes –
Recorded by Angélique Moon
February 10, 2014

Members present: RMarshall, SChicoine, AMoon, JFletcher, KO'Connell, PRenaud, and RWimpory

7:00 p.m. Minutes

PRenaud read the January 27th meeting minutes. Several minor changes were made, no substantive changes were made. AMoon moved to accept the minutes as amended. PRenaud seconded. Vote unanimous in favor.

7:21 p.m. Mail Received

- Announcement of NH Broadband Mapping Conference
- SWRPC announcement of annual Winter Meeting
- SWRPC Supplemental Grant #3 contract
- Invoice Public Hearing on Zoning Changes
- Invoice Harvester Market-Refreshments for 12-14-13

7:30 p.m. Sawmill Estates

RMarshall read from letter from LWhite regarding cisterns. Letter states that no certificates of occupancy will be issued until the cistern is operational, and LWhite does not have an issue with the road being gravel (rather than paved). This requires that the cistern be included in the bond, as approved by the Planning Board and Selectmen.

KO'Connell expressed concern that at the time the board approved the waivers, we were of two opinions of the condition of the road, with the majority of the board believing that the road would be paved (as per the plat) and PRenaud understanding that GMitchell indicated the road would be gravel. Given that the majority of the board believed that the road was to be paved and the plat reflects paving, KO'Connell believes the road would in fact need to be paved. AMoon expressed that her vote would not have changed given gravel rather than paved and the language of the waivers doesn't specify the road construction, so is the difference material?

The PB discussed reconsidering the waiver language. RMarshall read aloud the waiver discussion from the July 22nd meeting minutes. PRenaud noted that there was further discussion on a subsequent date regarding justifying these waivers. JFletcher read aloud from the November 11th meeting minutes, wherein the board decided not to reconsider the waivers given the roads were to be gravel rather than paved and decided instead to ask the fire chief for an opinion. Given LWhite's letter, this has potentially been resolved. The Board, however, is not in agreement on the impact of the gravel versus paved roads. PRenaud expressed concern that the original decision not to ask for an engineering study was based on the fact that the designs hadn't changed, but the move to gravel is in fact a change. RMarshall expressed that he doesn't see a material difference. KO'Connell states that he sees a clear material difference.

AMoon moved that the Planning Board waivers granted on July 22nd stand regardless of whether the roads are gravel or paved. KO'Connell seconded. PRenaud read from the road standards notes on use of gravel versus paved roads in Appendix A of the Subdivision Regulations. Notes that where the road use will be less than 50 cars per day, gravel may be used instead of paved. In favor: SChicoine, AMoon, PRenaud, RWimpory. Opposed: JFletcher, KO'Connell. The motion passes.

SChicoine asked GMitchell what his approach will be as to the cistern and certificate of occupancy given that the Fire Chief has indicated that no certificate of occupancy will be issued until the cistern is in place, though the original plan was that 7 houses would be built before the cistern was built. GMitchell expressed that it certainly wasn't optimal for him, but it is what it is. RMarshall stated that this discussion is really immaterial as it's a mandatory requirement, and SChicoine noted that he is seeking confirmation that the application won't be withdrawn.

AMoon noted that the language for the easement is missing from the HOA. RMarshall responded that there are several gaps in the HOA, and we will clarify those gaps tonight. The HOA hasn't yet been sent out for legal review. GMitchell asked what would happen if the board granted conditional approval and the town's attorney said that we couldn't approve. PRenaud noted that this legal review is required before we can grant approval.

The Board reviewed the HOA to determine the specific gaps. PRenaud noted that at the last meeting he had noted several gaps. "Does the language as it currently exists in Article 6.2 meet the requirements of RSA 674:21a and 477 paragraph 1?"

PRenaud provided a snapshot of RSA 674:21a: notes that any use of open space innovative land use provision creates a conservation restriction. PRenaud expressed that he feels that the language in Article 6.2 of the HOA is sufficient unto the requirements of this RSA. JFletcher feels that they perhaps even go further than needed. The board is in agreement that the language contained in the HOA is sufficient.

PRenaud expressed concern that the language in HOA Article 5 does not specifically state that the Town of Greenfield assumes no responsibility or liability for the private road and should perhaps also contain a reference to the RSAs (231:28-33) town standards for betterment assessments and liens for assessments and the potential future of the town taking over the private road. He would like our attorney to recommend language for inclusion in HOA Article 5 to address these concerns. GMitchell says that if this is needed, simply give him the direction to add this language to the HOA. PRenaud would like language as called for in our Subdivision Regulation "The Town of Greenfield assumes no responsibility or liability for maintenance or repair of the private road...." potentially with reference to the guiding RSAs.

AMoon noted that we haven't seen the easement language for the former Dorr Way. She believed this would appear in the HOA. The board reviewed notes and agreed that they believed it would be separately documented, but this remains an outstanding item from CBranon.

RMarshall confirmed that that completes the HOA review/issues. CBranon will be revising the plats as per all of the discussions and notes.

RMarshall asked where the Board stands on the bonding documents. RMarshall confirmed that the bonding documents represent the amounts that'll be guaranteed to protect the town. RMarshall noted that the documents don't yet include the cisterns. SChicoine notes that CBranon was waiting to initiate the engineering review of the bonding until after he had feedback from LWhite. This review has yet to be performed. PRenaud asked if utilities are included. RMarshall reviewed the documents and did not note utilities. The bonding does address the cistern, and speaks to a gravel road. PRenaud believes that public utilities would need to be included in the bond as well. KO'Connell notes that the homeowner who wants power always pays for the building out of the utilities to support their home. Inclusion of the utilities would generally apply only for underground utilities, which do not apply here. Keach will be the engineering firm that reviews the roads. PRenaud wants to ask the engineer if the public utilities should be included in the bond. If the engineer doesn't express an opinion, then he would like the attorney's view on it.

Discussion of 674:41 - do we need to define specific "active and substantial development requirements" versus receiving an automatic 5 year exemption?

- SChicoine notes that we had an outstanding requirement for CBranon to update the plat to reflect that no construction would begin until the bonding is in place.
- RWimpory notes that the stipulation that the bonding must be in place before any construction can take place makes sense.
- SChicoine notes that our Subdivision Regulations require that a timeline be established for completion of the road and public utilities development. JFletcher explains that the 5 year timing discussed prior was likely due to aligning this requirement with the 5 year exemption. SChicoine proposes that we consider waiving this specific time requirements. RWimpory agrees that using a waiver until we can remove this line from our Subdivision Regulations makes sense.
- KO'Connell and PRenaud agree that this can be waived but question if we need a letter of waiver from the applicant. RMarshall read language from the Zoning Ordinance addressing the board's right to waive. In this case, the PB would be waiving section 5b - each approved plat shall contain a time limit for the improvements of streets and public improvements.
- RWimpory moves to waive the need on the plat to have a time limit for the completion of streets and public improvements because of the uncertainty of future economic conditions. JFletcher seconded. Ayes: SChicoine, AMoon, PRenaud, RWimpory. Nay: JFletcher, KO'Connell. The motion carries.

RMarshall asked if we were at a point where we could move for conditional approval given the below conditions:

1. Language must be clarified and correct titles are applied throughout (i.e. plats, HOA, easement language)
2. Language within the HOA regarding the Town of Greenfield bearing no responsibility or liability for maintenance of the private road.
3. Engineering review of the bond by Keach (firm agreed upon by both parties)
4. Language stipulating that the bonding must be in place before any construction can take place, and must remain in place throughout the project.

JFletcher said that he doesn't see that that would be possible with the open issues before us. JFletcher and KO'Connell agreed that in order to proceed with a conditional approval we would need to get very specific on the

remaining open items.

RMarshall reviewed the history of the application to date, and the multiple extensions granted on both sides.

AMoon proposed a more detailed list of conditions based on this evening's discussion:

- 1) Items to be delivered from the applicant and acceptable to the Planning Board:
 - a) Revised plats
 - b) Revised HOA - updated owners, private road language
 - c) Final easement language (reference July 22 meeting minutes.
 - d) Final bond documentation
- 2) Items to be reviewed by Keach:
 - a) Bonding including cistern
 - b) Do we need bonding to include public utilities
- 3) Attorney review:
 - a) Review of the HOA agreement
 - b) Language indicating that the Town of Greenfield bears no responsibility or liability for the maintenance of the private road
 - c) Do we need to reference RSA 231:28-33?
 - d) Question if bonding needs to include public utilities (only if Keach expresses no opinion)

PRenaud read from Subdivision Regulations Appendix A:D which states that no private road shall be approved by the Planning Board until the legal documents have been approved by the attorney.

JFletcher moves that we cannot conditionally approve the application tonight based on this stipulation. Ayes: SChicoine, AMoon, JFletcher, KO'Connell, PRenaud. Nays: RWimpory. The motion carries.

KO'Connell expressed concern that "public utilities" is too broad a question. JFletcher asked if we're sure that the utilities are not underground. SChicoine pulled the plat and it does call for underground utilities, which means that they will need to be included in the bond. He also reviewed the bonding numbers and it does address paving.

RWimpory recommends that we draft language for our attorney to review rather than having the attorney write the language.

RWimpory recommends that the board send an email to the applicant seeking clarification given that what GMitchell stated in the meeting (gravel roads, above ground utilities) is inconsistent with the plat and bonding report delivered to the board (paved roads, underground utilities).

10:04 p.m. Adjournment

KO'Connell motioned to adjourn. RWimpory seconded. Vote unanimous in favor.