

PLANNING BOARD MINUTES

APRIL 25, 2018

Present: Chairman Stephen Garvin, Vice-Chairman Peter Abair, Justin Finnicum, Nancy Kilcoyne, John Hincks, Charles Karustis, Meagen Donoghue (Director of Planning and Community Development), and Beth Suedmeyer (Environmental Planner).

The statutory requirements as to notice having been complied with, the meeting was convened at 7:30 p.m. in the Lower Town Hall.

At 7:30 p.m., Chairman Garvin called the meeting to order.

**Public Meeting – Preliminary Subdivision Application – Powers Road, (Assessor's Map B09-0001)**

Present: Mr. Dan Carr, Engineer for Stamski and McNary, Inc., Mr. Josh Groton, of Greenscape Property and Building, LLC; and neighboring abutters.

Chairman Garvin announced that tonight's meeting is a public meeting, not a public hearing. He further stated that usually with public meetings, public comment is not included; but due to the volume of those in attendance, it is being included tonight. Chairman Garvin asked that the comments be brief and noted there will be subsequent public meetings where comments can be heard as well.

Ms. Donoghue stated that this public meeting concerns a four-lot cluster subdivision off from Powers Road, comprised of upland area of totaling approximately 7.87 acres with significant wetlands. Ms. Donoghue reviewed related correspondence received by the Planning Board; including communication from Health Director Bill Murphy, Town Engineer William O'Rourke, Conservation Coordinator Debbie Dineen, Fire Chief John Whalen, and other Town Department officials.

Mr. Carr presented the preliminary plans and provided summary. He proceeded to present three different plans; one that showed a conventional four-lot subdivision, one that had work going on beyond the 100' wetland buffer zone, and one that depicted scope of work being done within the 100' buffer zone. Mr. Carr also described a third option just submitted which included a modified plan where the homes were pushed back towards the abutting properties and a shorter road. Mr. Carr added that upon meeting with Town officials, the recommendation was reduce the length of the road, forcing the proposed houses outside the 100-foot required buffer zone. He added that the modified preliminary plan would require waivers, but not as many as the previous preliminary plans. Mr. Carr added that some preliminary drainage calculations were performed to include all roof run-off going to drywells. Another waiver mentioned by Mr. Carr was in relation to the requirement of catch basins installed for every 300-foot of road. Instead, this third proposed option offered catch basins at the intersection of the proposed road and Powers Road with swales along the edge of the road.

Mr. Karustis asked how many waivers would be involved with the modified plan. Mr. Carr answered that the only waiver would be the catch basin requirement.

Mr. Karustis said he needed clarification on the Cluster Subdivision Bylaw referring to access to the common area. Mr. Karustis read the provision aloud. He added that when he viewed the plan, he did not see any easements leading from the cul-de-sac for the two lots closest to Powers Road. Mr. Carr stated an easement could be added for the two properties that do not show it on the plan. Mr. Karustis said that this would probably mean requesting another waiver. Mr. Karustis asked if the firm looked at developing fewer lots in order to meet all of the requirements for a cluster development. Mr. Carr responded that was explored, and he referred to an alternate preliminary plan that displayed a three-lot conventional

subdivision. Mr. Karustis said that the three-lot plan would remove the 100-foot buffer waiver. Mr. Carr agreed. He stated that the plan for a three home development was preferable.

Vice Chairman Abair questioned the proposed intersection asking about the angle of the intersection. He stated that there is a requirement that the angle cannot be less than 60 degrees. Mr. Carr responded that the angle is 63 degrees. Vice-Chairman Abair questioned the grading and stated that it was somewhat difficult to tell from the plans and requested side elevations for the proposed road. Mr. Carr replied that he did not have a profile road grade at this stage but knew that it was not a very steep slope. Vice-Chairman Abair inquired if impervious land calculations had been done. Mr. Carr said that they had been done, and referred Vice-Chairman Abair to the table on the plan.

Mr. Hincks asked if three homes were proposed, would this plan meet all of zoning bylaws. Mr. Carr said that the development becomes a conventional plan; not a cluster plan. Therefore, the conventional plan meets zoning. Mr. Hincks asked about the history of the property. Mr. Carr responded he was not aware of any previous plans for the property.

Owner/developer, Josh Cronin, 10 Normandy Way, Ashland, NH; said that he and his partner owned the property and purchased it in 2017 when the seller provided a concept of the road that went from Powers into Hunters Ridge in Concord. He added that was the only other subdivision concept that he had seen. He further detailed that he and his partner started working with Stamski and McNary shortly after purchase to come up with some new concepts.

Mr. Hincks said that his last question involved the requested waivers of the zoning bylaws. He explained that from time to time, the Board grants those, but usually they are granted because there is a compelling interest for the Town. He questioned what the compelling interest for the Town would be. Mr. Carr replied that he knew that Sudbury was trying to increase the cluster subdivision concept while maintaining existing open space. Mr. Hincks asked if that open space was accessible. Mr. Carr replied that he was unsure of its access.

Ms. Kilcoyne asked if the three-plot plan allowed for common space. Mr. Carr stated it did not. Ms. Kilcoyne said that she thought the preliminary plan was excessive, but did like the idea of a cluster development.

Mr. Finnicum asked about the catch basins and stated that the number of swales proposed would probably not be enough to mitigate stormwater sufficiently. He wondered why additional catch basins were not considered. Mr. Carr responded that the plan utilized swales in order to maintain a low-impact design and added that because it is a small subdivision, four catch basins appeared to be excessive. He added that additional catch basins could be added if the Board wanted. Mr. Finnicum responded the catch basins or something else would be needed to slow down the runoff. Mr. Finnicum asked about the extent of land clearing within this cluster development. Mr. Carr answered that most of the land for the proposed road is to be cleared with the intent of keeping a significant buffer around the perimeter.

Chairman Garvin stated all of the stormwater management factors are within that buffer zone and there would be much grading especially on Lot #1. He thought it would be difficult to have any sort of a buffer and did not think that this was really meeting the four corners of the bylaw. Chairman Garvin said that the swales would not meet any acceptable definitions of treatment that only catch basins would provide. He added that having four to six catch basins on a road of that length was common. Chairman Garvin said that he had some concerns about the proximity of the proposed road in relation to other roads and intersections. Chairman Garvin said that further testing might be necessary and thought that such a significant number of waivers would be difficult. He added there was no guarantee about what may happen with the adjacent lot.

Ms. Suedmeyer said that she would like Mr. Carr to explain the constraints associated with the separation to ground water. She added this was an area that Health Director Bill Murphy commented on in relation to the septic systems that would be installed. Mr. Carr explained this zone requires a six-foot separation from ground water to the bottom of any leaching trenches or septic systems. He added some soil testing was performed and the groundwater was the worst at lot #4 where the groundwater was at about six feet. Concord resident, Mary Sterling, 59 Hunters Ridge Road, indicated she and her husband, Fred Bernham were direct abutters. She stated in early March, fifteen abutters reached out to Mr. Cronin, the developer, with a letter urging him not to build on this land because the neighbors believe the land has environmental value worth conserving. She added that on March 12, 2018, several neighbors attended the Conservation Commission meeting and voiced their concerns regarding the environmental impact of the proposed construction. She continued saying that in early April, Mr. Cronin kindly met a few abutters, and he described his plan for a four-lot cluster subdivision. She added the abutters appreciated his willingness to share his plan and listen to neighborhood concerns. However, the neighborhood respectfully opposed a four-lot cluster subdivision on this parcel. Ms. Sterling outlined the reasons for opposition: 1. Tree destruction and soil degradation. 2. Water and the changes in water patterns, as well as the creation of more challenges for water management on adjacent properties. 3. Traffic-Powers Road is a scenic winding road where accidents have occurred right at that curve, where these properties are being proposed. 4. Conservation-construction greatly impacts surrounding land, including immediate wetlands, and destroys habitat for the abundant wild life and trees. 5. Density of a four-lot cluster is not consistent with an area composed of wooded residential lots.

Concord resident, Jenifer Zuniga, 219 Ridge Road, had a question about the intent for the remainder strip of land beyond the cluster division. She stated she is a direct abutter and noted the land discussed this evening is very active with wildlife. She further maintained her yard had a potential vernal pool, so she wondered what would be done with the remainder of the land and questioned if it could be given to the Town. Chairman Garvin said that if it was a cluster development, then a certain percentage of the land would become conservation restricted. He added there is also a considerable wetland as you get beyond that level, so option for development would be very limited.

Concord resident, Jerry Deroche, 143 Hunters Ridge Road, stated that he had two specific concerns: one involving traffic, adding he travels on Powers Road, and with no traffic, it can be difficult. He also commented on how he was forced to run off the road and was t-boned in the past. He added he would prefer that not happen again. He stated that another concern was the overall water levels and that he would have preferred that tonight's meeting took place on site so all would see the water levels. He added that with the proposed development this dense; the water table would get that much higher. Mr. Deroche added that he was very concerned about flooding of basements in residential homes. Chairman Garvin assured Mr. Deroche that when things got further along, there would be calculations and testing to ensure that there would not be impact from that prospective. Vice-Chairman Abair asked Chairman Garvin if a definitive plan would warrant that a traffic study be done. Ms. Donoghue said that she also suggested a traffic study in her memo to the Board, based on comments from the residents. Mr. Hincks recommended that it might be helpful for the public to be clear about where this process stands and what this meeting is about. Chairman Garvin suggested that Ms. Donoghue give a brief synopsis about where the proposed plan stands now.

Ms. Donoghue said that this is a discussion to see if this is a viable project for an application to be filed for a definitive subdivision. The applicant will go back after today's comments and will adjust and work with the plans and may come back to the Board to further discuss. She detailed at that time, the Board may approve the preliminary plan. If the plan is approved, the applicant can decide to move forward to file a definitive subdivision plan. Mr. Hincks asked Ms. Donoghue in what part of this process would the public continue to have the ability to be heard. Ms. Donoghue answered that when the definitive

subdivision is filed, abutters will be notified and a public hearing notice will be sent out and published in the newspapers.

Concord resident, Cathy Deroche, 143 Hunters Ridge Road, said that she wanted to read a statement from Chris Moran, another resident living directly adjacent to where the proposed development. Ms. Deroche said that Mr. Moran wanted to address that with all the development involved, the land would be clear-cut and most of the soil would be disturbed or removed. He added this does not seem to be an ecologically sound way to develop residential properties in the town of Sudbury.

Sudbury resident, Joe Santangelo, 168 Powers Road, stated that he has lived across the street from the proposed development for 22 years, and that was another developer's idea, to put three houses on a lot where two houses exist now. He questioned if the development would benefit the Town, and asked how it benefits the people that live in that area. He concluded that fewer houses benefit both the Town, and the neighborhood; and that is the way to go; rather than requesting waivers and squeezing in more.

Concord resident, Kristine Hsu, 205 Hunters Ridge Road, said that her property abuts the open land section of the proposed development and she urged the Board to consider the significant wetlands. She went on to say that she has not lived at this location long and has seen an amazing amount of wildlife behind the vernal pool in her backyard. She suggested that the applicant, and the Town, put a conservation restriction on the land; to help try to preserve that open space in the future.

Sudbury resident, Joe Murphy, 40 Maynard Farm Road, said that he is an abutter, and has been driving on Powers Road for a long time and it is a tight, dangerous road, and it just happens to be a tough angle to put an entrance to a street. He said aside from the traffic implications, he could not visualize where the snow would go with many issues at that particular angle.

Mary Sterling said that the neighbors are purposing a two-lot conventional driveway alternative plan, and distributed a proposed sketch to the Board, the developer, and Mr. Carr. She stated that this plan would allow low-impact development and address the concerns presented here tonight.

Chairman Garvin said he thought that more time should be given to this plan. Vice-Chairman Abair agreed and said that the community benefit must be considered with this project. He added that one of the community goals is to maintain the 10% affordable housing rate and with four homes built with this number of waivers required, that goes against the stated goal of the community. He suggested that if one of the four houses was put in the affordable housing category, there might be a different discussion.

Ms. Donoghue stated that the preliminary planning for the Powers Road development could be continued on May 23, which would be the next scheduled Board hearing. She added that the Board was not meeting on May 9, due to Town Meeting.

#### **Discussion of Stormwater Violation and Request for Amendment to the Stormwater Management Permit, Lot 12, 10 Kato Summit**

Present: Mr. Peter Karassik, Owner of the Eligius Homes Company; and Peter Vito, Engineer with Sullivan Connors.

Ms. Suedmeyer summarized the violation stating at the last meeting, the Board discussed the construction of a driveway which exceeded the permitted conditions. As a result, the applicant requested an after-the-fact amendment to the stormwater management permit. She added there has been a discussion regarding options and was asked to check with Town Counsel for clarification. She added that if the Board did not feel that they have enough information tonight, the topic could be reviewed again and another possible

option would include that the site could be returned to the previously permitted condition. She continued stating this option would reflect the reduced scale of the stormwater with the appropriate treatment that was permitted in that plan. She clarified that in terms of enforcement capacity, this is an active and ongoing open permit. She noted Town Counsel discouraged having a fine levied because the owner has been agreeable to increase the capacity of treatment if the size of the driveway remains as it currently is on the ground.

Ms. Suedmeyer stated that the applicant did provide an estimate for what it would cost to remove the recently installed circular drive to return it to the permitted condition. She also received the “as built” plans, which reflect the actual construction of what is being considered for the amended permit request.

Mr. Karassik indicated he had the site contractor, the Frank Maurer Company, go out and measure what it would cost to bring this site back to the exact plan submitted prior to the unpermitted, enlarged driveway. He said that the driveway work could be done in a day and a half leaving the gravel base covered with loam. He stated that the cost to remove the driveway would be \$4,644.00, and is willing to make a donation to the Town for that amount.

Mr. Karustis thanked Mr. Karassik for being responsive and offering contribution to the Sidewalk Fund. He reiterated what Ms. Suedmeyer proposed to include removing the material on the drive, but not to include replacing the circular drive with vegetation or anything of that restorative nature. Mr. Karassik said that the gravel base is not impervious. Mr. Karustis added that to bring that area back to original condition would cost more than \$4,644. Mr. Karustis said that in the future, the Board might want more stringency when faced with this kind of situation.

Vice-Chairman Abair stated that one unintended consequence of this situation, is a better understanding of our enforcement authority, with violations that were a bit less known. He said that he appreciated the responsiveness of Mr. Karassik, and his offer to the Town. Vice-Chairman Abair said that now, the stormwater plan does cover the added service as amended.

Ms. Suedmeyer said that the peer reviewer looked at the proposed modifications and the Town Engineer requested additional treatment at the bottom of the driveway as a water management guarantee.

Mr. Karassik indicated this reflected a joint effort between Bill O’Rourke, Town Engineer; and himself, and Sullivan Connors Engineer, Vito Colonna.

Mr. Hincks said that he agreed that ripping driveway material out, and throwing it away, would not be good for the environment; and agreed with the offered donation to the Town sidewalk fund. Mr. Hincks said that he went out to the site, and thought that the modification is appropriate, in general.

Ms. Kilcoyne commented that this should not have happened in the first place, but said that if it meets the engineering requirements, then she was ok with it.

Mr. Finnicum questioned the acceptance of the “as built” condition and how this driveway may affect any future requests for improvements on the site. He wondered in the future, if the owner wanted to add a patio or pool would the owners be restricting themselves now by accepting this driveway. Chairman Garvin agreed and noted that at the beginning of the development of this lot, there was discussion along those lines and about trying to minimize the impervious areas. Chairman Garvin agreed that for now, precautions have been taken that meet standards and it probably does not make sense to rip the drive out and create more waste; especially if the driveway may go back in at some time in the future. He added that the Board appreciates the prompt action and accepts the donation offered.

Ms. Suedmeyer added a donation was fine and appreciated. She added that Town Counsel recommended that the Board might consider including language to address such modifications in the future when considering violations.

Mr. Hincks stated that he did not view the developers offer as a “fee,” but rather viewed it as a goodwill gesture so there is no conditionality here. Ms. Suedmeyer agreed. Vice-Chairman Abair said that these are regulations, not bylaws; and the Board can amend regulations.

Ms. Suedmeyer said that she had a short list of recommendations for revisions to the regulations. Chairman Garvin agreed that the Board could amend regulations without going to Town Meeting if they choose to. Ms. Suedmeyer said that such action would involve a public hearing of the Board with time for public comment. Vice-Chairman Abair agreed that it would be a public process.

Ms. Suedmeyer stated that Town Counsel recommended an amendment to the Decision, later to be recorded at the Registry of Deeds. She stated she had some possible conditions that the peer reviewer recommended and this would be an amendment to the stormwater management permit. At this time, Ms. Suedmeyer read conditions that would be connected with this amended permit.

It was on duly motioned unanimously:

VOTED: To approve the amendment to the Stormwater Management  
Permit, Lot #12, 10 Kato Summit, with conditions as stipulated.

### **Master Plan Update**

Ms. Donoghue provided a spreadsheet of all RFP requests to Board members and said that she was very pleased with the response. She added that she has received 26 requests thus far, from locations including Vancouver, NYC, CT, Seattle, WA, as well as, from more local locations. She said it looked like a very interesting mix, and it will be seen as to who actually submits their proposals by May 4, the deadline for the proposals.

Ms. Donoghue said that the next step would be to go through the applications in-house and then select three or four, and have those applicants come in and present to the Board, at a public meeting. She added that this public meeting would be separate from a regularly scheduled meeting.

### **Administrative Report**

Ms. Donoghue stated that the Board received correspondence from Attorney Wallace regarding the Board’s meeting that Mr. Brady was invited to. She added that the communication from Attorney Wallace, stated that Mr. Brady slandered his client. She added that if the Board wishes to discuss this, it will have to be in executive session, and put on the agenda. Chairman Garvin suggested taking this matter under advisement; review this communication, and decide from there.

### **Minutes for Review – March 14, 2018**

It was on duly motioned unanimously:

VOTED: To approve the minutes of March 14, 2018

### **Meeting Schedule – May 23, 2018, and June 13, 2018**

Chairman Garvin confirmed the meeting schedule and added that Town Meeting will begin on May 7<sup>th</sup>.

Mr. Karustis suggested discussing the regulation modifications at the next meeting. Chairman Garvin responded that the modifications discussion would be dependent on what is being covered at the next

meeting and if there would be enough time. He suggested if the Board was unable to have this discussion at the next meeting on May 23, 2018, then it should be included as part of an upcoming agenda, and not be put on the back burner.

Ms. Donoghue informed the Board that they just had a stormwater management application come in for the old police station and a preliminary subdivision filing for Powers Road on the next agenda, both possibly taking a considerable amount of time.

Mr. Hincks asked about Meadow Walk businesses. Ms. Donoghue said several eateries are expected to open at the site. Chairman Garvin asked about remaining available retail space. Ms. Donoghue said that she would make inquiry and get an update on the progress of the road. Ms. Donoghue asked if the Board would like to schedule another tour of Meadow Walk, having done one a year ago to see the progress, Chairman Garvin thought that would be very interesting for the Board and added he would like to learn more about the completion of the green-space area.

Vice-Chairman Abair spoke of the Avalon development, and discussed the Board inviting the Governor, and officials to opening ceremonies, considering the work put into the project by both the developer and the Town bringing more affordable housing to Sudbury. Mr. Hincks agreed and added the Board should start planning for that invite because people are going to be moving into those units as early as this summer. Ms. Donoghue added that sometimes ribbon-cutting ceremonies take place after people have already moved in. A discussion ensued for planning such an event.

At 9:00 p.m., Chairman Garvin adjourned the meeting.