



Town of Hampden
Planning Board Meeting
Wednesday June 12, 2019

Minutes

In Attendance:

Planning Board

Gene Weldon, Chairman
Tom Dorrity
Kelley Wiltbank
Jennifer Austin
Peter Weatherbee

Staff

Karen Cullen, AICP, Town Planner

Public

Larry Emery
Jim Kiser, representing Stearns Farm and Honey Hill Estates
Abutters for Honey Hill Estates, Emery, and Stearns Farm, see sign-in sheet

The meeting was called to order at 7:00 pm.

1. Administrative:

- a. **Motion** by Member Weatherbee to approve the minutes of the May 8, 2019 regular meeting, and May 21, 2019 workshop meetings; second by Member Austin; motion carried 4/0/0.

2. New Business:

- a. R&B Development, LLC – Public Hearing for Preliminary Subdivision plan for Honey Hill Estates. Proposal for a major subdivision for a single family 23 lot cluster housing development with one new road, on a 29.3 acre parcel located on Main Road South (parcel 06-0-050-1). This property is in the Residential A and Rural districts.

Chairman Weldon opened the public hearing at 7:01 pm.

Jim Kiser presented the application:

- 29.3 acre parcel of land located off Main Road South.
- 1 lot includes existing cottage that is currently rented.
- 21 lots in cluster development, mostly in the Rural district – the two lots closest to Main Rd S are in the Residential A district and comply with the dimensional requirements for that district.
- Requesting a few buffer/setback waivers. All areas with proposed reductions have no development abutting, and while the whole site was harvested, there is a line of standing trees around the perimeter of the site.
- Public sewer will be extended 500' up Main Rd S. to service this project.

- Water District agreed to service. Water pressure is a problem due to the elevation. Houses in the higher areas will need to have pressure booster systems installed to provide adequate water pressure.
- The fire hydrant will be moved to Lot 9 and will put out 300-350 gallons a minute, rather than the Fire Department's requested 500 gallons a minute.
- Stormwater management is provided compliant with the standards of the zoning ordinance which requires the design to comply with Chapter 500. Treatment is provided by a stormwater pond at the entrance of the project in a low area and will drain into the DOT system. Asking for a waiver from the Subdivision Ordinance standards.
- Working with DOT on an entrance permit. They are anticipating having to move the utility pole, as part of the service into the project. They are also confirming the flow of stormwater in the DOT catch basins, to ensure that there is enough capacity under their criteria.
- The post office is requiring the use of cluster mailboxes for this subdivision so there will not be mailboxes along the roads.
- The stormwater pond will be maintained by a Homeowner's Association. Those documents should be completed at final approval.

Abutter comments:

- Resident Peter Cowin of 236 Main Road South:
 - stated he doesn't oppose to the project if the environmental concerns are considered.
 - He runs a Honeybee farm and is worried about the bee's picking up insecticide's and/or herbicide's in the backyard stormwater runoff that goes downhill into the pond. Jim Kiser responded that there isn't a lot of herbicide's and insecticide's used on residential properties. They may be used in limited amounts to fight the brown beetle or grub, but all commercial applicators would have to be approved by DEP.
 - What sort of plantings might be done in the area? Jim Kiser told the Board that they have been in talks with Mr. and Mrs. Cowin, but nothing has been resolved. The developers are willing to discuss this more going forward.
 - Speed limit? Issues with road and driveway proximity. Is that taken care of? Jim Kiser responded that the speed limit (on the new road) will be for a residential roadway which is 25-30 mph, but usually don't get posted. DOT is currently working on the entrance permit.
 - Dust and noise? Jim Kiser answered only during the construction phase. The construction schedule will be during the week through early Saturday. Through the winter, weather permitting.
 - Peak Traffic? Jim Kiser answered 22 vehicles during peak hour, and 211 during the entire day.
- Resident Anna Green of 216 Main Road South:
 - She is concerned about the blind spot. The speed limit on Main Rd S is 35, but traffic goes faster. With more traffic this might become more dangerous, will there be a traffic light? Or reduced speed limit? Jim Kiser answered there will be no changes to Main Road South, DOT hasn't required it. The developer can't control or enforce speed, this is a state and town responsibility.
 - How is the sewer/water hooked up? Jim Kiser answered the sewer connection to the existing main will be in front of her home. They are putting it underneath the sidewalk and will rebuild the sidewalk and extend it (the sidewalk) to the project. During this they will need to provide traffic control because of the location. They will provide service connections to any properties currently on septic in those

locations. They talked to the Water District, and they have plenty of volume, it is just a pressure issue.

- Will the water runoff increase with construction? Jim Kiser said that a lot of the drainage will be cutoff by the new road. The drainage will then go into the state drainage system.
- Where is the developer based? Jim Kiser said it is a partnership of two local companies. One person lives in Hampden and the other lives in Newburgh. It's a local enterprise.
- When will the construction start? How long will it go? Jim Kiser answered construction will start as soon as they get a final approval. Will possibly start the end of August. What will be the construction times? Planner Cullen stated that there are no current regulations, but the Planning Board always puts a condition on approvals when a project is located in a residential area, and it is usually 7am. – 7 pm; we recognize the construction season is short and we try to strike a balance between the needs to the developer and the rights of the surrounding property owners to enjoy their own properties.
- Will this affect taxes? Chair Weldon said there is nothing the developer can speak to on this.

Planner Cullen's report/Discussion:

Jim Kiser addressed most of the items in the report. There are three items of primary importance to move forward.

- Determination on requested 75' buffer requirement along the perimeter of the cluster development. Question whether the Planning Board has the authority to grant reductions in the tract buffer/setback size.
 - It was agreed by the Planning Board to seek legal advice on whether the Board has the authority to grant a waiver on the setback/buffer requirement.
- Stormwater management- It's possible that the design of the stormwater management on this project meets the requirement of the subdivision ordinance, that the post construction stormwater peak flow doesn't exceed pre-construction flow, but we don't know that. Question raised by Woodard and Curran is whether the Planning board wants to see that proof?
 - The Planning Board agreed to require explanation in writing from the applicant that their stormwater management system, designed using the current zoning ordinance instead of the subdivision ordinance, will provide the required stormwater retention on site for this development.
- Road- To be eligible for acceptance as a public way, the road needs to meet both the subdivision and town ways ordinances. If they conflict, the more stringent of the two should be used.
 - The Board noted that roads built to the subdivision standards have been accepted by council in the past.

Motion by Member Wiltbank to seek the town attorney's opinion in regard to waivers of setbacks/buffers; second by Member Weatherbee; motion carried 5/0/0 by roll call vote.

Motion by Member Wiltbank to continue the public hearing to the July 10th meeting; second by Member Weatherbee; motion carried 5/0/0. [Ed. note: time was 8:30 pm.]

b. Hampden Village – Re-approval of Final Subdivision Plan.

Chairman Weldon explained this item was to take a new vote on the previously approved final subdivision for the Hampden Village multi-family project on Mayo Road, due to the original approval having only four voting members, one of whom passed away before the mylar was

signed. Maine Municipal Association's legal team has advised we take a new vote to approve the final subdivision. In order to have the necessary four votes, Chairman Weldon has reviewed the entire record for the meeting he had missed and has signed a certificate stating this fact, thus making him eligible to vote on the application. Chairman Weldon asked Member Austin if she had reviewed the record for the meeting she had missed and she stated no, she had not and would not be voting on this application.

Motion by Member Wiltbank to approve the final revised mylar; second by Member Weatherbee; motion carried 4/0/1 by roll call vote (Member Austin abstained). (Time was 8:34 pm.)

3. Old Business

- a. Lawrence Emery – Continued deliberations for conditional use under the provisions of Section 4.2, Conditional Uses, and section 3.4.2.1.6 of the Zoning Ordinance, to allow the placement of a ham radio tower that exceeds the height limitation for accessory structures at 75 Chickadee Lane (parcel 10-0-003-32), within the Residential A district.

Chairman Weldon opened the continuation of the public hearing at 8:36 pm.

Applicant Lawrence Emery addressed the Board:

- The Planning Board in the previous meeting requested to look at the proposed site. Lawrence Emery mentioned with the foliage, everything is blocked, so you can't see anything on Daisy lane, or the back side.
- With the recommendation of Member Austin, if the pole was moved back 6' to line the pole up with a cluster of large trees, that would hide a lot of the tower in the winter time. It would also maintain everything within the fall zone, and not change anyone else's view within the cul-de-sac side. It was mentioned that it would be hard to hide the pole completely from others' view 365 days a year.
- Tried to select the structure and antenna with the most minimal visual impact.
- Put in a storage building to block the neighbors view of his propane tanks.
- A gentleman in the audience is here who can address RFI or interference questions. The interference is mostly due to electronics such as dishwashers making it rougher on amateur radio operators; interference from radio operations affecting televisions is no longer an issue with the improvements made in television technology.
- The structure will not fall.
- The structure is a free-standing tower.

Discussion:

- Chairman Gene Weldon mentioned that based on the memo and additional information provided, most of the items from the previous meeting had been addressed.
- The proposed new location will meet the required 50' fall zone on the north side but not the west side, where it would still fall 5' over the line into the town owned open space area.
- The applicant confirmed the tower cannot be moved closer to the house so 50' is not attainable.
-

Abutter comments:

- Abutter Roland Narofsky of 56 Daisy Lane.

- Shed doesn't create any barrier for his property.
- Leaves in this climate are very temporary.
- Asked if he was going to do any plantings of trees to block this tower, like it was mentioned in the last meeting?
- What else can be done? Asked if he could paint or drape it with camouflage.
- Should be in a more rural setting.
- If he can view a tower from his house, this would impact the salability of his house.
- Further impacting the aesthetics of his house (in addition to the existing sewer manholes on the town owned land behind his house).

Discussion on the application:

Chairman Weldon mentioned that this is an allowed use. We are now just looking at the changes he has made on his application, and whether they meet the aesthetic concerns, and anything else we need to condition upon.

The biggest question is the setback question; it was noted the Board may not have the authority to "waive" it regardless of use or ownership of the affected land. Lawrence Emery asked if keeping the tower down to 45' would help? Chairman Weldon said yes, then the tower would meet the requirement. Mr. Emery agreed that he can keep the tower lowered to 45'.

There was also discussion about adding plantings/trees or painting the pole per the abutter's request. The Board didn't think plantings or painting would help screen the structure.

Motion by Member Austin to approve the conditional use to allow Lawrence Emery to install an Amateur Radio tower on his property at 75 Chickadee Lane, as shown on the plan submitted with the application with two conditions: to lower the antenna to the maximum height of 45' and to move the base of the antenna north 6' to the revised proposed location; second by Member Weatherbee; motion carried 5/0/0. (Time was 9:04 pm.)

- b. Stanley & Sean MacMillan – Continuation of Public Hearing for Preliminary Subdivision plan for Stearns Farm. Proposal for a major subdivision for a single family 39 lot cluster housing development with three new roads, on a 27.7 acre parcel located on Main Road North (parcels 33-0-011-A & 33-0-015-A). This property is in the Residential A district.

Jim Kiser addressed each item in the Planner's report; only those items which were discussed further at the May 8th meeting are noted here:

- Additional information of the visual impact concerning buffer/setback reductions; Jim Kiser handed out aerial and ground imagery for select locations where the reductions are sought.
- Drainage along RT 1A
- Additional drainage along lot 1, due to the abutter concerns
- Hydrant locations at the end of cul-de-sacs
- Plowing ability at the end of Adam's way
- Grade reduction on Adam's way, that we didn't have anything in writing from the Public Works Director.

Questions/Concerns/Opposition:

- Perry Anton owner of 27 Sunset Avenue and 17 Westbrook Terrace. Westbrook was built in the 1950's and the setback requirement was only 15' which resulted in small lots. Very little you could do with that. Lot 2 of the proposal is looking at reducing the

buffer/setbacks to 20'. Our concern is that any structure built on that lot will be so close that it will be very intrusive to our home. The Town Ordinance talks about buffers/setbacks and is there to protect existing property owners from encroachment. As a property owner I shouldn't have to show impact; if they have a non-conforming lot, that isn't my issue, that is a design issue, redesign it. The ordinances are there so abutters don't have to fight a corporation.

- Karen Cullen spoke for Cale Burger of 180 Main Road North, abutter to lots 19, 21 and 23. He sent an email which states his concern is regarding the requested waivers of buffers/setbacks. He doesn't see any language included in the zoning ordinance, as it relates to cluster developments, that would allow the Board to allow/authorize the waiving of any buffer/setbacks request. The 50' buffer/setback falls solely on the develop, not the owner of the abutting property. He believed when he bought the property that his interests, as well as the other abutter's interests, would be protected by the ordinances enacted by the town. He is not in favor of the setback/buffer waiver request.

Planner Cullen's report/Discussion:

- Chair Weldon mentioned there has been much discussion tonight about the buffer/setback waivers, and we have requested a legal opinion for that. We need that guidance to move forward.
- Jim Kiser asked if they would be able to receive Preliminary approval based on what was discussed tonight.

Planner Cullen mentioned four issues remaining:

- Requested reductions in the required tract buffer. (Cluster provisions)
 - Waiting on legal opinion to proceed with discussion.
- Stormwater system design regarding compliance with requirement that post-development discharge does not exceed pre-development discharge.
 - The Planning Board agreed to require explanation in writing that their stormwater management design will provide for retention to address the peak flow requirement of the subdivision ordinance.
 - It was noted DEP will review for water quality as part of the MS4 program within the urban area.
- Language on the subdivision plan and in the covenants regarding permanent protection of the open space areas.
 - The covenants and restrictions documents will be submitted with the Final subdivision plan.
- Language on the subdivision plan and for individual deeds regarding permanent protection of the tract buffer on all lots where the buffer is within the plotted lot.
 - A sample deed and homeowner's association documents will be submitted with the Final subdivision plan.

Chairman Weldon requested that staff send the opinion of town attorney to the applicant as soon as we receive it.

Motion by Member Wiltbank to continue the public hearing to the July 10, 2019 meeting; second by Member Weatherbee; motion carried 5/0/0. (Time was 9:39 pm.)

4. Staff report:

Chair Weldon said Planner Cullen has provided a memo for the Board to study for the next Planning Board workshop, to take place Tuesday June 18th at 6:30 pm. It was determined there would not be a quorum at the workshop, so Planner Cullen will reschedule it. Planner Cullen mentioned they will first work on finishing the shoreland ordinance, and if they have time review the cluster regulations in the zoning Ordinance. Planner Cullen also discussed board membership; two new applicants are expected to be appointed as full or alternate members next week, and a third in the next month or so.

5. Planning Board comment:

Chair Gene Weldon said he appreciated Tom Dorrity's service to the board, noting his pending resignation. No other comments by the Board.

6. Adjournment: Upon **motion** by Member Austin and second by Member Wiltbank, the meeting was adjourned at 9:49pm.

*Respectfully submitted by Jessica Albee,
CED Administrative Asst.*

Planning Board Meeting – June 12, 2019

Sign-in Sheet

| Name | Project you are here for |
|-----------------|----------------------------|
| Peter Cowin | "Honey Hill" |
| Anne Cowin | " " |
| Jim Kiser | |
| Perry Antone | MacMillan D&S/p |
| Anna Green | ? Honey Hill |
| Lawrence Emery | Ham support tower/Antennas |
| Jimmy Carter | " " " " |
| Dee Carter | " " " " |
| Eugenia Maxwell | Ham Radio - Chickadee Lane |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |