

APPROVED Minutes of the Planning Board Meeting of February 23, 2010

Members Present: Tom Cottrill (Chair), Karen Ebel, Emma Crane (Conservation Commission Representative), Tina Helm (Board of Selectmen Representative), Deirdre Sheerr-Gross (Alternate)

Members Absent: Jeff Hollinger (Vice Chair), John Tilley (Alternate), Michele Holton

Late Arrival: Michael Doheny (Secretary)

Others Present: Ken McWilliams (Town Planner), Peter Stanley (Zoning Administrator)

Chair Cottrill called the **MEETING TO ORDER** at **7:30pm**. He asked alternate, Ms. Sheerr-Gross to sit in for Ms. Holton, who was absent.

1. Greg Berger – Springledge Farm (TM 73, Lot 53)

The first item on the agenda was a request to waive the site plan review for a corn maze to be created in part, with land belonging to Bob and Sandy Messer. Mr. Berger showed a map of the proposed area and pointed out the location for the maze as well as the parking options available. He explained that near the greenhouses there are 20-30 spaces, there were spaces at the barn, and spaces near a tractor shed. Mr. Berger said that he had no idea how popular this attraction would be but guessed perhaps they could expect a maximum of up to 60 cars on a weekend day.

The maze would be 2.5 acres in size and would take an average of 45 minutes to get from beginning to end. He didn't foresee vehicles being parked for more than one to two hours. Signage would be used at the main parking lot to direct people to the corn maze parking spaces. They also have an area behind the pond which could hold another 15-18 vehicles. Mr. Berger added that the driveways on the property are wide enough for two vehicles to pass. He felt that in all, about 89 spaces could be used, which would probably exceed the demand. He noted that in corn mazes he has been to in the past, people are accustomed to and are OK with walking a distance to get to the maze and that it is part of the experience they are looking for.

Mr. Berger said that he was excited about the maze idea and felt it could be a good educational and fun experience for people. He thought they could involve some local groups in the maze. For instance, the college or high school could help create their mapping, and other groups who want to raise money in the Town could get involved in various ways.

Chair Cottrill asked Mr. McWilliams for his thoughts on the project and the request for waiving the site plan review. Mr. McWilliams indicated that the use is permitted under "farms or agricultural." The issue before them at this time was whether they would be able to waive a full site plan review. He explained that parking existed and that changes in that regard were not needed. He didn't see a need for going through a full site plan review for this project.

Ms. Ebel asked how long they would use the area. Mr. Berger said it would probably run from mid/end of August through Halloween weekend and maybe a week after. He thought they could perhaps work with the Town and the college on the haunted Halloween program they currently hold in the woods behind the old Middle School. When they were done with the maze, they plan to harvest the corn for feed.

Ms. Helm said that as a representative for the Board of Selectmen she felt this was a wonderful example of how to encourage economic development in the Town and felt it was a great benefit to the Town.

IT WAS MOVED (Karen Ebel) AND SECONDED (Tina Helm) to waive the site plan review for Springledge Farm's corn maze. THE MOTION WAS APPROVED UNANIMOUSLY.

2. Charles and Mikiko McGee – Final Site Plan Review – Home Business (TM 128, Lot 13)

Ms. McGee explained that they wanted to put up a sign to advertise their 10-year old tile installation business. This business is an existing business that they run from their home. Since they are an installation business, they only use the home for the telephone, the garage for the truck, and tool storage.

Mr. McWilliams indicated that they currently have a "Home Occupation" registration on file with the Town, but now with the addition of a sign, it will move them to the category of a "Home Business." This is the reason they are asking for a site plan review and approval from the Planning Board. He added that the sign would be limited to the size of four square feet or smaller. Ms. McGee provided a map to Mr. Stanley showing where the sign location was being proposed.

Abutter Laura Davis was at the meeting and asked to confirm that the only difference between what they were doing before when it was a home business and what they are proposing was only the placement of a sign? In the future, she wondered if they could ask for employees to work from the home or to create a showroom within the home. Mr. McWilliams said that later on they could ask for up to two non-resident employees to work from the home, but they could not have a showroom. To add employees, they would have to come back before the Planning Board, and the abutters would be notified again. Mr. McWilliams went on to say that the square footage they were limited to would not exceed 35% of the total finished floor of the dwelling unit, or maximum of 1,000 feet, whichever was less. The McGee case proposed to use just 6% of their floor space.

Ms. Sheerr-Gross asked if the approval for this home business ran with the property or the owner of the property. Mr. McWilliams said that someone could only come in and conduct the same exact business, which was unlikely. If there was anything different, they'd have to come back before the Planning Board. Ms. Sheerr-Gross said that it appeared that they would be adding a commercial sign at the intersection and it seemed to her to be a big difference between putting the sign on the garage (one noted possibility) and at an intersection. She thought perhaps they could put the sign at the entrance to their driveway instead of at the intersection. Mr. McWilliams said that the ordinance allows them to put their sign on the building itself or on a free-standing sign but does not indicate limitations of distance from the business.

Chair Cottrill noted a letter from Denise and Ray Laperle, who were concerned about the signage. The Laperle letter is attached to these minutes.

Mr. McWilliams explained that the sign is part of the Home Business application and that is why they were at the meeting. The permit for the sign would be issued by the Board of Selectmen, following the site plan review.

Deb Langner, a neighbor, said she walks the road (103A and Stonybrook) every day and it is a terrible intersection. She felt that less distraction on that corner would be best. If the sign could be a little closer

to their driveway she would prefer it. Ms. McGee responded that the closer to their driveway the sign was, the harder it would be able to be seen from 103A due to the sloping of the road.

Al MacDonald, abutter, said that they would have to take down some trees to put the sign on their garage. Ms. McGee agreed and explained that they decided to use a free-standing sign because there was not good visibility on the garage and they didn't want to have to take trees down. Thus, 103A would not be a good place to put the sign. Instead, they'd like to put it just onto the beginning of Stonybrook road. Mr. McGee said that they wouldn't be putting it right at the point of the intersection, but a little further down on Stonybrook Road.

Mr. Doheny arrived at 7:50pm

Mr. MacDonald said from late spring to early fall, they spend a lot of time outside on their porch and if a lot of trees had to come down and they'd see a sign in their line of vision, it wouldn't be the end of the world, but they'd rather have it around the corner on Stonybrook Road.

Ms. McGee explained that she had a small drawing of the sign on a map she had given Mr. Stanley. It would be wooden, painted green, and would not look commercial.

Mr. Stanley said that typically signs are placed about 4.5' – 5' from the bottom of the sign to the ground so that people in their cars can see the signs.

Ms. Helm asked if there wasn't an appropriate place on 103A to place the sign. Ms. McGee said that there wouldn't be a good place that wasn't directly in front of the MacDonald's house.

Ms. Sheerr-Gross asked if there was a way for them to describe how far from the intersection the sign would be. Mr. Stanley said that once the sign is approved, they would work with them on the placement of the sign and decide on a location. Ms. Sheerr-Gross said she would feel better if it was back from the intersection. If they could say it was ¼ of the way to the driveway or 50' back (some kind of definite indication of location) it may help Mr. Stanley and the rest of the Planning Board to feel comfortable with its placement. Mr. McGee and Randy McGee pointed out that there exists a pocket of trees on the south side of Stony Brook Road, where the road surface changes from pavement to dirt that would mark the approximate location where they would like to place the sign. The sign would be placed within ten (road length) feet of that change in road surface.

IT WAS MOVED (Karen Ebel) AND SECONDED (Deirdre Sheerr-Gross) to approve the site plan review for Charles and Mikiko McGee, subject to the understanding that the sign will be placed on the south side of Stony Brook Road within ten (road length) feet from the change in road surface and that the business will continue to be conducted as it has been historically.

THE MOTION WAS APPROVED UNANIMOUSLY.

3. John C. Akin – Continued Preliminary Minor Subdivision for Condominium Development (TM 72, Lot 27)

Mr. McWilliams gave an overview of what had happened since the last meeting. Mr. Akin revised the condominium documents which were then sent to Town Counsel, Bart Mayer for comment. A copy of Mr. Mayer's letter back regarding the Akin documents had been included in the packet of materials for

the Planning Board members to review. Subsequent to Mr. Mayer's suggestions, Mr. Akin went through the documents and made amendments to address Mr. Mayer's comments. It was explained that the condominium documents the Planning Board members had in their packets were from after Mr. Mayer's comments were made. Mr. McWilliams explained that Mr. Akin had pretty well addressed Mr. Mayer's comments from the letter. The last couple of paragraphs of Mr. Mayer's letter were brought to light. He could not emphasize enough the need for a professional review of the documents. Mr. Akin does not want to incur this expense and feels he has gone through the New Hampshire Condominium Act and has done enough. In summary, Mr. Mayer feels the Town's interests are covered.

Ms. Sheerr-Gross said that some problems could come up in the future, with the owners of the units, if using these documents. She said that it made her nervous that if this is the care being taken with the documents, how would the care be for the planning and the construction of the homes. Mr. Akin said that they are using Epoch homes in Concord and working with Steve Carnevale. He felt the workmanship of Mr. Carnevale and his subcontractors show good teamwork. He explained that his daughter designed the condominium and has put much care into it. The process has taken a year and half already.

Mr. Doheny said that they can't draw a correlation at his attempt to write the documents with the workmanship of the Epoch buildings.

Mr. McWilliams said that the Town is covered in the documents but that Mr. Mayer felt that there may be some issues that can come up within the owners within the condo units. He doesn't think it will be a concern with the first owners (Mr. Akin's daughters) but if new owners were to come into the picture and have a dispute, the documents may not be clear enough on how things would be resolved. Ms. Sheerr-Gross noted that those problems are not the problems of the Planning Board.

Chair Cottrill asked if a year down the road they want to clean up the documents, would they have to go to the Planning Board again. Mr. McWilliams answered in the affirmative and noted that they would have to go to the State and re-file. Mr. Doheny asked at what point the documents are filed. Mr. McWilliams said that they are filed after the Planning Board process is over and after they file with the Secretary of State for the Condominium Law.

Ms. Ebel said that they have reviewed homeowner association documents many times in the past. Many times they are done by professionals but are not always perfect. She said they are mostly concerned with things that would affect the Town. It wouldn't be a great thing to have a dispute under these documents but it was not their job or within their purview to base their decision on this, just because they don't think the documents are great. She thought they should let it go as long as the Town was covered.

Steve Carnevale, contractor for Mr. Akin was at the meeting. He commented that Mr. Akin had asked the Attorney General's office if they would need to go to them with this issue. They said that they did not, as it was only necessary for condominiums having ten or more units. He added that this has been a long-time goal of the Akins to bring their daughters back to New London. Mr. Carnevale noted that there is a term within the documents that states if there is a dispute, it would be settled in a court of law. He felt this cleared the Town of any harm and would put the problem at the State level.

Chair Cottrill asked if the meeting was noticed. Mr. McWilliams said that it was not because it was a continuation of a prior meeting. Chair Cottrill noted that there were some abutters who had come to the last meeting who had commented about the size of the building.

Ms. Sheerr Gross echoed that concern raised by neighbors at the last meeting about how the structure fits in the neighborhood? She said this could be an aesthetic issue due to the building having a 44' wide gable. She opined that it was going to be a huge scale issue for those living on that road because the other houses in the neighborhood are not built to the maximum allowable space on the lot. She was sure the floor plan was great and that the setbacks work, but suggested Mr. Akin take another look. Ms. Sheerr-Gross offered to meet with Mr. Akin's daughter for free to consult about the design to lessen the visual impact of the building.

Chair Cottrill asked Mr. McWilliams about downside concerns when condominium documents are not properly written and, in the opinion of New London's Town counsel, what would happen if there was a dispute. He asked if the Town would have to step in. Mr. McWilliams answered in the negative and said that the two property owners would have to work out their own problems.

Mr. McWilliams said that this is a preliminary hearing and so no vote would be needed. Mr. Akin will need to come back with a final site plan. Chair Cottrill re-iterated Ms Sheer Gross' concern to take a critical look at how the home would fit into the neighborhood. Mr. Stanley said that that the design fits within the zoning ordinances of the Town.

Mr. Akin said if the documents are found acceptable, he had a mylar with him to have the Planning Board sign. Mr. McWilliams said that he will have to come back for a final site plan review, which has to be a noticed hearing to the abutters. At that point they will look at the mylar and if they approve the final plans, they will sign it. Mr. McWilliams instructed Mr. Akin to file an application for the final review, pay the appropriate fees for the final hearing, and submit the final site plan. Mr. Akin wanted to know what he had to pay. Mr. McWilliams said that he believed Mr. Akin had already paid the fee for the final but that he would have to check. Mr. McWilliams explained that this is considered a minor subdivision due to the fact that there will be two parties that are sharing ownership on one property.

4. Colby-Sawyer College - Concept Site Plan Review –Burpee and Abbey Halls Renovation for Student Housing (TM 85, Lot 33)

Nate Fogg came to the meeting from Jesseman Association to present plans for Colby-Sawyer College. With him were Doug Atkins (from Colby-Sawyer College), and Jen McCort, an attorney to be joining Jesseman and Associates in the near future. Mr. Fogg explained that they were at the meeting to discuss renovating the basements of both Abbey and Burpee halls. He reminded the Planning Board that last summer they came in and got the new Windy Hill School permitted and shared that construction is well underway. They hope to be occupying the new school sometime in June. Since the school will occupy the new space, the basements of Abby and Burpee Halls will become vacant. They would like to use the space to create more beds for enrollment at the college.

Mr. Fogg explained that each hall would have 22 beds added. There are currently residents in half of the basement of Burpee Hall. Very little change would be made to the exterior of the buildings. They will dig to see what there is for drainage for the buildings and will check and add foundation drains where

necessary. Water service to building will be split so the sprinkler system is separate from domestic water in both buildings. The sidewalk beside Abbey Hall will be studied, as there is a drainage issue causing it to get icy in the winter. They are looking into re-grading and putting drainage in, as well as incorporating some infiltration to make that situation better. He stressed that nothing visibly would change with the halls.

Mr. Fogg explained that Fire Chief, Jay Lyons, has been consulted to address any issues. They have also spoken with Peter Stanley and consulted with Richard Lee (Public Works Director) about stormwater runoff from perimeter drains and window wells around the foundation.

Mr. Fogg said that another issue they need to address was the number of students versus parking spaces available on campus. He explained that they are looking into that and feel they need to look at where they are with their parking campus-wide.

Chair Cottrill said that, in the past with heavy rain, the basement of Burpee Hall gets very wet. Mr. Fogg said they are going to add drainage in that area and that the excess water would go to a catch basin. Ms. McCort said that they have already put new drainage in that area but would look into it further to make sure that there wouldn't be any other problems.

Mr. Atkins said that they are re-evaluating campus parking but for now they have frozen parking permits at the 2008 level. They will work with the Town to make sure parking doesn't affect the Town any more than necessary. When they come back for their next hearing they will have those answers to provide to the Planning Board.

Mr. Fogg showed a diagram of the layout of the floor plans. Rooms would be doubles and quads. He also said that due to the simplicity of what they are doing, they would like to go to final site plan review. He noted that the department heads didn't have an issue with this proposal.

Mr. McWilliams said that he did not see any issues with this plan. They were working with Chief Lyons at the fire department to put in magnetic doors, and compartmentalizing to make things safer. They are working with Mr. Lee on drainage. Mr. McWilliams opined that it sounded like they have been keeping good communication with the Town on the project.

With regard to the parking issue, Mr. Stanley suggested a campus-wide count of students, beds and parking. He noted that they had referenced the freezing of permits at the 2008 level. Mr. Atkins explained that they do not issue parking permits to freshmen. He said that freshmen can bring cars but they only have a certain amount of permits they can issue. They have not experienced a full parking condition in any day for all parking lots. This was not to say that some students will elect not to park in those locations; they may park on Main Street or Seamans Road. Many forget to move their car at night and that causes issues with the police department. Mr. Atkins explained that they don't anticipate a lot of cars coming to campus due to the economy. He also added that they are willing and able to address police or police department requests to gather statistics to better address the parking concerns on campus.

Ms. Ebel asked Mr. Atkins if their applications were up as high as they were at this time last year. Mr. Atkins answered in the affirmative and added that they are actually higher, that the indication of interest is higher, and that deposits are ahead of last year. He noted that their experience last year was that as of May

1st they were well ahead of where they expected to be. However, as financial realities came to bear over the summer, the numbers backed off.

Chair Cottrill asked Mr. Atkins if the college ended up using the Fairway Motel to board students last year. Mr. Atkins said that they did, but that they will not continue that arrangement next year. He shared that there were 16 students living there in the fall semester and 12 during the spring semester.

The Planning Board was in agreement that Colby-Sawyer College should be allowed to come in for a final site plan review and to be able to skip the preliminary site plan review.

5. Jonathan Feins – Stonehouse Road – Continued Hearing

Mr. McWilliams explained that Dana Bisbee would not be coming to the meeting but that Mr. Feins said Mike Hansen would be there to represent him. Mr. Bisbee had sent him an email dated Feb. 12th where he outlined the various conditions of approval he was suggesting, which were carried over from the Sutton Planning Board meeting in which the Feins proposal was approved. In addition, it occurred to Mr. Feins that if they do not record the cover sheet, where the 32 lots were shown, that this would take care of the issue the New London Planning Board had with showing lots that were actually not available. Mr. McWilliams felt that this would help to clarify the issues, in addition to the notes they had already agreed to add to the mylar. In addition, Mr. Bisbee indicated to Mr. McWilliams that Mr. Feins did not want to pay for an attorney's review and comments on this issue.

Mr. McWilliams explained that he had worked with Lou Karen on the formula for the conditions of approval in 2007, which came out to be \$1100. Mr. McWilliams and Mr. Karen concurred that it wouldn't make sense to collect that amount at this point because it is just for one lot. If in fact he does return with the remaining 31 lots and they want to obtain security, he would need to agree to the security for all 32 lots as was agreed in 2007. Either that or they could convert the lots into three large lots, which would create a whole other situation regarding road improvements to the New London portion of Stonehouse Road.

Mr. Doheny asked if there is a consideration to change to four lots instead of 32, why is this even under consideration? Mr. McWilliams said that they cannot dictate what the applicant has requested and that the applicant is apparently not ready to make a proposal for just four lots. Mr. Doheny said that it wasn't so much that the recording is misleading, but no improvements on the road have been made on the subdivision they have conditionally approved. If they approve one lot out of an approved 32 lot subdivision, he did not feel that was right. If they change to four lots at some point, then they should come back to the PB. If they want to approve just one, he wanted to know why they were there.

Chair Cottrill said he didn't have much of an issue any more for just one lot. No further development can happen to the rest of the property until they make the improvements to the road. And, now, the one lot is not going to be recorded in a confusing way. Further, this one lot on that road will not adversely affect the road. Mr. Doheny said that in the past people have come in to do projects little by little and were not done the way they were planned. Mr. Stanley said that some minor subdivisions intended for 30+ lots, but the applicant never relayed that information to the Planning Board and it was misrepresented. In this case, the applicant is telling them they will be creating 32 lots but it may become fewer lots. He agreed that Mr. Doheny and Chair Cottrill had valid points.

Ms. Sheerr-Gross said that one lot was one lot. Since the documents have been prepared for a major subdivision she wondered if there was anything they should take into consideration about how this would set precedence for future subdivisions.

Mr. Stanley said he felt it would be useful in this sort of situation in the future to get a volunteer from the New London Planning Board to go to the Sutton Planning Board's hearing and participate. They would probably welcome the participation so they can be aware of the concerns. He felt it would have been in the Town's best interest to have someone there at the Sutton meeting to participate.

Chair Cottrill asked what precedence may be set if they agreed to this one lot based on the representation they have with this specific case. Mr. McWilliams said that with the conditions they are proposing, along with the elimination of the cover sheet that shows the 32 lots, he didn't see any downfall. Ms. Ebel said that this is a sole access situation. Sutton's attorney has gone over this issue and is comfortable with it. If they had jurisdiction over the whole subdivision, she would feel completely different about it. Mr. Stanley said he didn't care if Mr. Feins wouldn't pay for the attorney, but if it would protect the interest of the Town, they should have Town Counsel look at this situation. However, he noted that they would probably have to use Attorney Fulton, as the Town Counsel for New London, Bart Mayer, had a conflict of interest.

Mike Hansen was there and said he would like to be able to comment but he could see that there were arguments either way. Ms. Ebel said she didn't see where this could go awry. They don't have jurisdiction over the subdivision and there are very specific conditions required. Her biggest question was whether it would be accepted to be recorded with all the conditions being added. Mr. McWilliams said that if it is signed by Sutton and New London and has a surveyor's stamp, they'll accept it. They don't care about the notes added, as long as they are legible.

Mr. McWilliams said they would add a condition that the first sheet be removed. Also, the full amount of security would need to be put up at the point where all 32 lots would be subdivided. Ms. Sheerr-Gross said they should state that there would be no further subdivisions. Mr. Stanley said that if the 32 lots would be subdivided, Sutton would have to require some upgrades to the road as it is impassable in the winter.

Mr. Doheny felt they shouldn't go forward. They have a subdivision of 32 lots. If they want to do four lots, that's great. He was not in the position to approve any changes at all.

Chair Cottrill called for a motion on the matter.

IT WAS MOVED (Karen Ebel) AND SECONDED (Tina Helm) to approve the applicant's request to amend the approval of Final Plans for Stonehouse Road access to the Harborview subdivision in Sutton, originally approved on February 27, 2007, to permit Final Subdivision Approval only for Lot 1 subject to the following conditions:

- 1. No further building permits will be issued for the Harborview Subdivision until the original conditional approval of the Harborview Subdivision and all conditions of Phase II are met.**
- 2. Phase II needs to be more clearly labeled on all plans.**
- 3. Boundary monuments shall to be set on Lot 1 on all corners and along the right of way.**
- 4. There will be no further subdivision of Lot 1.**
- 5. The Subsurface System Approval Number from NHDES needs to be indicated on the subdivision plat.**

6. The first sheet of the three sheets of the set of Harborview Subdivision Plans provided to the New London Planning Board at the January 26, 2010 meeting will be removed prior to recording the set of Subdivision Plans to clarify that the remaining 31 lots have NOT been given final approval by the NLPB. Only the second and third sheets will be recorded with the Lot 1 final approval.
7. Further subdivision or any sale of any of the remaining 31 lots in the Harborview Subdivision is subject to full compliance with the original conditions of approval of the Stonehouse Road Access to the Harborview Subdivision in Sutton, as approved by the NLPB on February 27, 2007, including either issuance of a Final Certificate of Performance after construction of all improvements detailed in the approved plans, or providing security in an amount approved by the New London Planning Board to cover the cost of improvements.

THE MOTION WAS PASSED. IN FAVOR: 4, OPPOSED: 1 (Michael Doheny)

Other Business

Minutes of December 22, 2009

IT WAS MOVED (Tina Helm) AND SECONDED (Karen Ebel) to approve the minutes of December 22, 2009, as circulated. THE MOTION WAS APPROVED UNANIMOUSLY.

Minutes of January 26, 2010

On page 8 Ms. Ebel said that the second sentence, second line “It” should be changed to “a lot” and build on “that lot.”

IT WAS MOVED (Karen Ebel) AND SECONDED (Emma Crane) to approve the minutes of January 26, 2010, as amended. THE MOTION WAS APPROVED UNANIMOUSLY.

Master Plan Work Session for March 9, 2010

Mr. McWilliams said that he had still not received anything from Ms. Levine on the Community Services Chapter or the Wastewater Utilities Chapter. He had still not received the revised draft of the Energy Chapter from Russ Aney. Therefore, it was decided to cancel the March 9th Master Plan work session.

Planning Board Appointments

Mr. Doheny said he would like to be reappointed to the Planning Board for another term. Ms. Ebel said that she did not wish to be reappointed.

The next meeting was scheduled for Tuesday, March 23rd 7:30pm

IT WAS MOVED (Deirdre Sheerr-Gross) AND SECONDED (Michael Doheny) to adjourn the Planning Board meeting of February 23, 2010. THE MOTION WAS APPROVED UNANIMOUSLY.

The **MEETING ADJOURNED** at 9:23pm.

Respectfully submitted,

Kristy Heath, Recording Secretary
Town of New London

Approved: _____ March 23, 2010 _____

Chairman: _____