

**Gilmanton Planning Board
Thursday, September 10, 2009
Academy Building – 7:00 pm
Minutes of the Meeting**

Members Present: Nancy Girard, Chair; John Funk, Vice-chair; Marty Martindale, Member; David Russell, Member; Dan Hudson, Member; Don Guarino, Selectmen's Rep.

Open Meeting

Member Russell opened the meeting with introductions of the attending Board Member's and explained that Chair Girard would be arriving late, and Vice Chair Funk is out of town. The Board may continue with the three attending Members and decide to do so.

Continued Hearing

PB #1609 – Site Plan Review - Bernard Lynch, Applicant, Lance Realty Trust, Owner: Seeking approval to operate a Contractor's Yard on the 5.11-acre parcel shown as TM/LT #412-20 and located on NH Route 106 in the Business Zone.

Acting Chair Russell explained the procedure of the Board and called for Planning Board Application #1609 – Bernard Lynch with no response.

Acting Chair Russell suggests moving on to the seconds scheduled hearing. The Board is asked to wait a moment before moving on. The Board honored the request to wait momentarily before moving on.

Bernard Lynch arrives shortly thereafter. Acting Chair Russell reiterates the Board Procedure and invites Mr. Lynch to present his plan. It was noted that the Board did conduct a site walk on September 5, 2009. It was noted that during the site walk members had concerns pertaining to stormwater runoff and erosion control.

Mr. Lynch explained that he is interested in developing the parcel as a Contractor Yard for the purpose of storing equipment and vehicles used off site. The Conservation Commission submitted photos and a written letter of concerns for Board Review. Mr. Lynch submitted additional photo's taken following the site walk depicting the erosion controls in place thus far.

Acting Chair Russell read the Conservation Commission concerns for the record.

The parcel is located at the western edge of a high yield sand and gravel aquifer. Wetlands lie on the site along NH Rte 106 and form the headwaters of Kimball Brook, which becomes the Soucook River. The access driveway is shared with the abutter to the south. The abutter to the north has logged his property recently. The abutter to the south complained that his driveway had been washed out at the August Planning Board Meeting. It was evident from the site walk that sediment has washed into the wetlands and stream along NH Rte 106.

The site walk produced several areas of concern. They are as follows:

- 1. The area where the driveway separates from the abutter's and goes to the contractor's yard. This is the area that had washed out previously and has been repaired since the Planning Board site-walk on September 5, 2009. The area north of the driveway has been loamed and seeded. The concern is that this area may wash out in a heavy rain. It is not clear where water will flow and it is likely that either the loamed area or the driveway or both will wash out. It is also likely that water will puddle in the driveway above this area during periods of light rainfalls. The amount of water that might come off the steep slope/ledge to the west has not been determined.*
- 2. The driveway/woods road/logging road going to the upper part of the parcel. This road has been severely eroded. Basic water bars would have helped. Since the Planning Board site-walk the lower portion of the road has been restored. However, it would not take much of a rain event to undo this work because the upper part of the road has not been stabilized. The water needs to be directed to the sides of the road.*

**Planning Board
Minutes of the Meeting
September 10, 2009
Page 2 of 7**

3. *Culvert under above road. There is a plastic pipe under the above road that directs runoff to the NE. This culvert failed recently and that was the cause for the driveway washout. However, there is no provision for what happens to the water at the outlet of the culvert, which empties on to a steep un-vegetated highly erodible area. There is potential for significant erosion, and washout of the slope that has been seeded near the abutter to the north and an overtopping of the hay bales in that area. The water coming out of the culvert needs to be slowed and absorbed.*
4. *The slope near the property line to the north that was eroded by a skidder trail. This slope has been stabilized with conservation mix and hay or straw with hay bales along the edge of the wetlands at the bottom. The slope is highly erodible and it is not clear that the hay/straw would maintain it until the vegetation is established. In addition the whole area could be washed out during a heavy rain by runoff from the upper road and slope.*

Board Members questioned if base material is proposed for use on the driveway with consideration of the heavy equipment usage.

5. *Slope between upper parking area and lower level area that might be used for parking. This slope is incredibly steep. There is some vegetation but not enough to secure it. Not sure what should be done here but it needs to be stabilized possibly with a wall since it is so steep. Should the lower area be used for parking? The site plan is vague about the use of this area. It abuts wetlands.*
6. *Is the base material used for the driveway adequate for the regular use of heavy construction equipment?*

Is the base material in the parking area adequate for heavy construction equipment? The Conservation Commission recognizes that it does not have the expertise to adequately resolve the questions associated with this site. The nearby aquifer, adjacent wetlands and Kimball Brook (Soucook River) need to be protected. It is the Conservation Commission recommendation that an engineered drainage plan be request of the applicant. Contours and wetlands should be shown on the site plan.

Board Members briefly discussed the steep slope from the edge of the upper parking area and agree something must be done about the amount of runoff.

The Applicant went on to explain that he purchased the property some 20 years ago and that skidders used during recent logging on the abutting property caused ruts that were not reclaimed causing the diminished condition of the driveway. Additionally the excessive rains we have had contributed to the eroded condition.

The Applicant explains the erosion controls he has put in place exceed any controls and will mitigate the runoff. The Applicant noted he is a certified wetlands scientist with 30 years of erosion control experience. The Applicant believes the controls put in place will be sufficient.

It was also noted that during the site walk the Board spoke openly and shares the comments made in the last paragraph of the Conservation Commission Concerns, which states:

The Conservation Commission recognizes that it does not have the expertise to adequately resolve the questions associated with this site. The nearby aquifer, adjacent wetlands and Kimball Brook (Soucook River) need to be protected. It is our recommendation that an engineered drainage plan be requested of the Applicant. Contours and wetlands should be shown on the site plan.

**Planning Board
Minutes of the Meeting
September 10, 2009
Page 3 of 7**

Board Members questioned previous discussions where the Applicant would have the erosion controls put in place reviewed by an engineer and have written confirmation that the controls put in place were adequate.

The Applicant explained he spoke with Tracy Tarr and there were concerns regarding liability in writing such a letter with regard to Ms. Tarr's Membership on the Conservation Commission.

It was suggested to avoid litigation in the future a professional engineer should review the drainage plan and stamp the plan.

The Applicant feels this is overkill and it would be nice to avoid litigation in the future. Mr. Lynch reiterated that he could have a professional engineer review the plan and make suggestions. However, the Applicant is confident that the controls established would be sufficient to control runoff and that a drainage survey isn't a viable request.

Board Members would like to see more details of the drainage plan depicted on the plan.

The applicant argued the position of adding the details of the drainage plan and contours stating that the proposed use of the property will have no additional impact to the site and the erosion controls put in place are sufficient enough to mitigate the runoff. Additionally noting the photo's provided a better depiction of the site than a contoured plan. Again reiterating that there is no change to the site; the Board questioned the grading that was done to the upper parking area.

Mr. Lynch explained minimal grading was done to the parking area.

The Board questioned use of skidders on the upper driveway; The Applicant stated that skidders were also used on the upper driveway. Mr. Lynch also explained as a result of the logging the natural canopy on the site was lost adding to the additional runoff issues that have been addressed.

Mr. Lynch made it clear that he was not responsible for the logging on the property. (It is unclear who the responsible party is; the tape recording is unclear due to the volume of the speaker and background noise.)

The Board stated satisfaction with the drainage controls that have been implemented. However, an additional buffer such as a berm should be added around the upper parking area at the steep slope. It was also suggested that the Board conduct an additional site walk to confirm that the vegetative controls are established.

The Board again reviewed the erosion controls implemented thus far and Members still have concerns that the culvert running along the side of the driveway will not adequately accept and slow the water flow during an excessive or sustained rainfall. An additional culvert was suggested.

Board Members stated concern with making a conditional approval that included following up after the fact, as the Planning Board is not an enforcement body. It was also suggested that the Applicant sacrifice the lower driveway and establish a buffer area around the wetlands.

Addressing the drain that was replaced; the Applicant explained that the previous drain would clog as was reported by an abutter. The Applicant has since replaced the drainpipe with a 6" pipe and also added rocks where the water exits creating a berm to help slow the amount of runoff. Mr. Lynch indicated the improvements on the submitted photos.

**Planning Board
Minutes of the Meeting
September 10, 2009
Page 4 of 7**

Addressing concerns along the driveway; Mr. Lynch explained the slope along the side is designed to catch and path the water has been loamed and seeded allowing the runoff to diffuse along the side of the driveway. Again reiterating the erosion controls implemented along the driveway are satisfactory.

Addressing the requested additional berm around the upper parking area; The sandy make-up of the proposed parking area will enhance mitigation as any water collected will be diffused before it reached the edge to the steep slope.

The Applicant proposed installing an additional drainage culvert direct pipe so that the rain will be directed to the wetlands should the current erosion controls prove to be inadequate.

Board Members again stated they would still like to have an additional berm created around the upper parking area, suggesting the use of mulch or hay bales as an additional safeguard until the vegetative erosion controls are established and stable.

Board Members and Mr. Lynch briefly discussed using a physical silt barrier vs hay bales concluding that the hay bales are more suitable temporary fix instead of a wall barrier, which a lot of times is not removed. Also noted were the unpleasing visuals of a traditional silt barrier. It was noted that hay bales are natural temporary barrier that blends into the landscape.

Board Members suggest continuing the hearing allowing more time for the applicant to complete the erosion controls and allow the additional planted vegetation controls time to establish. Additionally the Board requests a revised plan that includes all the erosion controls already put in place as well as the additional controls discussed.

Acting Chair Russell called for further comment from the Board, hearing none; entertains a motion to continue the public hearing until October 8, 2009. ***Motion is made and seconded to continue the public hearing until October 8, 2009; the motion carried with a vote of 3 members present.***

Acting Chair Russell explained the public hearing has been continued until the October 8, 2009 regular meeting of the Planning Board and that the plan submitted for final approval would have to include all erosion controls in place as well as those proposed during tonight's meeting as the final approval would be pending the inclusions of the drainage plan/erosion controls on the final plan submitted for approval.

Chair-Girard arrives to the meeting and is seated on the Board.

Continued Hearing

PB #1709 – Subdivision – Stanley H. Prescott, II, Applicant, Estate of Celon E. Kelley c/o Nancy Carrier, Owner: Seeking approval to subdivide the 105.4-acre parcel shown as TM/LT #409-045 and located on Gale Road creating 2-lots.

Mr. Prescott, II is in attendance and explains he has surveyed the parcel for the proposed 2-lot subdivision and is proposing to create a 8.9-acre parcel with the existing dwelling and the second undeveloped lot is proposed to be 96.7-acres. Both have adequate frontage on Gale Road to meet the minimum requirements for subdivision. The undeveloped lot also has frontage on Class VI, Donovan Road, (formally know as Perkins Road).

**Planning Board
Minutes of the Meeting
September 10, 2009
Page 5 of 7**

A “driveway” separates the lots, which Mr. Prescott contends is a “roadway” not a “driveway”. Which would not require subdivision. It was questioned if the town recognized the “roadway” and it was determined that at no time has the Town of Gilmanton accepted the driveway as a road, nor has the town at anytime maintained the area. Mr. Prescott further explained that the deed restrictions are noted on the plan.

Board Members asked for clarification of the property status; it was confirmed that the parcel is taxed as a single lot of record. If the driveway were in fact a road, there would be two lots of record and subdivision would not be necessary.

The Applicant feels a road separates the property, however, the town doesn’t recognize the access as a road and requires subdivision as the regulations specifically state, “town road”.

Chair Girard called for Board discussion, hearing none; questions the intent of the parcel if subdivision is approved. The Applicant explained that the current owner has no other intent other than to sell the undeveloped parcel.

Chair Girard calls for further questions from the Board, hearing none; opens the public discussion; hearing none; closes the public discussion and redirects to Board discussion.

Members questioned where the dwelling is proposed for the undeveloped lot. It was explained that there is a sufficient cleared area near the frontage of Gale Road and the driveway. Board Members request the 30,000 sf development envelope needs to be added to the plan.

The Board questioned if there is a potential to subdivide the undeveloped 97.7-acre lot. The Applicant explained it would not be financially feasible to develop the lot with consideration of the road upgrades that would be required.

Chair Girard called for further question or comment from the Board, hearing none; redirects to public discussion.

Abutter Marge Prout of Gale Road questioned where a road would go if a future subdivision were proposed.

Mr. Prescott explained that is unknown to him; as it is his clients’ intent to sell the undeveloped parcel created by the subdivision. Mr. Prescott is of the opinion that the property would be a good woodlot.

Board Members questioned the pin locations of the abutting Hyslop property.

Mr. Prescott stated that the pins located are depicted on the plan.

Board Members questioned the names mentioned in the language of the deed restrictions and who had the right to pass and repass on the driveway.

Mr. Prescott explained that the owner/resident of the house lot created as well as the newly created lot and Mr. Hyslop have the right to pass and repass.

The Board is unsure if the owner of the lot created with the existing dwelling would have the right to pass and repass as the access to the dwelling is off of Gale Road.

Chair Girard called for further questions, hearing none; questions if the Board would like to do a site walk of the property prior to final approval.

**Planning Board
Minutes of the Meeting
September 10, 2009
Page 6 of 7**

Mr. Prescott questioned if a site walk would be required as there is ample frontage and acreage as well as suitable development area.

The Board explained they had recently lost the Planning Board Administrator and the Board is not prepared to vote on the application since they were lacking paperwork. It was further explained that the Board is usually provided a staff report, which allows the Board to review the important facts of the case at a glance. Additionally, if Mr. Prescott could not fully explain what the lot consists of then the Board would do a site walk to view the property.

Mr. Prescott feels that it would not be financially feasible to further subdivide with consideration of the costs to upgrade the Class VI Road.

Mr. Prescott asked about the submitted waivers. Chair Girard explained that she was aware of the submitted waivers but that the Board was not ready to act pending findings of the site walk.

Board Members agree despite the lot size and adequate buildable area it would be helpful to make a final determination if they were able to conduct a site walk.

Mr. Prescott explained to the Board that the subdivision is needed to settle the Estate of Celon Kelley and currently there are 5 or 6 siblings involved and they would like to settle the estate as soon as possible.

The Board respects the family's desire to expedite the application. However, the property abuts a town forest and it would be wise for the Board to invite the Conservation Commission Members as well as receive input from the Fire/Police Chiefs.

Chair Girard called for further discussion, hearing none; entertains a motion to continue the public hearing until October 8, 2009; ***Motion was made and seconded to continue the public hearing until October 8, 2009 to allow time to conduct a site walk and receive comment from the Conservation Commission as well as the Police and Fire Chiefs; the motion carried with a vote of 4-members present.***

Chair Girard explained to Mr. Prescott that the hearing was continued until October 8, 2009, that a site walk would be scheduled and he would be notified when the site walk was scheduled..

Acceptance of the Minutes

The Board briefly discussed their inability to accept the minutes of the previous meeting having just received them at the beginning of tonight's meeting; Board Members agree that it would be better to wait until the next meeting to allow time for the Board to review the minutes submitted and make amendments accordingly.

Other Business

Chair Girard explained that the Town is trying to fill the administrative position. Interviews are being scheduled and it is hoped that a suitable replacement will be found.

Chair Girard again explained it is difficult for the Board to rule on a case when they do not have an applicant report. Board Members agree to the importance of the applicant reports and hope that the replacement administrator will continue to inform the Board as needed. It was additionally noted that as volunteers the time saved by having the report is invaluable.

Board Members discussed and all agree there is a need for additional Alternate Planning Board Members to avoid having a minimal board seated. All agree and will see what can be done to recruit new alternate members.

**Planning Board
Minutes of the Meeting
September 10, 2009
Page 7 of 7**

The Board briefly discussed the upcoming lectures that are held in the fall and it was questioned if the Board Members would be able to attend.

Chair Girard will check into the lectures available and will get back to Board Members.

Chair Girard called for further discussions or comments, hearing none; entertains a motion to adjourn the meeting. ***Motion was made and seconded to adjourn the meeting; the motion carried 4-infavor.***

As dictated by tapes and notes provided.

Respectfully submitted,

Desiree Tumas
Planning Board Clerk