

Town of Lincoln Planning Board – Meeting Minutes
February 21st, 2011 – 6:00 pm

Present: Chairman Pat Romprey, Vice Chairman Joe Chenard, Clerk Jim Spanos, John Hettinger, Peter Moore, Charlie Cook, Deanne Chrystal

Staff Present: Planning & Zoning Administrator Matt Henry, Town Manager Peter Joseph, Town Attorney Peter Malia

Excused Absences: Tom Adams

Others Present: Charlie Cook, Elaine Whitlock, James Foley, Ed Kobelski, Jessica Jeacopello, Betty Beaudin, Paul Beaudin, Helen Molloy, Tammy Ham, Kareen Rox, Norman Beforey and Harry Schofield

I. CALL TO ORDER by Chairman Pat Romprey at **6:00PM;**

Chairman Pat Romprey called the meeting to order. Charlie Cook removed himself because he is an abutter to Betty Beaudin who is the abutter actively opposing the Site Plan Review.

II. CONSIDERATION of an application for Site Plan Review Requirements submitted by Forest Ridge Property Owners Association for the installation a compacting dumpster, recycling receptacle, and associated improvements.

Proposal: The applicant seeks to install a compacting dumpster, recycling receptacle, and associated improvements on Tax Map 116 Lot 007

Planning Board: Acceptance of the completed Site Plan Review Application.

Public Hearing: Approve or Disapprove the Completed Site Plan Review Application.

Matt Henry began by explaining that the application was not accepted as complete because there were some questions regarding state and federal requirements related to stormwater protection. Upon calling both state and federal entities, he found that the only stormwater requirements were for industrial sites and not residential transfer sites such as this. He said he attached e-mail correspondence he had with the State of NH stormwater Bureau and the Environmental Protection Agency to the application. The only time the state will get involved is if there is some sort of violation such as discharge into a water body. However, even to that extent they said that it is typically something that is first addressed by the local health officer. Rather than stating that stormwater drainage plan was Not applicable, they have requested a waiver instead. Matt Henry went on to say that while the Federal and State governments do not require anything with regard to stormwater drainage, the municipality certainly may require reasonable regulations to lessen potentially harmful impacts.

Chairman Romprey asked Matt Henry if he thought a waiver would be acceptable. Matt Henry responded that for this site it seems like a waiver would be appropriate because engineering a stormwater drainage plan would add significantly to the cost of the project which is an undue burden since the Federal and State governments do not require it. Matt Henry also said to bear in mind that the Town is likely to be seeing future applications for Site Plan Review for compactors, so future applicants will be looking at this review for guidance regarding what will be required. While the circumstances will be different for each application, there is a certain amount of precedent that is being set regarding requirements what they require for an application.

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Matt Henry went through each of the waiver requests and explained each one. Additionally, he said that the applicant has provided written reasons for each waiver request. Chairman Romprey asked that the Planning Board vote on each waiver individually as per Planning Board protocol. The following waivers from the Town of Lincoln Site Plan Review Regulations were **GRANTED**:

- 1) **# 8: Existing and proposed topography of the site at 2 foot contour intervals. (5-0-0)**
- 2) **#9: Soil mapping units and unit boundaries (5-0-0)**
- 3) **#23: Stormwater drainage plan showing:**
 - a. **The existing and proposed methods of handling Stormwater runoff (5-0-0)**
 - b. **The direction of flow of the runoff through the use of arrows (5-0-0)**
 - c. **The location, elevation, and size of all catch basins, drywells, drainage ditches, swales, retention basins, and storm sewers. (5-0-0)**
 - d. **Engineering calculations used to determine drainage requirements. (5-0-0)**

MOTION: John Hettinger made a motion to accept the Site Plan Review Application as complete. Jim Spanos seconded the motion. The motion carried unanimously (5-0-0):

MOTION: John Hettinger made a motion to open the Public Hearing. Jim Spanos seconded the motion. The motion carried unanimously (5-0-0).

Chairman Romprey declared the public hearing open. Harry Schofield thanked the Planning Board for accepting the application as complete and described his proposal. He said that the intent of his proposal is to lessen the amount of dumpsters that are on the ground and overall clean up the site. He said that some of the benefits of this project are that some of the noise from trucks backing in and out of this site has been reduced because the compacting dumpsters do not need to be emptied as much. Harry Schofield said that though he still disagrees that Site Plan Review is necessary, the Forest Ridge Property Owners Association wishes to be good neighbors with the Town of Lincoln and is willing to provide reasonable mitigation measures to lessen the impact to the abutters. Harry Schofield went over the following possible mitigation methods:

- 1) Construct an earthen berm (approximately six inches) on the south and east sides of the new concrete pad.
- 2) Supplement the existing forest screening with additional natural (evergreen) or fence screening along the south and east edges in a manner consistent with plowing and site maintenance requirements.
- 3) Insure that the installation of area safety lighting this spring will be done so as to minimize the impact of said lighting on the adjacent land.

Harry Schofield said that there are no deed restrictions that prohibit a solid waste location from being located on common area. He said that there was a community agreement that was passed a few years ago that clearly defined jurisdictions of both the junior associations and the Forest Ridge Property Owners Association. At that time Forest Ridge Property Owners Association signed a 99 year lease for the solid waste site along with the main roads, therefore it clearly falls under the realm of the Forest Ridge Property Owners Association and specifically mentions that they are allowed in Article 6 #8 of the deed restrictions and covenants. John Hettinger asked if they planned on restricting the pickup times for the site. Harry Schofield said that Waste Management operates during normal business hours so they would not be replacing the compactors at odd times. He said it is certainly reasonable to request that the dumpsters not be emptied prior to 8:00am. Pat Romprey said that this

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would be covered by the Town's Disorderly Actions Ordinance which prohibits such noise from the hours of 10:00pm-7am.

Pat Romprey asked if the dumpsters began to smell, would they be emptied. Harry Schofield said that it is difficult to say what the odor threshold would be, but the residents of Forest Ridge do not want the dumpster to smell any more than the other abutters do. So if the odor becomes offensive than it should be emptied. Matt Henry said it is a reasonable question because there is going to be more trash in one area as a result of having a compactor. Harry Schofield agreed but said it is also a better sealed unit than open dumpsters.

Elaine Whitlock, 24 Forest Drive, said that she is the closest abutter to the site and she is in favor of the compacting dumpsters. She said she is pleased with how the compactor has neatened the site. She no longer sees trash outside the containers when the dumpsters are full. She also finds the site quieter, smaller and more desirable for everyone.

Jim Foley, 31 Pinehill Lane, said that he is a member of FRPOA but is not a direct abutter. He said that the site is small and clean and is overall in better shape than what it looked like before.

Ed Kobelski said that he has seen a great improvement as well regarding the compactor. He witnessed the compactor operating and he does not see any noise issue because it is so quiet.

Norm Belanger, 14 Mountain Brook Circle, said he is also an abutter to the site and wants to express how clean the concrete pad makes the site. The whole operation is better as a result of this compactor.

Helen Malloy said that she lives on Forest Drive but is not a direct abutter. She agreed with everyone's sentiment that the site was better off because of it. She originally opposed the plan but after seeing how the changes have improved the site, she is now happy with the results.

Karen Roy, 10 Spruce Drive, said that she thinks the site is a great improvement as well.

Paul Beaudin said that his mother is an abutter to the site and is not a member of the association so he can speak in a more non-biased manner. He requested that the reasons the waivers were granted be entered into the minutes. Pat Romprey agreed. Paul Beaudin asked Matt Henry why financial considerations were a reason to grant a waiver. Peter Moore said that financial burden on an applicant is never a consideration on the part of the Planning Board. Matt Henry said that it is not that he was necessarily concerned with the financial burden if it was necessary, however, he found out from research that because there are no state & federal requirements it would be "going above and beyond" the requirements if they were to mandate an engineered plan. Peter Malia said that the application has already been accepted as complete and if the abutter wishes to appeal the decision he is certainly free to do so but he recommends moving on to discussing the merits of the application. He said that in this case the information was not absolutely necessary and it would be expensive to obtain, therefore, the Planning Board granted the waiver. In cases when the information would be necessary, it may be necessary to burden the applicant with that requirement.

Paul Beaudin said that he would like to see a fence erected in order to shield the site. The problem with planting trees to shield the site is that it will take years for trees to reach the desired height and work as an adequate screen. He asks that a screen be put up on both the eastern and southern side of

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the lot to block both exposing sides of the site. The fence should be high enough to shield both the visual aesthetics and any lighting that will be seen from his mother's property.

Paul Beaudin said that he would like to see hours of operations put in place so his mother is not awakened early in the morning from people dumping trash. The existing ordinance seems to address this issue depending on the time it describes.

Paul Beaudin said that runoff is an issue and the berms will help that a little. However, he also recommends a concrete pan be placed under the dumpster to catch any seepage that may occur and prevent it from running into his mother's property. It is virtually impossible to regulate hazardous material but if Forest Ridge gets hazardous material sent back from Waste Management it will cost a lot of money and Forest Ridge will be forced to address it.

Paul Beaudin said that Forest Ridge should be aware that they will be getting more critters around because the smell will attract more animals. Crows and raccoons may become a problem as well as flies.

Paul Beaudin said that the most important issue is the frequency the compacting dumpster should be emptied. He said that he has a lot of experience with compacting dumpsters and the longer the trash sits in there, the more it will stink. Compacting dumpsters heat up in the summer and will cook the trash and increase the stench. He said that April through November the compactor should be emptied weekly.

Paul Beaudin said that he is worried about property value of his mother's property, but a bit of screening would alleviate some of his concerns with property values.

Paul Beaudin said that he would like to see the use of the solid waste site limited to the amount of units that are currently approved. He said he would like to see a specific number of units tied to the site so the Town is certain the units that are using the site are authorized to do so. Paul Beaudin asked how many units are currently approved to be built. Harry Schofield said that there are four three-decker garden style condos left and three unfinished duplexes which makes approximately 18 total units. Peter Joseph asked if the units were still buildable. Subdivision/Site Plan approval and building permits may have expired by now and the sites may no longer be buildable. Peter Joseph said that if someone were to come in and apply for a building permit for the site it may be denied because Site Plan Review has expired. Paul Beaudin said that he would like to see a number attached to it so there are no questions regarding what is approved.

Charlie Cook said he is not an abutter but he abuts Betty Beaudin's lot. He said that the site has become a lot louder now from trucks moving in and out. Furthermore, runoff becomes more of an issue now that the site is a paved surface. Water and runoff no longer are absorbed by the dirt. Charlie Cook said that the most offensive part of this issue is that the compactor is located closest to Betty Beaudin's lot line. Forest Ridge should move the dumpsters to the other side of the lot which will give the abutter 30' of relief. It is a small concession but every bit makes a difference.

Tammy Ham said that there was a blatant disregard for the Town's regulations. The people of the Town of Lincoln had no opportunity to comment on the merits of this application and Tammy Ham said that she feels Forest Ridge should apologize to Betty Beaudin and the rest of the Town for

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bypassing Site Plan Review Regulations. Even if the site is improved, Forest Ridge failed the community by not following the state & municipally mandated regulations.

Peter Joseph read the Disorderly Actions Ordinance word for word to the Planning Board. He said that 10pm-6am is the time period set forth in the Disorderly Actions Ordinance. He wanted to clear up exactly what timeframe the Disorderly Actions Ordinance would encompass. Peter Joseph asked Peter Malia what role the Town would play in enforcing cleanliness of the site. Would the Town Health Officer have to respond to a complaint on the part of the abutter if she feels it stinks? Would the Health Officer have to make a “stink investigation”? How would the Town define what “stinks”? Peter Malia agreed with Peter Joseph that it is very difficult to enforce stench. The Planning Board may place a condition based on the months of the year as Paul Beaudin has suggested and that eliminates the need for a “sniff test”.

Chairman Romprey said that Forest Ridge residents will most likely be the first to complain about a smell. Paul Beaudin disagreed

MOTION: John Hettinger made a motion to close the Public Hearing. Joe Chenard seconded the motion. The motion carried unanimously (5-0-0).

The Planning Board took a 10 minute recess.

There was additional discussion regarding if there is an odor whether FRPOA will empty the compactor. Harry Schofield said that any reasonable person would empty the dumpster if it smelled. He said that rather than mandating that they should empty the compacting dumpster whether it needs it or not, they should give FRPOA the opportunity to be able to empty it as needed because it is unreasonable to expect them to empty it before it is necessary. He said if the abutter says that there is an odor he will send somebody to the site to see if there is indeed an odor, and if there is they will call to have Waste Management empty the compactor.

MOTION: Jim Spanos made a motion to reopen the Public Hearing. Joe Chenard seconded the motion. The motion carried unanimously (5-0-0).

Paul Beaudin said that he is dissatisfied with what Harry Schofield is saying and he maintains that he would like to see it emptied every week from April to November. He said that he has over 20 years of experience in Solid Waste and he knows when this dumpster will stink and in the summer it will stink if not emptied every week. Paul Beaudin said that he would like to have the onus on his mother to allow FRPOA the ability to have the dumpster emptied less frequently than once a week in the summer.

Harry Schofield said that according to Waste Management compacting dumpsters such as this do not need to be emptied every week.

Peter Malia said that it is not the job of the Planning Board to “broker a deal” with the applicant and the abutter but to conduct Site Plan Review. He recommends closing the Public Hearing and deliberating the merits of the application amongst themselves.

MOTION: John Hettinger made a motion to close the Public Hearing. Jim Spanos seconded the motion. The motion carried unanimously (5-0-0).

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Deanne Chrystal said that allowing Forest Ridge to monitor the dumpster is like “allowing the wolf to watch the chickens”. She thinks it should start at one week and gradually be emptied less frequently until they can determine what frequency they should empty it.

John Hettinger said that he trusts Paul Beaudin’s expertise and they should take his recommendations seriously because he works in the field.

Joe Chenard said that the Town has a Health Officer and a Land Use officer that should be checking up on the site. It would take about 5 minutes per week and they should ultimately decide the frequency the dumpster should be emptied.

Peter Moore said he agrees that the Town should act as the third party to determine an extension of an agreed interval if they determine the dumpster does not need to be emptied. He thinks it would be unreasonable for either the applicant or the abutter to have sole discretion.

Peter Malia said that he recommends setting a specific interval for which the dumpster should be emptied.

Pat Romprey said that the Town should mandate that the dumpster be emptied each week and allow for an extension if the Town finds it would not stink. That way they can gauge how often it should be emptied and revisit it after the summer. Peter Malia said that that would require an amendment to the conditions of the approval.

John Hettinger said that it will be a very difficult thing for the applicant to prove since you do not know if it is odorous until it is odorous. Joe Chenard said it would be easier to go in the opposite direction, meaning you start at the dumpster being emptied every three weeks and if it is not sufficient they mandate it is emptied more frequently until they find it suits the site and the amount of garbage produced by Forest Ridge.

Deanne Chrystal said that whatever the Board decides should be suitable for whoever is on the Board of Directors of FRPOA and not just for whom is in a current leadership position. Harry Schofield said that FRPOA has an interest in working with the town regardless of who is in leadership.

Paul Beaudin said that he has not heard any discussion regarding when the fence should be installed. He also said that he agrees neither his mother, nor FRPOA should be the ones who decides when the compactor should be emptied. He said that he still maintains that it should be emptied at a set interval. FRPOA said that they would agree to empty it twice per month during June, July, and August and revisit it if it needs to be more frequent. Peter Malia said that they can put as a condition in the approval that the issue be revisited at a later date.

Paul Beaudin said that he finds it unreasonable to put in a compactor without Site Plan Review. Paul Beaudin left the meeting.

The Planning Board continued their discussion and decided that the dumpster would be emptied weekly during the summer months. However, FRPOA may petition the Town to extend that period upon a staff person inspecting the site and conducting a “sniff test” to see if it could warrant an extension. The Town will revisit it in the fall to determine the final frequency.

The Planning Board decided that the fence should extend high enough to not allow light pollution and undesirable sight to be seen by the abutting property owner. The Board also discussed the placement of the fence. The fence will be constructed along the southern and eastern side of the fence. There was more discussion regarding the specifics of the conditions for approval.

MOTION: Peter Moore made a motion to approve the Site Plan Review Application subject to the following conditions. Tom Adams seconded the motion. The motion carried unanimously (5-0-0):

1. **Berm and Fence.** The new trash compactor has been placed on a concrete pad. Photos taken recently by Matt Henry, Lincoln's Planning and Zoning Administrator, shall be placed in the file and made a part of the record. A berm shall be created on the East and South sides of the new concrete pad, and a solid fence shall be erected (a minimum 6 feet in height) approximately 30 feet across the "back" (easterly side) so as to contain and shield the compactor and recycling site. The fence shall also extend approximately 40% of the distance from the Southeasterly corner of the trash compactor to Forest Ridge Drive. Both fences shall be joined at the southeasterly corner. The total height of the combined berm and fencing shall be a minimum of 8 feet from the current elevation. The berm and fencing is intended to address line of sight, lighting, screen cover, runoff concerns and noise issues. The berm and fencing shall be constructed by June 15, 2011.
2. **Lighting.** All lighting shall be downcast lighting, designed to contain all or most of the lighting on site.
3. **Hours of Use.** The hours of use of the recycling facility are subject to the Town of Lincoln's Disorderly Action Ordinance (which prohibits disorderly actions between the hours of 10:00 p.m. and 6:00 a.m.). Therefore, individual owners (members of the Forest Ridge Property Owners Association) shall be prohibited from dumping trash between the hours of 10:00 p.m. and 6:00 a.m.
4. The trash compactor shall not be emptied before 7:00 a.m.
5. The recycling site shall be limited for use to the number of units currently built or approved as of this date.
6. **Summer 2011 Review.** The Planning Board has established June, July and August of 2011 as a conditional test period to determine the true need of the frequency of emptying the trash compactor. The applicant is required to empty the compactor weekly during June, July and August 2011, but may petition the Town for an extension via email to the Town's Planning and Zoning Administrator, who shall have the authority to extend the emptying of the dumpster for one week upon inspection. This conditional review period shall be reviewed by the Lincoln Planning Board in October 2011, at which time a final schedule shall be determined, and a Revised Notice of Decision will be issued setting forth the final schedule.
7. During the non summer months, normal operational standards and requirements for emptying the trash compactor shall apply.

III. CONTINUING & OTHER BUSINESS (Staff and Planning Board Member/Alternates).

Matt Henry said that he had a request from Jeanne Beaudin to change the official record of the approved minutes from the December Planning Board meeting. He said that the official minutes say that Jeanne Beaudin stated that the Town has not hired a soil scientist to delineate all Town wetlands. However, Jeanne Beaudin said she actually posed the question to Peter Joseph. Matt Henry said that upon reviewing the tape, he determined that she was indeed correct. Peter Malia said that minutes should be amended by having somebody who voted in the affirmative of approving the minutes, move to reconsider the motion.

MOTION: Joe Chenard made a motion to reconsider the minutes for December 22rd, 2010. Jim seconded the motion. The motion carried unanimously (5-0-0):

MOTION: Peter Moore made a motion to make the following change to the minutes of December 22, 2010. Jim seconded the motion. The motion carried unanimously (5-0-0):

Change “Jeanne Beaudin said that the Town of Lincoln has not hired a soil scientist to delineate all of its wetlands so it still may be a wetland” To “Jeanne Beaudin asked if the Town had hired a soil scientist to delineate all Town wetlands. Peter Joseph responded that the Town has not”.

Matt Henry asked the Board if they prefer electronic communications or paper packets. Tom Adams said he was having difficulty with the e-mails because they are so large and Matt Henry asked if anyone else wanted paper packets. Joe Chenard said he preferred paper packets because he rarely checks his e-mail. The rest of the Board agreed that they should be sent out electronically as well as a paper packet for the evening of the meeting.

Pat Romprey brought up the possibility of creating a historic district in the Village Residential Zone around Church Street. John Hettinger asked what that would entail. Matt Henry said that it would establish a Historic District Commission that would review applications for that district. However, the Town would need to adopt it at town meeting and add a historic district ordinance in the Land Use Plan Ordinance. Jim Spanos expressed opposition to the idea.

IV. REVIEW AND COMMENT on the MATRIX REPORTS and OPEN FILES pertaining to:

The Board did not review the matrix reports.

V. PUBLIC INPUT on Specific Issues

VI. ADJOURNMENT:

The meeting was adjourned around 8:30 pm.

Respectfully submitted,

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Matt Henry

Dated: March 16, 2011

Pat Romprey, Chairman

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