

Town of Lincoln Planning Board – Meeting Minutes  
October 27, 2010 – 6:00 pm

**Present:** Clerk Jim Spanos, John Hettinger, Peter Moore, Charlie Cook, Deanne Chrystal, Tom Adams,

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

**Excused Absences:** Chairman Pat Romprey, Vice Chairman Joe Chenard,

**Others Present:** Betty Beaudin, Paul Beaudin, John Currier

**I. CALL TO ORDER** by the acting Chairman Jim Spanos at **6:00PM**;

Jim Spanos opened the meeting by explaining that because Chairman Romprey and Vice-chairman Chenard were not in attendance, he was acting Chairman due to his position as Planning Board Clerk. Alternates Deanne Chrystal and Tom Adams were seated.

**II. CONSIDERATION** of the Draft Meeting Minutes of 10/13/2010.

The Planning Board made the following corrections to the draft minutes.

- 1) Page 3: Delete the word “grant”
- 2) Page 3: Replace “he” with “she” when referring to Sheila Grace who is female.
- 3) Page 4: Clarify phrase where it describes Dennis Ducharme’s support for the collocation. It seemed jumbled.
- 4) Page 5: Replace second “\$50,000” with “\$500,000” and replace the word “less painless” with “less painful”
- 5) Page 1: Replace “Crystal” with “Chrystal”.

**MOTION: Peter Moore made a motion to pass the minutes as amended. John Hettinger seconded the motion. The motion carried unanimously (4-0-1).**

**III. CONSIDERATION** of an application for Minor Subdivision submitted by Horizons Engineering for Weston Graves

**Proposal:** The applicant seeks approval to subdivide 15,000 square feet of land from Tax Map 124 Lot 026.

**Planning Board:** Acceptance of the completed Subdivision application.

**Public Hearing:** Approve or Disapprove the completed Site Plan Review application.

Jim Spanos explained that this application was voluntarily withdrawn due to deed covenants and restrictions forbidding the subdivision of land.

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

**A. Betty Beaudin – Request for a Letter of Non-compliance**

Charlie Cook recused himself because he is an abutter to Betty Beaudin. Paul Beaudin began by explaining the situation regarding the Forest Ridge Property Owners Association and the Solid Waste Disposal Site. He and his mother had met with David Larson who is the Property Manager for Forest Ridge Property Owners Association and explained that Betty Beaudin wanted the site moved to a

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different location. David Larson said that he did not have the authority to relocate the site because it is the board members who make those decisions. Paul Beaudin said that he is here before the Planning Board to simply follow the process through. His plan is to first request a letter of noncompliance from the Planning Board, and then request a cease and desist order from the Board of Selectmen. Paul Beaudin said that though he understands that the dumpsters have been there a long time, however, it is the wrong message to send to developers in town that so long as nobody complains, something that should not be there may remain.

Paul Beaudin said that the reason he believes the site is in non-compliance is that it never underwent Site Plan Review as required in the Site Plan Review Regulations. The site, which was initially approved as a structure, should have been converted to open space rather than a solid waste site. Additionally, when the site was expanded recently the site should have undergone Site Plan Review again.

Deanne Chrystal asked Mr. Beaudin if they were requesting a cease and desist to be effective immediately. Paul Beaudin responded that he will be requesting that the Board of Selectmen order them to cease and desist immediately. He said that he is not trying to cause trouble between his mother and Forest Ridge, however, he sees it as a way to initiate quicker action. A cease and desist order from the selectmen will create a sense of urgency for them to initiate Site Plan Review, hopefully for another location.

John Hettinger asked if there would be a timeframe attached to their request. Paul Beaudin said that he understands there will be a reasonable timeframe tied to the cease and desist order if the selectmen choose to grant his request. He is less concerned with the timeframe and more concerned with Forest Ridge making a commitment to move the site.

Deanne Chrystal asked Paul Beaudin to clarify the reasons they want the dumpsters moved. Paul Beaudin said that his mother is concerned with noise, land value impacts, proximity to her property line, and seepage. However, she is more concerned with the recent expansion. He said that in the past 20 years they have seen the dumpsters gradually increase in number. It started small with a couple of open top dumpsters. They then added two. Most recently they added recycling containers, a concrete pad, and compressor hookups.

Peter Moore asked if the 30 days that the planning board gave them to submit Site Plan Review were meant to encompass the original site or the expansion. Matt Henry said that they were asked to submit Site Plan Review for either one. If they were to submit Site Plan Review for the expansion, it would constitute a review of the site that was there before since it is in the same location. Approving the expansion would inherently approve the site that existed prior. Peter Moore asked if the town has received a written response from Forest Ridge, Matt Henry said they have not. Mr. Larson informed David Beaudin that he is not authorized to move the site that decision may only be made by the Forest Ridge Property Owners Association Executive Board. David Larson also came in to look through Planning Department files a few times during the past 30 days. Matt Henry said that his conclusion was that Solid Waste Disposal Site Plans are required in the Site Plan Review Regulations. However, the Planning Board probably did not follow up on the regulations to the extent it should have. The question is whether there is some sort of limitation regarding whether the town can/should act on something that has illegally existed for years. However, the role of the Planning Board is to determine whether it is in compliance or not. It seems clear that Forest Ridge is not.

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Peter Moore expressed concerns with the location of the site in relation to wetlands, and part of the role of Site Plan Review is to ensure environmental protections are in place with regard to storm water drainage. He said that he held little sympathy for Forest Ridge because it failed to meet the 30 day deadline the Planning Board gave. He felt 30 days was plenty of time to make necessary phone calls and submit a plan to the Planning Board.

Tom Adams said that the Planning Board should be working more with the developer than the home owner's association since they have jurisdiction over the undeveloped land and the association has limited land available for relocation. Deanne Chrystal agreed with Peter Moore saying that it is David Larson's job to work on behalf of the Forest Ridge board. Peter Moore said that it is difficult to justify the illegal use continuing if it was not reviewed for environmental wetlands compliance. Paul Beaudin agreed and said that the location also should have reverted to open space after a certain number of years as written in the deed covenants. Peter Joseph said that since it is not a class IV wetland, it would not require special permitting for shoreline protection. However, it may have to meet storm water regulations which are a federal issue.

A resident of Forest Ridge, John Currier, said that he purchased land in 1995 and the dumpsters were there then. He said that the dumpster quantity has grown due to the number of homes that have been built since the site was in place originally. The dumpsters simply grew because the population grew.

Peter Joseph said that there is a clear expansion from what was there in 1995 and it should have come for Site Plan Review for the changes. However, they also cannot move it to a location they were at prior, because those sites have not undergone Site Plan Review either. Peter Joseph said that the board should not speculate whether the site was chosen in bad faith or the Planning Board overlooked the violation in bad faith, but the facts are clear that there is no record that Site Plan Review was conducted.

Paul Beaudin said that the primary intent of Site Plan Review is to allow abutters the opportunity to review developments and make comment on them. If Site Plan Review is not conducted it infringes on the rights of the abutter.

Peter Moore said that regardless of the original site, the expansion did not undergo Site Plan Review as it should have so it is clear that a letter of non-compliance can be issued for that site. He said that he does not want to speak for the Board of Selectmen but it feels that the only solution is to relocate the site because as the site is expanded in the future as it appears will be the case, it will continue to face abutter resistance at each expansion. They should address the problem before it becomes a long-term issue.

There was some discussion regarding who the letter should be addressed to and what Forest Ridge Property Owners Association is not in compliance with. It was decided that the letter will be written to the Property Owners Association and it will simply cite the provisions of Site Plan Review which they violated. Tom Adams described some instances where there is a precedent for allowing a facility such as this in a location deeded as Open Space. For example the Village at Loon Mountain came to the Planning Board requesting permission to add an overflow parking facility at a location deeded as open space. The town granted approval, but it did undergo the Site Plan Review process and abutters were notified.

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Peter Joseph said that the letter should be as simple as possible because there will most likely be some legal questions that he will have to look into with regard to the details. Jim Spanos asked why Betty and Paul Beaudin waited this long to come to the Planning Board about the issue. Paul Beaudin said that he was not aware that it was that large until they started the recent expansions and that caused him to question whether original Site Plan Review was conducted. John Currier said that Forest Ridge's intent is positive. The reason for the recent changes is to encourage residents to recycle. The reason they paved the area was to address how muddy the area was. Paul Beaudin acknowledged the admirable intent, however he dislikes the location.

The Planning Board asked Matt Henry to allow them to review the letter prior to sending it to post. Peter Joseph said that the Planning Board should be careful not to have individual conversations about the letter without a public meeting. However, if they wished to read the letter prior to it being sent out that would not be a problem.

**MOTION: Deanne Chrystal made a motion to have Matt Henry draft a letter of noncompliance to be sent to the Forest Ridge Property Owners Association and carbon copied to the Board of Selectmen. John Hettinger seconded the motion. The motion carried unanimously (5-0-0).**

**B. Capital Improvements Program (CIP) – Final Report**

John Hettinger said that he had made the appropriate corrections from last meeting. The change had to do with \$10,000 from the Recycling Center line item not being totaled in the bottom line. After making the correction the CIP is now almost \$10,000 above its target. The committee decided to keep it like that as opposed to finding somewhere to cut \$10,000. The CIP is just a planning tool and \$10,000 is not very much when compared to the bottom line.

Charlie Cook asked whether the library technology capital reserve should also be in the plan. Peter Moore said that it used to be in the plan but it is no longer in the CIP. Matt Henry said that he had spoken with Peter Joseph briefly about this and he said that he is constantly getting items in that should be added, but because the budget process never really ends, it is tough to decide a "cutoff point". Since it is simply a planning tool, they might as well leave it as it was passed at the last CIPC meeting.

Peter Moore asked Peter Joseph about the \$30 in the CIP for sulfur dioxide paint. He said that it is not a large building and that number is correct. As mentioned at the previous meeting, one of the many benefits to a CIP is that it helps the town keep track of when maintenance was last performed and makes sure projects do not slip through the cracks.

Peter Moore expressed his support for the CIP process and how it eliminates the sporadic increases and decreases to property taxes. As a taxpayer he would much rather know that his taxes are going to increase an incremental amount each year, rather than be hit with a large project in a single year that the town has to pay for in one year.

**MOTION: Tom Adams made a motion to approve the 2011 Capital Improvements Plan. John Hettinger seconded the motion. The motion carried unanimously (5-0-0).**

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

- A. Building Permit Applications
- B. Land Use Subdivision and Site Plan Applications/Approvals
- C. Sign Permit Applications
- D. ZBA Applications

Matt Henry explained a situation with Al Poulin's home located at 82 Pollard Road. Mr. Poulin thought he needed to extend a waiver he received from the selectmen to build in the original footprint of a non-conforming home that was demolished in a fire. However, because he is building the log home in compliance, a waiver was not necessary because he is meeting all of the dimensional requirements of the Land Use Plan Ordinance. Matt Henry said he will continue to monitor the construction of the log home to ensure the building continues to meet the Land Use Plan Ordinance dimensional requirements.

Matt Henry explained that he was a little concerned with parking and ongoing traffic patterns at Lahouts Plaza with the upcoming ski season just around the corner. With the addition of the State Liquor Store, Subway, and Chutters recently and the curb cut on the western end of the parking lot eliminating a few parking spaces, he hopes that customers will begin utilizing additional parking spaces in the municipal parking lot located across the street. The municipal lot is close by and almost always completely empty. Deanne Chrystal asked if there was a sign in the lot saying that there was additional parking in the municipal parking lot. Peter Joseph said that parking issues are typically a perceived problem that regulates itself. He asked Matt Henry to speak with landowner, Herb Lahout, and suggest to him that he install a sign stating where additional parking is located.

**VI. PUBLIC INPUT** on Specific Issues

**VII. ADJOURNMENT:**

**The meeting was adjourned at 7:42 pm.**

Respectfully submitted,

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Matt Henry

Dated: November 10<sup>th</sup>, 2010

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Jim Spanos, Acting Chairman