

Town of Lincoln Planning Board – Meeting Minutes
December 22, 2010 – 6:00 pm

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

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

Excused Absences: Tom Adams, Chairman Pat Romprey, Deanne Chrystal

Others Present: Paul Beaudin, Jeanne Beaudin, Betty Beaudin, Ed Whitlock, Elaine Whitlock, Patricia McTeague, John Currier, Harry Schofield, David Larsen

I. CALL TO ORDER by Clerk Jim Spanos at **6:00PM**;

Acting Chairman Joe Chenard called the meeting to order. Alternate Charlie Cook was seated.

II. CONSIDERATION of the Draft Meeting Minutes of 12/8/2010.

The following revisions were made to the Draft Minutes:

- 1) Page 2: Replace “John Hettinger” with “Peter Moore” in the third paragraph
- 2) Page 2: Replace “John Hettinger” with “Charlie Cook” in the fourth paragraph
- 3) Page 2: Add “owners” in between the words “property” and “owners in the fourth paragraph.
- 4) Page 3: Delete “at the Planning Boards Request” in the first paragraph
- 5) Page 3: Replace “though” with “although” in the last paragraph
- 6) Page 4: Add that John Patterson was a former Planning Board Chairman.

MOTION: Peter Moore made a motion to approve the 12/08/2010 minutes as amended. John Hettinger seconded the motion. The motion carried unanimously (5-0-0).

III. CONSIDERATION of the Draft Site Visit Minutes of 12/16/2010.

There were no changes.

MOTION: John Hettinger made a motion to approve the 12/16/2010 minutes. Jim Spanos seconded the motion. The motion carried unanimously among those that were in attendance (2-0-3).

IV. 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 (Tax Map 116 Lot 007).

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.

Charlie Cook removed himself because he is an abutter to Betty Beaudin who is an abutter actively opposing the Site Plan. There was no longer a full Board but there was still a quorum.

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Harry Schofield began by introducing himself and explaining that the Forest Ridge Property Owners Association disagrees with the Town of Lincoln that Site Plan Review is required for changes to the dumpster location and installation of the compactor. However, in an effort to have a good relationship with the town, they are applying for Site Plan Review as requested. Matt Henry explained that Harry Schofield, Peter Joseph, Matt Henry, and Patricia McTeague met to discuss the application and went through each item that would be required line by line. The Forest Ridge Property Owners Association are requesting the following waivers from Article XIV of the Town of Lincoln Site Plan Review Regulations:

- 1) #8: Existing & Proposed topography of the site at two-foot contour intervals.
- 2) #9: Soil mapping units and unit boundaries

Matt Henry explained why they were requesting the waivers and went through the items of the checklist that were provided as well as those that were not applicable (were not relevant to the proposed application).

Vice Chairman Joe Chenard recognized Paul Beaudin who had requested that he be able to speak about the application. He voiced concerns on behalf of his mother, Betty Beaudin who is an abutter to the Site. He began by distributing photos he had taken of the site. He said that he has some serious issues with certain items on the checklist that were checked “Not Applicable” and are requesting a waiver for. He asked that the Planning Board not grant a waiver for the existing and proposed topography because he feels it is important to see the contour intervals to see where water from the site will drain. Additionally, Paul Beaudin said that requirement #12, the location of district boundaries including wetlands is important to know in case there are any wetlands nearby that runoff could contaminate. In his opinion, checking the “Not Applicable” box was inappropriate.

Paul Beaudin said that one of his major concerns was regarding the fact that the application did not include requirement #23, Stormwater Drainage Plan. He again referred to the photos and said that as the pavement is graded now it appears that the water runs right into a nearby brook that is culverted under the road. Paul Beaudin said that he considers this a wetland and therefore should be delineated as such on the application. Paul Beaudin said that because the existing site is graded in such a manner that drains into the culvert, this drainage should be noted on the application as draining into wetlands.

Paul Beaudin said that he had a conversation with Matt Henry about whether a storm water drainage plan was required for dumpster locations. He referred to Title 40 of the Code of Federal Regulations (40 CFR), Part 122, Section 42, of which he said deals with stormwater protection with regard to solid waste locations. Paul Beaudin also presented a letter from Wayne Wheeler, an engineer from the New Hampshire Solid Waste Management Bureau. The letter (attached) stated that while a compactor does not require a permit, it must comply with “universal facility requirements of ENV-SW 1000”. The letter stated that there is no setback requirement from a stream, however, the site may not discharge pollutants into a stream.

Paul Beaudin then said there were deed restrictions and covenants regarding the site that would be important to the application. He said he did not want to provide them to the board that evening but would make copies for them at a later date. Peter Moore asked if the deed restrictions were pertinent to the items he has already discussed. Paul Beaudin said that they were.

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Paul Beaudin said that he also feels that requirement #21 “the type and location of solid waste disposal facilities” should include dimensions and other specifications of the compacting dumpsters. Matt Henry said that he does not think that “dimensions and specifications” are required under that Site Plan Review Requirement.

Paul Beaudin said that he wants to see an engineered plan complete with topography regarding where the drainage from this facility will go, as well as a stormwater drainage plan regarding how to mitigate the environmental impacts that will occur. He also thinks that the applicant has failed to include deed restrictions/covenants as well as dimensions and specifications of the dumpsters. Therefore, in his opinion the application is incomplete and the applicant has not provided the Planning Board with enough information to make an informed decision.

Peter Joseph said that the thing to keep in mind is whether the applicant has submitted enough information for the Planning Board to make a decision on what the applicant *intends* to do. A stormwater drainage plan may indeed be a valid request but as of now, the applicant does not intend to have a stormwater drainage plan. These things can all be required at the public hearing if the Planning Board wants to include them but the initial application is not meant to predict what the Planning Board may request in the future.

John Hettinger said that it seems that a stormwater drainage plan would be necessary for an application such as this that deals with trash that could potentially have runoff. He said that he would want to know where all this runoff is going to go. Peter Joseph reiterated that they are not including such a stormwater drainage plan and therefore the Planning Board should not require it at this stage in the process. If they wish to see it they may request that the applicant provide it in the future.

Jeanne Beaudin said that the fact that there are deed restrictions alone should be grounds to not accept this application because the applicant has not provided them even though the information is pertinent.

Vice Chairman Joe Chenard indicated that the time for public participation has ended and the Planning Board needed to discuss the application among themselves. Peter Moore said that traditionally the way the Planning Board has decided on the completeness of the application has been if there was a law attached to each requirement. Peter Moore said that he does not see how he can accept the application as complete if something that is required in the Site Plan Review regulations is not provided, particularly if there is a law attached to it. If they were to accept the application then they would be putting the applicant at greater risk of violating law if there is indeed a law mandating a stormwater drainage plan. If there indeed are deed restrictions prohibiting the proposed use, then that information would be necessary in order to rule on the application. Peter Moore said that if the Planning Board does not require these items then he fails to see the point of having these Site Plan Review Requirements and the respective checklist.

John Hettinger said that what he feels is important is if there are any NHDES requirements related to compacting dumpsters as Paul Beaudin is suggesting. Matt Henry said that he is confused because he called NHDES as well and they informed him that there are no requirements related to regulating compacting dumpsters used for a residential purpose such as this.

Matt Henry informed the Planning Board that they are required to act on the application within 30 days of the submittal or the next scheduled Planning Board meeting. Therefore, they must either accept or deny the application this evening.

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John Hettinger asked Forest Ridge Property Owners Association (FRPOA) if they had consulted Waste Management regarding the dumpsters. Harry Schofield said that FRPOA has trusted waste management on the matter because they are the subject matter experts on waste disposal. He said that the compacting part is a completely closed unit and the only opening is the part where the trash placed by the resident. Paul Beaudin said that Waste Management places dumpster at locations without risk of liability so it is up to the customer or whoever rents/owns the compactor to make sure it meets requirements.

Vice Chairman Joe Chenard said that the recommendation from Chairman Pat Romprey was to accept the application tonight but continue the public hearing until the next meeting. That may give the applicant enough time to get the pertinent information that the Planning Board will require prior to approval and abutters would not have to be re-notified. Peter Moore said that he has a problem with accepting the application as complete and later requiring items which the applicant has checked “not applicable”. By accepting the application, the Planning Board is saying that they have all of the documentation that is needed to make a decision and he does not feel they have everything.

Peter Joseph read RSA 676:4(c)(1) to the board verbatim. He said that the Board must vote on the acceptance of the application today. They can either accept or deny it, but they are required to do so within 30 days of submitting the application.

John Hettinger told the applicant that the Planning Board is not accusing them of contaminating any wetland; it is their job to ensure that in the event that something from the dumpster is spilled it will not run off into wetlands. Peter Joseph said that he is not aware of any professionally delineated wetlands that exist in close proximity to the site. The reason they checked the “not applicable” box is because land in that area has not been deemed wetlands as of yet so therefore “not applicable” is a true statement as of right now. 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. She said that the vegetation that exists lead her to believe that it is indeed wetland even if an engineer has not deemed it as such.

John Hettinger said that he would like to see a letter from NHDES stating that what they have is fine, then that would be grounds for requesting a waiver of the stormwater drainage plan. Peter Joseph said that while NHDES probably would not come to the site themselves, the question is whether the state regulations that Paul Beaudin is saying exist mandate a stormwater drainage plan. If the laws do not mandate a plan, then the Planning Board is going above and beyond in requiring one.

Peter Moore said that if the applicant is required to provide a stormwater drainage plan then they will inherently have to provide topography at 2 foot contour intervals. John Hettinger said that 2 foot contour intervals are difficult to provide and it would be rather costly to the applicant. Even some more sophisticated plans that the Planning Board has reviewed have less than 2 foot intervals.

Peter Moore said that he thinks the two requested waivers should be granted but certain items on the checklist need to be provided. He said that he feels that the applicant has provided the type and location of dumpsters but would like to have the applicant provide deed restrictions, district boundaries including wetlands, and a Stormwater drainage plan.

MOTION: Peter Moore made a motion to consider the application incomplete because the following Site Plan Review Regulation Requirements were not provided:

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- #12) The location of district boundaries, including wetlands and Floodplain**
- #16) The location of all existing and proposed deed restrictions, covenants, etc.**
- #23) Stormwater drainage plan showing:**
 - a) Existing and proposed methods of handling Stormwater runoff**
 - b) The direction of flow of the runoff through the use of arrows**
 - c) The location, elevation and size of all catch basins, dry wells, drainage ditches, swales, retention basins and storm sewers**
 - d) Engineering calculations used to determine drainage requirements**

John Hettinger seconded the motion. The motion carried unanimously (4-0-0).

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

A. Westwood Homeowners Association – South Peak - Security Gate

Matt Henry said that Douglas Smith, President of the Association called and said that their attorney was ill and they asked to be put on the next agenda (January 12, 2010).

VI. 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**

VII. PUBLIC INPUT on Specific Issues

VIII. ADJOURNMENT:

The meeting was adjourned at 7:38 pm.

Respectfully submitted,

Matt Henry

Dated: January 19, 2010

Joe Chenard, Vice Chairman