

**LINCOLN PLANNING BOARD
REGULAR MEETING MINUTES
WEDNESDAY, APRIL 24, 2019 – 6:00PM
LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN NH**

APPROVED

Present: Chairman Jim Spanos, Vice Chair Joseph Chenard, Member Mark Ehrman (participated by phone), Alternate Paul Beaudin, and Selectmen's Representative OJ Robinson

Members Excused: Member Stephen Noseworthy, Alternate Deanne Chrystal

Members Absent: None

- **Staff Present:** Town Planner Carole Bont, Town Manager Alfred ("Butch") Burbank, Deputy Town Clerk/Office Clerk Linda McIntyre, Fire Chief/Health Officer/Code Enforcement Officer Ron Beard

Staff Excused: Ellyn Franklin, Recorder

Guests:

- **Susanne (Susan) A. Chenard**, resident, 11 Liberty Road, Lincoln NH 03251 (Map 107, Lot 061) and Realtor for Loon Reservation Service, 264 Main Street, Suite 12, PO Box 785, Lincoln, NH 03251-0785, and owner of 19 Maple Street (Map 118, Lot 069) and wife of Planning Board member Joseph Chenard.
- **Renee Darling**, nonresident, 15 Beechwood Avenue, York, ME 03909
- **Daryl Hart**, resident, 36 LaBrecque Street, Lincoln, NH 03251, co-owner of 36 LaBrecque Street (Map 113, Lot 021) with Johnna T. Hart and Town Public Works Employee.
- **Johnna Hart**, resident, 36 LaBrecque Street, Lincoln, NH 03251, co-owner of 36 LaBrecque Street (Map 113, Lot 021) with Daryl Hart and Town Finance Director.
- **Jayne S. Ludwig**, resident, 12 Pleasant Street, Lincoln, NH 03251 (Map 113, Lot 092) and Selectman for the Town of Lincoln and wife of Planning Board member Steve Noseworthy.
- **Peter Marlowe**, nonresident, (CONCEPTUAL APPLICANT), 15 Beechwood Avenue, York, ME 03909, with a Purchase & Sale Agreement about two (2) vacant adjacent lots owned by Joseph & Rita Miller of 140 Country Land Drive, North Haverhill, NH 03774, (Map 113, Lot 029 referred to as "LaBrecque Street #LO") and (Map 113 Lot 030 also referred to as "LaBrecque Street #LO") Marlowe also owns 36 Lodge Road #C113 (Map 117, Lot 121000-0C-00113) in Lincoln, NH. Peter David Marlowe is represented by Attorney Michael Conklin, Conklin & Reynolds, PA 264 Main Street, PO Box 849, Lincoln, NH 03251-0849 who was not present at the meeting.
- **Joseph C. Pelletier**, resident, 35 LaBrecque Street, Lincoln, NH 03251, and owner of 35 LaBrecque Street (Map 113, Lot 028).
- **Wendy Pelletier**, resident, 35 LaBrecque Street, Lincoln, NH 03251 (Map 113, Lot 028).
- **Delia M. Sullivan**, resident, 13 Coolidge Street, PO Box 665, Lincoln, NH 03251, and co-trustee owner of property at 13 Coolidge Street (Tax Map 117, Lot 133001-00-0000) owned by:
 - Kevin J. Sullivan Trustee of the Kevin J. Sullivan 2016 Revocable Trust, PO Box

665, Lincoln, NH 03251; and
o Delia M. Sullivan Trustee of the Delia M. Sullivan 2016 Revocable Trust, PO Box 665, Lincoln, NH 03251;
and principal of Sully & Sons Holdings, LLC, PO Box 665, Lincoln, NH 03251-0665
that owns 21 Arthur Salem Way (Map 109, Lot 020).
Also, member of the Zoning Board of Adjustment.

I. CALL TO ORDER by the Chairman of Planning Board (PB); announcement of excused absences, if any, and seating of alternates(s), if necessary.

*Member Noseworthy and Alternate Chrystal were excused.
Paul Beaudin was seated.*

II. CONSIDERATION of meeting minutes from:

• **April 10, 2019**

Present: Chairman Jim Spanos, Vice Chair Joe Chenard, Selectmen's Representative OJ Robinson, member Mark Ehrman, Alternate Paul Beaudin

Motion to approve minutes as amended: Chenard

Second: Robinson

All in favor: 5-0

Motion carries.

III. NEW BUSINESS

A. 6:00 PM. Conceptual – Combine 2 Adjacent Lots, then Cluster 3 Single Family Homes with Attached or Detached Apartments.

Party: Peter David Marlowe, 15 Beechwood Avenue, York, ME 03909 who owns 36 Lodge Road #C113 in Lincoln, NH

Agent: Peter David Marlowe is represented by Attorney Michael Conklin, Conklin & Reynolds, PA 264 Main Street, PO Box 849, Lincoln, NH 03251-0849.

Property Owner: Joseph & Rita Miller, 140 Country Land Drive, North Haverhill, NH 03774

Property: Map 113, Lot 030 and Map 113, Lot 029. LaBrecque Street #LO.

Discussion:

Peter Marlowe passed out packets with sketches of his ideas to the Planning Board. Marlowe said he has planned six (6) dwelling units measuring sixteen feet by thirty-two foot (16'x32') or five hundred twenty square foot (520 sf) designed as village type homes to place on two (2) adjacent lots. The two (2) lots combined equal thirty-one thousand five hundred and eight square feet (31,508 sf). His overall plan is to have a six (6) car garage at the entrance to the lot to provide parking for all of the units. Then he would place two (2) cottage units above that one (1) garage.

From there, he would leave most of the trees on the property and break the rear of the lot into spaces for four (4) small cottages.

Marlowe said that each of the cottages would have a small porch, two (2) bedrooms, and one (1) full bathroom. Each cottage would be designed to look slightly different on the exterior to make the cottages unique. The two (2) properties are located in the General Residential (GR) zone. These rental units would be rented on a seasonal basis. These units could possibly become year-round rentals. However, it is more likely that the units would be six-(6) month rentals or shorter-term rentals.

Marlowe said he spoke with Public Works Director Nate Hadaway. According to Marlowe, Public Works Director Hadaway told Marlowe that he would ask Marlowe for an easement to allow the Town to pull the Town's front end loader onto the lot to turn around during snow plow season. Marlowe said he told Public Works Director Hadaway that he would have no problem with that.

Planner Bont said when Marlowe spoke with her, one of his ideas was to create three (3) single family homes grouped together on one part of the merged lot in a cluster and he would rent them all out as short-term rentals. Then he would also create three (3) detached accessory apartments – one for each single-family home. She is unclear, however, if this short-term rental of multiple single-family residences would be characterized as a “business use” or a “residential use”.

Planner Bont said that in order to create six (6) separate single family homes or cabins or dwelling units, Marlowe would need ten thousand square feet (10,000 sf) per unit for a total of sixty thousand square feet (60,000 sf). The two merged lots would not be big enough.

(1) Map 112, Lot 030	= 0.38 Acres => 16,552.8 square feet
(2) Map 112, Lot 029	= 0.35 Acres => 15,246.0 square feet
(3) Total	= 0.73 Acres => 31,798.8 square feet

Planner Bont said that in order to create six (6) units in the form of three (3) duplexes he would need fifteen thousand square feet (15,000 sf) per duplex for a total of forty-five thousand square feet (45,000 sf) for three (3) duplexes. In summary, Planner Bont said that if he merged the two lots the combined square footage would allow for three (3) single family residences or two (2) duplexes.

Planner Bont said she and Marlowe also explored the idea of three (3) single family residences with detached accessory apartments. Those detached apartments would have to be one thousand square feet (1,000 sf) or less in size, and would have to be associated with a garage, barn or a structure accessory to the primary residence, which would also be rented. He would need a Special Exception from the ZBA to create detached apartments.

Marlowe said he would like to consider creating detached accessory apartments with special exception, for the aesthetic appeal.

Vice Chair Chenard said Marlowe would also need a total of twelve (12) parking spaces – two (2) parking spaces per housing unit.

There was some discussion about whether the Planning Board would allow him to count the inside of a garage as an onsite parking space, as that is its purpose. According to Chair Spanos, in an earlier case several years ago the Planning Board determined that the answer was “no”; space inside of a garage would not count as an onsite parking space.

Member Beaudin asked for the definition of a “cluster development”. Planner Bont read from the definition section of the Land Use Plan Ordinance:

Article IV, Definitions

10. Cluster Development – A subdivision where instead of the entire tract being subdivided into house lots of conventional size, a number of connected housing units or lots of reduced dimensions are scattered or clustered around and within areas of open space.

Planner Bont further replied that in a cluster development where a tract is being developed, instead of the tract being divided into individual house lots with each lot being of a conventional size and configuration, a number of housing units are either connected or clustered together on tiny lots of reduced dimensions or scattered or clustered together around a particular feature of the property, leaving green open space to be shared in common with the other unit owners.

Planner Bont said cluster developments are allowed in some zoning districts within the Town of Lincoln, so there is some flexibility associated with and particular to each single-family unit. Looking at the Dimensional Chart associated with the Land Use Schedule under the Residential Uses in the Land Use Plan Ordinance (LUPO), cluster developments are allowed by Special Exception (SE) in the General Residential (GR) District which is where the subject lot is located.

Marlowe said he is not planning to sell the units off separately. Marlowe’s plan is that he and Renee Darling would live on the property and rent out the other buildings. Vice Chair Chenard asked what would happen if Marlowe tried to sell these units off later; would he do so under an association agreement? Marlowe said that the deed for the single-family home would have to have the accessory unit agreement attached to it.

Town Manager Burbank said he does not believe the municipal water and sewer mains go all the way to the end of LaBrecque Street where the two (2) lots are located. Marlowe said the water hydrant at the end of the line is in front of 38 LaBrecque Street (Map 113, Lot 020) owned by Ronald (Bum) Harrington across the street from 35 LaBrecque Street (Map 113, Lot 028) owned by Joseph Pelletier, and LaBrecque Street #LO (Map 113, Lot 029).

Town Manager Burbank said to Marlowe that he would be going into LaBrecque Street from NH Route 112 (Main Street) and not onto US Route 3A known as Connector Road because Connector Road has no direct access from LaBrecque Street. The state fences Connector Road from LaBrecque Street and he suggested that Marlowe might want to investigate whether or not the NH DOT would give him a permit to come out through that fence out to Connector Road.

After a discussion with the Planning Board, Marlowe suggested he might want to first merge the two (2) lots and then divide his property up into three (3) ten thousand square foot (10,000 sf) lots

in the future. Then he could put single family homes in place with the accessory apartment and try to divide the land so it still looked clustered.

Paul Beaudin asked Planner Bont what she deems the land most suitable for, as the current scheme does not seem to meet the current zoning regulations. Planner Bont relayed that the three (3) single family residences would be the best option. Planner Bont said she did not think the proposed four (4) units with two (2) units above the garage would work. A variance would be required for the scheme presented. A Special Exception (SE) from the ZBA would be required for Marlowe to add detached apartments for each single-family home if he went with the single family residence route. The cluster concept would also require a Special Exception (SE) from the ZBA and so would the detached apartments.

Marlowe said he does not want to build duplexes due to the traffic increase required and the required tree clearing. Town Manager Burbank said he thought that Marlowe's proposed cottage plan would work with one less cottage. This would take the pressure off the square footage requirement (i.e., address the density limitation with the minimum lot size requirement).

Planner Bont said if what Marlowe is proposing is all one project, it feels more like a commercial business use versus a residential use.

Representative Robinson said that the real issue here is the use. This proposal is for rental space that is in the General Residential District that only allows residential uses. The business use proposed is not allowed even by Special Exception (SE) granted by the ZBA. On the other hand, a "Tourist Home" is allowed in the General Residential (GR) District by a Special Exception (SE), where the owner lives on site and rents out rooms.

Marlowe asked for explanation on why there must be a shed or garage attached to an apartment. Planner Bont said she believes this requirement developed organically, as most people start with a single family home, then add a garage for the car and then add an apartment for a relative.

Member Paul Beaudin said there is not enough square footage for a project of this size, and the project's proposed use does not meet the use requirements of the Site Plan Review Regulations. So, the only thing that will meet the zoning requirements of the General Residential (GR) District is three (3) single family houses or two (2) duplexes, which is the maximum number of dwelling units Marlowe could get on this tract.

Planner Bont said there is also a maximum percentage of allowable lot coverage. In the General Residential (GR) District the maximum percentage of allowable lot coverage is fifty percent (50%), however, that restriction only applies to nonresidential uses, so whether or not the maximum lot coverage requirement applies would depend on whether the Planning Board treated the proposed use as a "business use" or a "residential use".

Representative Robinson said that the Land Use Plan Ordinance (LUPO), says that the accessory apartments may be located in a detached accessory building only if the detached accessory building contains another accessory use, such as a garage or storage building. So we cannot call these little cottages accessory apartments unless there is a garage or shed off to one side.

Planner Bont said that the primary use of the property must be the single family home.

Marlowe said that the accessory building would probably be larger than the single family home, so it would have to be designed tastefully.

Town Manager Burbank has seen that the influx of short term rentals in town and it has impacted Lincoln's Town services exponentially. From a Town Administration perspective, he likes the fact that these rental units proposed would be owner-occupied so we can monitor traffic and know who is renting. However, parking is an issue in all of the Town so adequate onsite parking would need to be thoroughly addressed as part of Site Plan Review.

Marlowe said that after speaking with members of the Planning Board he views that his best option would probably be break this land tract into ten thousand square foot (10,000 sf) lots.

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

A. 6:00 PM. Membership on both ZBA and Planning Board is Problematic.

The Board of Selectmen asked the Planning Board to consider the issue that a member of the Planning Board is presently sitting on two (2) boards:

- (1) as a Planning Board Alternate and
- (2) a Zoning Board member.

Both Boards must be made fully aware that although both boards are now fully elected, if the Boards put a member on both boards that situation creates a "potential" major conflict of interest in the event one of the Boards must "jury" for the other. The BOS understands this can result in costly legal litigation and although it is "legal" it is not recommended. This has been made an agenda item as soon as possible so that both Boards are aware.

Also, the BOS want the Administrative Assistant to post the vacancies after we establish who is sitting where and what actual seats need to be filled before making a decision about who will fill those seats.

Discussion:

Planner Bont said that over the years both Town staff and members of both the Planning Board and the ZBA have been advised through various town seminars that it would not be advisable to have the same person on a Planning Board and a Zoning Board due to the role of those two boards and their relationship to each other. So, the Board of Selectmen asked the Planning Board to put this matter on their agenda so the Planning Board and then the ZBA could have that discussion.

The Planning Board and ZBA are now elected positions, said Selectman Robinson, so the Selectmen do not have a position on this issue other than advising the Planning Board and the ZBA that the dual role is not recommended.

Member Paul Beaudin said his interest lies mostly with the Planning Board. He was filling out a letter of intent for the Planning Board when he was approached about the ZBA and took that position due to immediate need. [Paul Beaudin received two (2) write in votes at Town Meeting) to serve as a member of the ZBA.] His concern is that the ZBA has three (3) vacancies (1) a regular member position and two (2) alternate positions. The ZBA needs some more help. He has served on the ZBA and the Planning Board simultaneously before. Paul Beaudin said that in the past when he has a conflict of interest case he has polled the Boards to ensure they have no issue with his participation. He has seen some overlap of these Boards in other towns as well. Either way, he should look for some more people to serve on the ZBA.

Chair Spanos said the Planning Board is going to develop its own procedure for vacancies and alternates, and we will discuss that at another meeting.

- V. **PUBLIC PARTICIPATION AND OTHER BUSINESS:** Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the Planning Board will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate.

Matrix

Vice Chair Joe Chenard asked if we still have maintenance support to keep tabs on the “matrix happening”. Planner Bont said that the annual matrix has not been updated since Wendy left. It is very time-consuming to maintain the matrix. She would like to get it back up and running but no new hires have reached that point yet.

North Country Council, Inc.

Vice Chair Joe Chenard said that North Country Council (NCC) has no representative from the Town of Lincoln’s Planning Board. NCC meets four times per year. The Planning Board discussed sending Joe Chenard. Joe Chenard is already the Town’s representative to North Country Council. The Town has two representatives. Planner Bont is the second representative, however, North Country Council has its meetings on Wednesday evening which is the same evening that the Lincoln Planning Board and the Lincoln ZBA meet. Although Planner Bont has spoken to North Country Council about changing the day of the week when they meet, North Country Council is not inclined to change the date. Robinson said he thinks Chenard should go from the Planning Board and we should advertise the position to those not on the Board, maybe on the ZBA.

Member Beaudin nominated Joe Chenard as one of the Planning Board’s representatives to North Country Council. Robinson seconded the nomination.

This nomination did not go any farther. Vice Chair Chenard said he would see if he could get North Country Council to change the dates of their meetings so as not to conflict with

the Town of Lincoln's meetings. Advertise the position open until it is closed.

Delia Sullivan said she is also interested in learning more about zoning. She has someone who is interested in being nominated for the ZBA. Jayne Ludwig told her that she was not allowed to listen in on a Planning Board meeting because she is on the ZBA. Members of the Planning Board assured her that she can listen to matters on the Planning Board, however, she should not participate in the discussion or indicate any prejudicial thoughts towards proposed projects – plus or minus.

Planner Bont advised Delia Sullivan for the person who was interested in serving on the ZBA to send Planner Bont a "Letter of Intent" indicating their interest in serving on the ZBA.

Delia Sullivan was also advised to send Planner Bont a Letter of Intent indicating her interest in representing the Town of Lincoln at the North Country Council meetings.

Task: To Develop a Process and Establish Criteria for Land Sales Within the Lincoln Industrial Park

Robinson said the Planning Board needs to put on their next meeting's agenda to create a process for selling lots in the industrial park and to develop criteria to use when looking at proposals. Chair Spanos suggested appointing a subcommittee to study this next meeting.

Paul Beaudin said he does not think the Planning Board has any requirement to manage this process. He believes this is totally within the responsibility of the Board of Selectmen, according to RSA 41:14.

Mark Ehrman (via phone) said there was some unclear criteria both in the deeds and in the discussion previously. It seems to have been a condition of the gift or sale that may or may not have run with the deed. The confusion has nothing to do with whether or not the Planning Board should have something to do with the selling of the property or not. It was the original intent that was unclear due to the loss of documentation and in the absence of that documentation, the BOS has asked the Planning Board to establish criteria for determining whether or not to recommend a sale. It was suggested that the negotiations had taken place in private and his suggestion was to make the process as transparent as possible. He thought transparency would be in everyone's best interests.

This matter is going on the agenda for May 8 to discuss.

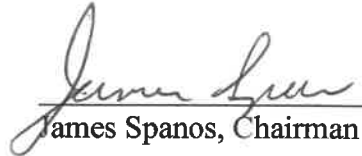
VI. ADJOURNMENT

Selectmen's Representative Robinson made a motion to adjourn. Vice Chair Chenard seconded the motion and the Board voted all in favor. The motion carries, and the meeting adjourned at 7:15 PM.

Respectfully submitted,

Ellyn Franklin
Recorder

September 18 2019
Date Approved: May 8, 2019


James Spanos, Chairman

