



Stratham Planning Board Meeting Minutes
September 02, 2020
Municipal Center, Meeting Room A
10 Bunker Hill Avenue, Stratham, NH
Time: 7:00 PM

Members Present: Tom House, Member
David Canada, Member
Robert Roseen, Member (attending via phone, alone in room)
Pamela Hollasch, Alternate Member

Members Absent: Colin Laverty, Member
Mike Houghton, Selectmen's Representative

Staff Present: Tavis Austin, Town Planner

1. Call to Order/Roll Call

Mr. House called the meeting to order at 7:00 PM and took roll call. He also announced that the conference line was active and available for those who chose not to attend in person; contact information is provided on the Planning Board agenda posted on the Town website.

2. Review/Approval of Meeting Minutes: August 19, 2020

Mr. Canada made a motion to approve the August 19, 2020 meeting minutes and Ms. Hollasch seconded the motion which passed with a unanimous vote. Minutes approved.

3. Public Hearing:

Cleary Subdivision. Minor Subdivision Application to create one (1) new building lot at 7 Boat Club Drive, Tax Map 8, Lot 39, owned by Robert and Stephanie Cleary. Application submitted by Justin L. Pasay, Esq, Donahue, Tucker and Ciandella, 111 Maplewood Ave., Suite D, Portsmouth, NH 03801.

Mr. Austin provided the Board with an update on the project application materials as updated since the last meeting. He continued by updating the public on the Board's site walk of the project location that had occurred prior to the regular Planning Board meeting noting that the project details were not discussed nor was there any Board member

discussion at the site walk.

Mr. Austin reminded the Board of the requested waivers for the project; three from the original project submission and another included with the updated materials. Specific to the new waiver request for a proposed driveway to be located less than two hundred feet (200') from the intersection of Boat Club Drive and River Road, Mr. Austin stated that Nate Mears, Director of Public Works had provided comments in support of the waiver request and that the Conservation Commission had stated general support of the application for subdivision provided there were no impacts to the wetland or wetland buffer areas. Additional public comments were received via email September 01, 2020 from Phil Malone; those comments were distributed in hardcopy to the Board members and the applicant.

Justin Pasay, representing the applicant provided additional update to the Board noting the application materials submitted at two discreet periods and the efforts made to address the public comments received at the August 05, 2020 meeting.

Mr. Pasay outlined the four (4) waiver requests as submitted and outlined how the submitted materials provided the applicant's justifications for granting of the waivers based on the requirements of Section 5.1 of the Subdivision Regulations.

Henry Boyd, Applicant's surveyor, discussed the revised plan submissions included with the supplemental information provided to the Board on August 19, 2020. He discussed State Subdivision Approval, the approved septic design, and those efforts made to ensure no wetland impact from the proposed building envelope. He spoke specifically to those efforts made since the August 05, 2020 meeting to address neighbor and abutter concerns and questions raised at the August 05, 2020 meeting.

Mr. Roseen asked a question related the potential of building a home, with well, septic, setbacks, within the 62,000 square foot upland area. Mr. Boyd stated his believe such could be accomplished, however, there would be significantly greater wetland impact required to access that upland area.

Mr. House stated a question related to potential headlight imp[act on the River Road abutter, Mr Malone, given the proposed house location and suggested potential need for screening.

Mr. Austin commented the Board was currently reviewing a subdivision application not a site plan application and that "screening" as a condition would require the Board to make a nexus between the Subdivision Regulations and the requirement of screening. The applicant has presented a preferred location to build a home, however, the Regulations do not obligate building on a conceptual location without the Board making particular findings and related conditions of approval.

Mr. Roseen questioned the submitted public comment related to the labeling of the stream on the property. Mr. Boyd indicated on the plans (submitted 8/19/20) where the stream was labeled and how the legend was to be read related to the related stream and wetland setbacks. Mr. Boyd continued noting again the requested waiver to Section 4.3.1(b)(i) and

78 how it allowed for maximum protection of the environmentally sensitive areas as
79 requested by the Conservation Commission.

80 Mr. Austin provided an overview of the submitted waivers, the waiver criteria within the
81 Regulations and noted in response to related public comments submitted, the Board's
82 inability to enforce covenants of the Boat Club Drive association.

83 Mr. Pasay agreed with Mr. Austin and stated the waiver criteria provide the mechanism for
84 the Board to balance the regulations with the site specific condition relevant to a proposed
85 project.

86 Mr. Roseen thanked Mr. Pasay for his explanation to the purpose of the waiver criteria as
87 it related to the current project. He then suggested possibility of requiring note on the plan
88 to prevent further subdivision of the proposed lots 7A and 7B.

89 Gary Street of 66 River Road, stated his concern for headlights spraying across his home.
90 He continued by noting that Boat Club Drive is neither flat nor straight and his concerns
91 related to additional traffic and traffic safety close to the River Road intersection. He
92 questioned the High Intensity Soils ("HIS") waiver.

93 Mr. Austin outlined the intent of the requirement for "HIS" mapping and the Board's
94 tendency to waive the requirement for minor subdivisions.

95 Mr. House commented on the overgrowth of vegetation at the intersection of Boat Club
96 and River at what appeared to be the corner of the 66 River property. Mr. Street explained
97 the source of the various plantings.

98 Phil Malone (72 River Road) gave an overview of the comments from the August 05, 2020
99 meeting and gave a discussion of concerns related to the requested waiver to 4.3.1(b)(i).
100 He introduced Ken Murphy, a Portsmouth based attorney working with the abutters to this
101 project.

102 Mr. Murphy provided an overview of his review of 4.3.1(B)(i) which states that the upland
103 area shall be of sufficient size for a home, setbacks, water, and septic and that the
104 regulations would be contravened if the waiver were granted to allow the proposed house
105 in the 20,000 square foot area. Mr. Murphy continued noting his sending a letter to Mr.
106 Pasay with regard to the Boat Club Drive covenants.

107 Mr. Pasay responded noting he had responded to Mr. Murphy's letter and that the relevant
108 point or the Board to acknowledge is that his client does have the ability to subdivide—
109 unlike the other lots along Boat Club—and that the covenants are not grounds relevant to
110 the Board's decision to grant the requested waiver.

111 Mr. Malone asked if the Board had any comments for Mr. Murphy or comments on his
112 statements.

113 Mr. Austin clarified that the Board procedure is to ask questions they believe relevant to
114 their processing an application not to comment, necessarily, on the agreement or

115 disagreement with any public testimony.

116 Mr. Murphy asked Mr. Malone if he (Malone) would be speaking to the driveway waiver.

117 Mr. Malone stated he had no specific concerns with the driveway waiver. He noted he
118 appreciated the plan to have cars not ‘back’ onto Boat but rather have the ability to pull
119 forward when accessing Boat Club Drive. He continued noting the abutters were generally
120 not notified by the applicant of the project prior to their receiving the public hearing
121 notice. Mr. Malone concluded stating he appreciated the Board’s consideration of
122 screening the proposed home’s headlights and the added privacy that could result.

123 David Kisver (9 Boat Club Drive) commented his believe that the Regulations require the
124 home to be built in the 30,000 square foot upland area.

125 Stephanie Dobbins (8 Boat Club Drive) commented on the number of children walking,
126 riding bikes, dog walking and commented on the current bus stop location on River Road.
127 Her concerns related to the uphill curving slope with all of the current activity provided
128 sight line issues for the proposed driveway.

129 Michelle Richards (2 Boat Club Drive) expressed similar comments of Ms. Dobbins and
130 expressed safety concerns related to the proposed driveway. She commented that Boat
131 Club Drive is very narrow and that it was currently hard to see around the corner. She
132 then echoed Mr. Kisver’s comments about the 30,000 square foot area.

133 Joshua Dobbins (8 Boat Club Drive) stated the proposed home was not in keeping with the
134 Boat Club Drive houses which are all setback further from the road and that the proposed
135 home did not meet the covenants.

136 Stephanie Malone (72 River Road) stated her belief the project did not satisfy the 30,000
137 square feet requirement of the regulations.

138 Michelle Richards (2 Boat Club Drive) commented that River Road is very narrow and
139 becomes narrower with snowbanks.

140 Mr. Murphy noted the absence of the word “it’s” in section 4.3.1 (b)(i) and that the
141 regulations did not say “all housing and ‘it’s’ required utilities,’ etc..

142 Mr. Pasay spoke again to the Murphy letter to his client which referenced housing design
143 submittal to the association. He continued noting that the Cleary’s, his client, are very
144 neighborly and should the abutters wish to enter into a dialogue on topics related to
145 screening, his clients would be amenable. Mr. Pasay continued by speaking to statutory
146 construct authority in regulations where it is not appropriate to interpret missing words.
147 He noted that Mr. Murphy suggested the intended word, “it’s”, noting that in his
148 comments, Mr. Murphy admitted the regulations 4.3.1(b)(i) do not state one has to build in
149 the 30,000 square foot upland area rather that the parcel has to contain an area of that size.

150 Mr. Austin asked if the Board believed they had enough information to evaluate the
151 application in deliberations noting that if the Board closed the public hearing, there would

152 no longer be the ability to ask questions of for clarifications, even from the applicant,
153 without re-opening the public hearing.

154 Mr. Canada made a motion at 8:52PM to close the public hearing. Ms. Hollasch seconded
155 the motion which passed with a unanimous vote.

156 The Board entered deliberations on the application which commenced with Mr. Austin
157 reviewing the requested waivers and the waiver criteria from the Regulations.

158 Mr. Canada commented his support to approve the requested waiver to 4.3.1(b)(i) as doing
159 so furthers the intent of the regulations, the proposed lot exceeds the minimum lot size
160 required by the regulations, allows for building a home without need of a variance to
161 building setbacks and where the lot exceeds the required 200 feet of road frontage. Mr.
162 Roseen added that the proposed lot, with the requested waiver provides the most protection
163 for the natural resources on the site. Other members generally agreed.

164 Mr. Canada motioned to approve the requested waiver to 4.3.1(b)(i) finding that so doing
165 provides substantial justice to the applicant and the zoning ordinance, furthers the intent of
166 the regulations, and noted the applicant has shown more detail than required, and
167 approving the waiver meets and furthers the interest of the regulations. Ms. Hollasch
168 seconded the motion which passed with a unanimous vote.

169 Ms. Hollasch motioned to approve the requested waiver to 2.3.2(d) for High Intensity Soils
170 mapping finding that the approval of the waiver furthers the intent of the regulations and
171 does further the interest of the regulations. Mr. Roseen seconded the motion which passed
172 with a unanimous vote.

173 Mr. House motioned to approve the requested waiver to 3.3.2 related to the scale of the
174 submitted plan noting that it was more helpful for the Board to be able to review the entire
175 parcel on one sheet rather than complying with set scale as the submitted plan meets the
176 intent of the regulations, allows all appropriate information to be displayed legibly which
177 furthers the does substantial justice to the applicant and the regulations. Mr. Canada
178 seconded the motion which passed with a unanimous vote.

179 Mr. Roseen motioned to approve the requested waiver to Subdivision Regulations
180 Addendum A to allow a driveway at 117.9' where 200' is required from the driveway to a
181 street intersection as it provides greater protection to the natural resources on the property
182 by virtue of reducing the driveway setback, substantial justice is done to the regulations by
183 balancing the driveway requirement and the resource protections and preserving wetlands.

184 Mr. Canada added that the Board could consider sightline maintenance as a condition of
185 approval. Ms. Hollasch added that the proposed driveway location was compatible with
186 the surrounding homes' driveways which were all closer than 200' to the same
187 intersection. Mr. Canada noted there were only seven or eight houses on Boat Club Drive
188 so there would be limited impact of the driveway and that there were several instances of
189 driveways creating headlight spray in Town therefore it would not be unique here.

190 Ms. Hollasch seconded Mr. Canada's motion which passed with a unanimous vote.

Mr. Austin presented some draft conditions and precedent and subsequent that staff had put together through the public and Board comments.

Mr. Roseen motioned to add a condition of approval requiring submission of a landscape plan at the time of building permit submittal that includes headlight screening and necessity of neighborhood involvement with the design. The Board discussed. Ms. Hollasch seconded the motion for discussion.

Board generally discussed Town's ability to track and further such a condition. Concerns raised over timing, potential need for landscape bonding, how to address later if landscaping removed. General concern over how this driveway required different attention than all of the other single-family driveways in Town. Mr. House called for a vote which was (1, 0, 3) with three dissenting votes; motion did not pass.

Mr. Canada motioned to approve the application as submitted upon the approval of the requested waivers and noting specifically the revised plans submitted August 19, 2020, subject to the following conditions:

Conditions Precedent:

1. Applicant shall coordinate with Town Assessing Department for appropriate Tax Map and Lot numbers, and address, for the proposed lot which shall be labeled on the Mylar for recordation;
2. Applicant shall include on the Mylar and subsequent deed for lot 7B (labeled in accordance with #1, above) a "No Driveway" easement North of the proposed driveway as shown on the 8/19/20 plans to the north property line of 7B to prevent future driveways from Boat Club Drive;
3. Applicant shall revise plans and related deeds to state no further/future subdivision of either 7A or 7B (labeled in accordance with #1, above);
4. Applicant shall revise plans to indicate those structures located within 200' of the project boundaries;
5. Applicant shall note on Mylar and include in the deed for 7 B (labeled in accordance with #1, above), "No Detached Accessory Dwelling Unit Permitted"

Conditions Subsequent:

1. Applicant, at time of requesting a Driveway Permit, shall coordinate on Boat Club Drive sightlines and related maintenance as with the Public Works Department.

Ms. Hollasch seconded the motion which passed with the following vote (3, 1, 0) with Mr. Roseen voting nay; motion carried.

Board Discussion Items:

Mr. Austin suggested the MS4 and Driveway Regulations discussions be moved to the

226 September 16th meeting. The Board consented.

227 Mr. Austin presented a requested from Exeter Squamscott River Local Advisory
228 Committee (ESRLAC) who were requesting Board support of a grant request being
229 prepared by Rockingham Planning Commission. Mr. Canada motioned to support the
230 request and authorize Chairman House to sign the letter. Mr. Roseen seconded the motion
231 which passed with a unanimous vote.

232 Mr. Canada motioned to adjourn the meeting at 9:40 PM. Ms. Hollasch seconded the
233 motion which passed with a unanimous vote.

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236 **4. Adjournment**

237 Mr. Canada made a motion to adjourn the meeting at 9:09 PM. Mr. House, seconded the
238 motion which passed with a unanimous vote.

239 Note(s):

240 1. Materials related to the above meeting are available for review at the Municipal
241 Center during normal business hours. For more information, contact the Stratham
242 Planning Office at 603-772-7391 ext. 147.

243 2. The Planning Board reserves the right to take items out of order and to discuss and/or
244 vote on items that are not listed on the agenda.