

TOWN OF WILTON
Planning Board
Approved Minutes

DATE: February 16, 2022
TIME: 6:30 PM
PLACE: Wilton Lyndeborough Cooperative High School, 57 School Street
PRESENT: Alec MacMartin, chair; Karon Walker, vice-chair; Neil Faiman; Bart Hunter; Shannen Coffey; Randy King; Matt Fish
Staff: Caleb Cheng, NRPC Circuit Rider; Michele Decoteau, Board Secretary
Attendees: Mark McGettigan, Ellie McGettigan, Ryan Arel, Matt Arel, Roy Tilsley, Michael McGettigan, Jim McGettigan, Peter Howd (SORLAC), Jon Rokeh, Kenny Lehtonen, Nate Chamberlin, Steven Yurish

I. Preliminaries

A. MacMartin opened the meeting at 6:35 PM.

Minutes of 02.02.22

S. Coffey MOVED to accept the clean copy of the minutes of the February 2, 2022, meeting, as presented to the Board. K. Walker SECONDED.

Discussion: None

Vote: All in favor (5-aye, 0-nay, 2-abstain (M. Fish, R. King)). Motion carries.

2. Cases

SD07-0818 – Talisman

A. MacMartin opened the public hearing by reading the public notice.

Prior to the meeting, the applicant requested a continuation of the case until March.

K. Walker MOVED to continue the case until March 16, 2022, at 6:30 PM. S. Coffey SECONDED.

Discussion: None

Vote: All in favor (7-aye, 0-nay, 0-abstain). Motion carries.

SP03-0621 – Kline.

A. MacMartin opened the public hearing by reading the public notice.

Prior to the meeting, the applicant requested a continuation of the case until March.

K. Walker MOVED to continue the case until March 16, 2022, at 6:30 PM. S. Coffey SECONDED.

Discussion: None

Vote: All in favor (7-aye, 0-nay, 0-abstain). Motion carries.

EX05-1999 – E-023 Reclamation Plan Amendment.

A. MacMartin opened the public hearing by reading the public notice.

Prior to the meeting, the applicant requested a continuation of the case until March.

K. Walker MOVED to continue the case until March 16, 2022, at 6:30 PM. N. Faiman SECONDED.

Discussion: None

Vote: All in favor (7-aye, 0-nay, 0-abstain). Motion carries.

SP02 - 0421 – Sherman’s Pit Stop.

A. MacMartin opened the public hearing by reading the public notice.

S. Yurish and C. Cheng reviewed the changes since the last plan presented to the Board. Notes 3, 4, 5, 8 and 9 were updated. Right of way and employee parking are addressed on page 2. C. Cheng indicated that outstanding issues have been addressed and reminded the applicant to resolve any items previously identified by the Fire Chief.

R. King asked about marking the parking spaces allocated to apartment residents. S. Yurish said that parking spots #1 and #2 on the site plan were most likely going to be set aside for residential use. He indicated that he could post a sign reserving them for residents.

The Board asked about recording the Nature Conservancy letter relating to its right of way. S. Yurish said he did not have a fully-executed original. The Board directed M. Decoteau to work with S. Yurish to obtain the letter in form for recording by the date of the next meeting.

K. Walker MOVED to accept the Sherman’s Pit Stop Restaurant Site Plan dated 4/7/21, as revised through 2/7/22, as presented at this meeting. R. King SECONDED.

Discussion: None

Vote: All in favor (7-aye, 0-nay, 0-abstain). Motion carries.

K. Walker MOVED to continue the case until March 16, 2022, at 6:30 PM. R. King SECONDED.

Discussion: None

Vote: All in favor (7-aye, 0-nay, 0-abstain). Motion carries.

R. King stepped away from the Board and joined the audience.

SD02 – 1220 – Rivers Edge.

A. MacMartin opened the public hearing by reading the public notice.

N. Chamberlin (Fieldstone Land Consultants) and M. Arel presented an updated Yield Plan to the Board. This plan addressed issues previously raised by the Board and resulted in 23 lots. The applicant is seeking approval of a 20-lot cluster development.

The Board expressed concerns about work in the wetland buffers. N. Chamberlin said the regulations are for a building setback from wetlands, not a buffer where no work can be done. The Board asked about lot 11 on the Yield Plan, which appears to have a long driveway adjacent to the wetland. The Board expressed concern about compliance with the spirit of the Town’s wetlands protection requirements. N. Chamberlin said that even if lot 11 is removed, the Yield Plan still supports more than 20 lots.

The Board further discussed providing two access points for the subdivision; it agreed with the applicant that, if two access points were incorporated, the Yield Plan would still support at least 20 lots.

M. Fish asked about the location of the development on the Yield Plan and if it required a ledge cut. N. Chamberlin said that development would require some bench cutting, a zig zag cut in a slope for erosion

control. M. Fish asked about the location of ledge on the site. N. Chamberlin said that, based on the test pit data, the soil was mostly sandy with the exception of the area near Yield Plan lot 19.

The Board discussed the Yield Plan and the proximity of the development to the Souhegan River.

N. Faiman MOVED to confirm that, for purposes of considering the proposed cluster development application, the Yield Plan, entitled Conceptual Subdivision Yield Plan River's Edge, dated December 2, 2021, as revised through February 3, 2022, supports a finding that a conventional subdivision of the site could yield at least 20 residential lots. K. Walker SECONDED.

Discussion: None

Vote: All in favor (6-aye, 0-nay, 0-abstain). Motion carries.

N. Chamberlin returned to the Conceptual Site Plan for River's Edge dated September 21, 2021, as revised. He noted that the setbacks on several back lots were moved away from the abutting properties and the road had been shifted. The road is about 100 feet shorter than originally proposed.

A. MacMartin asked about the hydrant pressure calculations previously requested by the Fire Chief. N. Chamberlin said he had provided them. M. Decoteau was directed to get an updated letter from the Fire Chief.

In response to a question from A. MacMartin, N. Chamberlin confirmed that this application is subject to RSA 438-B and will require an Alteration of Terrain (AoT) permit. A. MacMartin noted that SORLAC had expressed concerns about the setbacks and the level of activity close to the river and asked if the plan addressed those concerns. N. Chamberlin said that the stormwater management area will treat the stormwater before it is released and that the state will also review the project twice, in the Shoreland Protection and AoT permitting processes.

S. Coffey asked for further information about the stormwater treatment. N. Chamberlin said that he needs to revise the drainage calculations in connection with the new design.

M. Fish expressed continuing concern about the length of the road and the fact that there is a single entrance. C. Cheng noted, however, that the variance issued to the applicant by the Zoning Board allowed only a single point of access from NH Route 101, and required access to all dwellings on the property, including the existing dwelling, to be by way of that road.

M. Fish noted that the benefits of cluster developments come with tradeoffs, including sufficient buffers. He noted further that the proposed development has three times the density of the surrounding subdivisions. The road length detracts from the merits of the cluster subdivision. A. MacMartin expressed concern for buffers that might be eliminated by homeowners unless adequate legal safeguards are created. He also questioned how the river would be protected from snow storage along the road.

K. Walker asked the applicant to include calculations of the percentage of impervious surface to be constructed on lots 13 through 18. She noted that the proposed residences there are either largely or entirely within the 250-foot shoreland protection zone, where the percentage of impervious surface is limited by a number of specific stormwater requirements for affected lots.

Abutter comments

R. King (70 Proctor Road) asked about the grading on Lot D-99-3, which has a 35-foot drop. He indicated that, even with a 2:1 slope, there will be a very steep cliff or no back yard on that lot. N. Chamberlin said he would review.

N. Faiman MOVED to continue the case until March 16, 2022, at 6:30 PM. S. Coffey SECONDED.

Discussion: None

Vote: All in favor (6-aye, 0-nay, 0-abstain). Motion carries.

R. King left the audience and returned to the Board. N. Faiman left the Board and joined the audience.

ESP01-1121 - Isaac Frye Holdings LLC.

A. MacMartin opened the public hearing by reading the public notice.

R. Tilsley, K. Lehtonen, and J. Rokeh spoke for the applicant. R. Tilsley reviewed the history of the lot and the case.

R. Tilsley told the Board he had spoken with Town Counsel that day about the bond. He said that his client was agreeable to posting a bond in the amount previously requested by the Board if, once the lot was reclaimed and the residence in place, the Board would reduce it substantially to around \$20,000 for the remainder of the 18-month period specified in Section 8.0 of the Excavation Site Plan Review Regulations.

R. Tilsley then said that the applicant had provided the Board with a new plat showing pre-excavation contours and therefore would not need a waiver of that requirement in the regulations.

He then reminded the Board that it could approve reclaimed slopes that are 2:1 if it determined they could be adequately stabilized. He said that the applicant's engineer, J. Rokeh, would speak to that.

A. MacMartin stated that, before the Board could review the application, the applicant would have to address outstanding issues of state law, as well as obtain additional variances from the Town's Zoning Ordinance. He explained that the applicant would need to obtain waivers of the requirements set out in RSA 155-E:4-a II, 155-E:4-a VII and 155-E:5 via the process set out in RSA 155-E:5-b and 155-E:7.

R. Tilsley acknowledged that there was a process to be followed but said he would have expected the Board to ask for this earlier.

A. MacMartin said that he had only been able to consult counsel within the last two days and that this was appropriately raised at a public hearing. He noted further that, in any event, the applicant also needed to obtain from the Zoning Board variances from Sections 6.1, 9B.6.1 and 9B.6.4 of the Zoning Ordinance. He indicated that, depending on further information to be provided by the applicant, additional variances could be required.

R. Tilsley said the applicant had already been before the zoning Board and he did not understand why he would have to go back to it.

In response to a question from K. Lehtonen, A. MacMartin said that the Board is entitled to seek legal counsel when it identifies issues that must be addressed before it can consider an application. Due to the unique after-the-fact nature of the application, for which the Board bears no responsibility, the

process is complex. He explained that the Board cannot review an application that violates state law or zoning requirements.

R. Tilsley asked for the items to be addressed to be sent to him and the applicants in writing. He wanted a guarantee that the list would be complete and that nothing further would be requested. A. MacMartin demurred, referring him to the minutes of the meeting for the information and saying that whether additional waivers or approvals were required would depend on additional information to be provided by the applicant. For example, the Zoning Ordinance requires 10 feet minimal depth to seasonal high water in the Aquifer District, where this lot is located. Depending on tests that will have to be conducted, a variance from that requirement may be needed.

The applicant said that it had been responding to the requirements of the cease and desist notices and that should be sufficient for the Board. A. MacMartin explained that the permit application/site plan review process and the cease and desist were separate. K. Lehtonen expressed anger that these points were not made much earlier. A. MacMartin repeated that this was the applicant's second appearance before the Board in a complicated matter that required legal counsel, which had been provided only within the last few days.

R. Tilsley asked why the applicant could not rely on the staff report to define what was required for the application. A. MacMartin said that NRPC is a planning resource and the staff reports do not contain or provide legal advice.

A. MacMartin continued with examples of requirements in the Excavation Site Plan Review Regulations that would have to be addressed when the Board considered the application, including Section 7 Operational Standards. K. Walker noted that the applicant would need to produce a complete list of all waivers requested under the Regulations, and those waivers would have to be granted, before the application could be accepted by the Board.

In response to a question from R. Tilsley, A. MacMartin confirmed that the Board would be responsible for determining the amount of the bond to be posted. The Board agreed that reducing the bond amount once the project was completed was likely acceptable, although the Board would review the time period necessary to determine if the site is completely stabilized.

In response to a comment from K. Lehtonen, K. Walker said that the Board is advised that the excavation appears to have violated provisions of State law and the Zoning Ordinance, and in the absence of appropriate waivers and variances, the Board is not allowed to issue a permit.

K. Lehtonen said that they are barred from the site. The Board agreed to mention this to Town Counsel so that some accommodation might be made to allow the applicant to get additional information from the site, but it reiterated that this is an issue for the Select Board to decide, not the Planning Board.

K. Walker MOVED to continue this case until March 16, 2022, at 6:30 PM. M. Fish SECONDED.

Discussion: None

Vote: All in favor (6-aye, 0-nay, 0-abstain). Motion carries.

N. Faiman left the audience and returned to the Board.

3. Correspondence and Invoices

Land Use question on 454 Isaac Frye Highway – for a state inspection station

The Board reviewed the request and the existing approved site plan for the location. The Board directed M. Decoteau to seek information on which building is proposed to be used and if the Fire Chief has inspected the site.

4. Adjourn

S. Coffey MOVED to adjourn the meeting at 9:15 PM. R. King SECONDED.

Discussion: None

Vote: All in favor (7-aye, 0-nay, 0-abstain). Motion carries.

List of any Exhibits from the meeting

02.16.22A – SD02-1220. Conceptual Subdivision Yield Plan River's Edge dated December 2, 2021, revised through 2/3/22

02.16.22B – SD02-1220. Conceptual Site Plan River's Edge dated September 21, 2021, revised through 9/28/21

02.16.22C – ESP01-1121. Existing Conditions Plan "Proposed Residence" dated November 15, 2021, no revisions.

Respectfully submitted by Michele Decoteau, Board Secretary

Approved on 03.02.22