

**Planning Board
September 15, 2009**

Members Present: Tom Vannatta, Chair; Barbara Freeman, Vice-Chair; Bruce Healey; Bill Weiler; Ron Williams, Alternate; Ken McWilliams, Advisor; Jim Powell, ex-officio member.

Mr. Vannatta called the meeting to order at 7:04 p.m.

Mr. Vannatta appointed Mr. Williams as a voting member for this meeting.

MINUTES

The Board reviewed the minutes of August 18, 2009 and made corrections.

Mr. Weiler made a motion to approve the minutes as corrected. Ms. Freeman seconded the motion. All in favor.

ADMINISTRATIVE BUSINESS

Mr. Vannatta covered the following points of administrative business:

- The Planning Board (PB) meeting on October 6, 2009 will include an interview with Alison Kinsman, who is interested in serving on the PB. Additionally, a Civic Volunteer application from Russell Smith has been received. Mr. Smith is interested in serving on the PB. Mr. Vannatta offered to contact Mr. Smith to ascertain his interest.
- Additional assistance for the owners of the Blue Goose Inn regarding their application for a real estate office is available from Mr. Weiler. Mr. Vannatta said he spoke with Inn owner Mrs. Morrison and conveyed Mr. Weiler's offer.
- Mr. Vannatta reminded the Board of the upcoming OEP Conference on October 17, 2009.

Mr. Weiler reported to the Board on the Pickman subdivision between Gillingham Drive and Old Sutton Road. The proposed subdivision was never approved and apparently has subsequently been dropped. The owner has now focused on the Gillingham Drive access portion of the property which is close to the lake and borders on an extension of the lake on that side of the road. Mr. Weiler said that the owner has cut and stumped the trees in the buffer zone and in the protected shore land zone. Additionally, he said there has been substantial digging.

Mr. Weiler noted that the owners have started work on a project before plans for that property have been submitted to the PB. He referred to subdivision regulations that prohibit starting subdivision roads before gaining PB approval and the zoning ordinance that contains regulations about the building envelop being limited by various setbacks.

Mr. Weiler said the Board should discuss its reaction if an application for a subdivision is presented to the Board. He said his information indicates that a three-lot subdivision is planned.

Ms. Freeman said the realtor handling the property sale should be notified that there are no lots for sale.

Mr. Powell said that an Intent to Cut was submitted several months ago. It went to the state. Since then the Town has had complaints about the cutting. The Code Enforcement Officer has visited the site twice, believes there are some violations with the cutting (specifically cutting without proper approval from the state), and has contacted the state regarding his findings. The state has not visited the site.

Mr. Weiler said he has seen evidence that a driveway is being constructed and has notified Paul LaCasse.

Mr. Powell added that there is evidence that a home site is being prepared, which does not violate any town laws.

Mr. Weiler said there is a state law (227-39) covering clearing for a home site without a permit.

Katheryn Holmes asked if the town enforces any fines for violating buffer/shore land regulations.

Mr. Powell said the property owner violated the Intent to Cut document and violations of that nature are handled by the state. The Town can fine a maximum of \$275 per day for any violation of the local zoning that is not corrected in a reasonable amount of time. This situation, he said, is above the local zoning and that is why the state is now involved.

Mr. Weiler said that regulation enforcement involves many layers – from issuing a warning, to a judge’s approval to inspect the property – and becomes very costly.

CASE: Continuation... Case 2008-010: Annexation-Brad LaClair/agent: Roger Rodewald. 927-6030. Park 10 properties. 020-055-210, 020-069-280, and 020-057-229

Mr. LaClair and Mr. Rodewald were not in attendance.

Mr. McWilliams said the Board could continue the Case at another date, or dismiss it. He said Mr. LaClair was supposed to apply to the Zoning Board of Adjustment (ZBA) for a variance and then reappear before the PB. Katheryn Holmes, ZBA Chair, said Mr. LaClair had not applied for a variance within the past two months.

Ms. Freeman made a motion to authorize Mr. Vannata to write a letter to inform the applicant of the actions of the Board this evening: that he [the applicant] will be required to renotify before the meeting that he intends to appear before the Board; but that the

application is held as good for that particular meeting. Mr. Weiler seconded the motion. Five in favor. One opposed.

CASE: 2009-003: Final Site Plan Review – Baker Hill Golf Course/agent: Rick Flint-Old Hampshire Designs. 526-6945. Addition to Club House to expand kitchen facilities. Map/Lot 038-758-501.

*Notice is hereby given that the Planning Board will receive submission of an Application for a Site Plan Review from **Baker Hill Golf Course**, for property located at 123 Baker Hill Road, Newbury, NH, Tax Map 038-758-501 on **Tuesday, September 15, 2009, at 7:15 p.m.** in the Town Office Building at 937 Route 103 in Newbury, NH. If the application is accepted as complete, a public hearing on the application will commence at the same meeting.*

The presentation was given by Dick Chase representing the Baker Hill Golf Course (BHGC) Board of Governors and Rick Flint of Old Hampshire Design, designers and construction managers for the project.

Mr. McWilliams said that this is an amendment to the existing site plan. He reviewed the application and pronounced it complete.

Ms. Freeman made a motion to accept the application as complete. Mr. Weiler seconded the motion. All in favor.

Mr. Chase told the board that the plan involves a 628 square foot addition to the clubhouse kitchen. He said the larger kitchen is needed for operational and safety reasons. The existing kitchen is small, inefficient, and lacks adequate refrigeration on the main level. He said there will be no change in number of people served and service is limited to lunch and a few dinners. Also, there will be no increase in staff. Mr. Chase said the only objective to the plan remains to serve the BHGC membership safely and effectively.

Additionally, the plan calls for placing windows in the existing screen porch to make it a three-season room for the BHGC members. Mr. Chase said the room would be used for meetings.

Mr. Williams requested the elevations for the plan.

Mr. Chase presented renderings to the Board to illustrate the new configuration to the kitchen.

Mr. Flint said the new roofline is slightly lower than the existing roofline.

Ms. Freeman asked if permits are in place for operating a commercial kitchen. She said the New Hampshire Department of Public Health (DPH) has a stringent permit process that applies to the operation of a commercial kitchen.

Mr. Chase said the current kitchen meets the criteria set forth by the DPH but on a smaller scale.

Ms. Freeman questioned the current capacity of the BHGC's septic system to handle the increased demand from the planned enlarged kitchen.

Mr. Chase said the operational use of the kitchen will not increase.

Ms. Freeman said Paul LaCasse should decide if permits are needed from the DPH to run the kitchen so building permits can be issued.

Mr. Powell said that he will check with Mr. LaCasse but that he was 99% certain that the necessary permits are in place from the original building and that there will not be any change to the seating, number of customers or number of meals prepared.

Ms. Freeman said there could be a need for new permits if the kitchen equipment is changed from a residential-type stove to a commercial grade stove.

Mr. Flint said the existing kitchen has commercial grade appliances. However, the space is the issue.

Mr. Vannata asked if the same appliances will be moved into the new space.

Mr. Flint said he was certain that new warming units will be added, along with a new walk-in refrigeration unit and more dry storage space

Mr. Weiler and Ms. Freeman questioned the elevations in relationship to the drawings.

Mr. Flint suggested that a revised site plan be made that includes all four elevations and shows the location of the new addition.

Mr. Vannata opened the discussion to Public Session.

Brenda Diglio, who owns the property across the street from BHGC, questioned the height of the new roofline and its impact on the existing ridgeline.

Mr. Flint said there are no plans to go above the existing ridgeline.

There being no further questions or discussion from the public, Mr. Vannata closed the Public Session.

Mr. Vannata said there are two areas of concern: the issue of permits; and, the elevations. He then moved the Board into deliberation.

Ms. Freeman said she was satisfied that the question of permits will be handled by Mr. La

Casse and that the Board will be notified if septic issues arise.

Mr. Williams asked if there were plans for additional light fixtures.

Mr. Flint said there are no plans for additional lighting.

Mr. Weiler made a motion to approve the application on condition that the following updates are provided: identify each elevation; on the north elevation indicate that the south elevation is not changing except for the addition of windows on the screened porch; and, provide a “north” arrow on the floor plan. Ms. Freeman seconded the motion. All in favor.

CASE: Case 2009 – 004: Meeting with Zoning Board of Adjustment (ZBA)

Katheryn Holmes, ZBA Chair, and Barbara Richmond, ZBA member, appeared before the Board to share some concerns and suggestions.

Ms. Holmes raised the point that applicants appearing before the ZBA often arrive with incomplete applications, specifically in the areas of floor plans, elevations, setbacks, and drawings. The applicant’s apparent confusion over what is required hinders the ZBA’s ability to review the application in a timely manner.

Ms. Holmes suggested that the Guideline for Applicants that is on the Town website needs clarification and ease of use for the applicants. She added that the ZBA should have a checklist for applicants similar to the one used by the PB.

Mr. McWilliams said that the problem appears to be communicating what the applicant needs to provide to the ZBA. He said either the applicant cannot read/understand the guidelines or someone is not explaining it to them clearly.

Ms. Freeman suggested including a picture of what is required-such as a drawing, floor plan, etc-in the application requirements, but not in the application regulations.

Mr. Healey suggested using an application that contained the right information as an example.

Ms. Holmes raised questions concerning terminology as it applied to the Zoning Ordinance for Blodgett Landing Cottage District (BLCD). Specifically, she asked for definitions for “new dwelling”, “replacement dwelling”, and “grandfathered”.

Ms. Richmond asked about the legality of building on a paper road in the BLCD.

Mr. Powell said there are legal definitions of “grandfathered” within the state.

Mr. Weiler said that the PB is the legislative arm of the Town should provide what Congress calls legislative intent. At the state and federal levels, all the laws must be

interpreted at some point and when the interpretation becomes difficult the legislative body is asked to clarify. He said that the PB should provide clarification.

Ms. Freeman referred to page 68, Article 15.1.2 of the Zoning Ordinance as supporting documentation for defining a “replacement dwelling” as having to be in the same footprint.

Mr. Vannata said there needs to be definitions for terminology that are specific to the BLCD.

Ms. Holmes suggested that the BLCD needs a separate Glossary to help applicants understand the terms used in the Ordinance.

Ms. Holmes raised the question of paper roads in the BLCD: specifically who owns the paper road known as Vermont Avenue, and is it legal to build on it?

Mr. Powell said he would research the question and get back to Ms. Holmes with his findings.

Ms. Freeman said the definition of “new dwelling” -as it applies to the BLCD-is that it is using a new footprint. The definition is based on the non-conforming structure definition contained in the Zoning Ordinance, along with the language contained in the BLCD section of the Zoning ordinance.

Ms. Holmes asked if there are town regulations concerning tree cutting.

Ms. Freeman said the Town regulations are the same as the state regulations. She further suggested that the Board take it under advisement that language be added to the Ordinance governing tree cutting to include an application process. How and when this revision happens will be discussed when the Board has a draft document. At that time the Board will invite participation.

Mr. Weiler referred to Ms. Holmes’ opening remarks that people are applying to the ZBA for variances and not special exceptions. He said that if people have a problem with some part of the ordinance which specifies special exception, then they should apply for a special exception.

Ms. Holmes agreed, saying she reviews each application to make sure the applicant is applying for the right thing.

Ms. Holmes suggested offering workshops throughout the year to help educate applicants on the proper method of making application to the ZBA.

Ms. Freeman said it would be more effective to have a contact person within the Town office to help applicants walk through the application process. She asked Ms. Holmes if she [Holmes] wanted the PB to review the current ZBA application procedure.

Mr. McWilliams said that function is an administrative responsibility between the ZBA/Denise Walter/Mr. LaCasse.

Mr. Weiler suggested canvassing other towns for fresh ideas.

Mr. Vannata said Ms. Holmes has the final word on the ZBA applications and how they are presented and in that respect, she is providing the applicant with some education on the process.

EXECUTIVE SESSION

Mr. Weiler made a motion for the Board to enter into executive session for the purpose of discussing the Angel Hawk Subdivision Agreement. Ms. Freeman seconded the motion. All in favor.

The Board entered executive session and discussed the Angel Hawk Subdivision Agreement.

Mr. Weiler made a motion for the Board to come out of executive session. Mr. Powell seconded the motion. All in favor.

The Board returned to regular public session.

Mr. Powell made a motion that the minutes of executive session be sealed for 12 months. Mr. Weiler seconded the motion. All in favor.

Ms. Freeman made a motion to adjourn. Mr. Weiler seconded the motion. All in favor. Meeting adjourned at 9:54 p.m.

Respectfully submitted,

Meg Whittemore
Recording Secretary