

Minutes for Tuesday, December 18, 2012 Planning Board Meeting

1. Call to Order: Chairman David Johnson called the meeting to order at 7:03 PM.

2. Introduction of Attendees: Present were: Chairman David Johnson, Secretary Laura Chadbourne, Member Gail Bartlett, Member Bob Scott, and CEO Eric Gulbrandsen. Absent were Member Annette Bouchard and Alternate Member Ron Kiesman. Three members of the public also attended: Mr. Dimitri Savchick (as Agent for CUP applicants Fadden and Whitaker), Mr. Sam Black of Sweden (neighbor to Fadden/Whitaker property), and Mr. Michael Mascia of Sweden (abutter).

3. Public Hearing:

- A. Chair called the hearing to order.
- B. Chair determined there was a quorum.
- C. Opening Statement: Chair described purpose of hearing, for a Conditional Use Permit (CUP) application, and general procedure governing hearing conduct:
 - i. Presentation by the applicant or his agent without interruption.
 - ii. All questions by board members, abutters, etc. go through the chair to the applicant during the hearing. Anyone with a question or comment shall state for the record their name, address, business or professional affiliation, the nature of their interest in the hearing, and whom they represent.
 - iii. Presentation by abutters or others.
 - iv. Rebuttal statements by anyone who has previously spoken.
 - v. Opportunity for comments or questions by other attendees.
 - vi. Once everyone has had an opportunity to be heard, the hearing is closed and Board returns to its regular meeting.

The public hearing began with opening statements from Mr. Savchick. The reason for the CUP application is to allow selective and responsible timber harvesting on the portion of the Fadden/Whitaker land that is in a Natural Resource Protection (NRP) zone. The NRP zone on this land is around Berry Pond and some mapped wetland areas also on the land. In the NRP zone, no harvesting would be done within 75 feet of Berry Pond or wetlands, except for trees determined to be a hazard. Within the next 175 feet around the pond and wetlands, harvesting is planned but only up to 40% of the growth in that area. Beyond that 250' boundary, a normal selective harvest is planned.

Additionally, Mr. Savchick noted that to reach the NRP zone area, a temporary bridge would be erected across Plummer Brook (a portion of the brook runs through the property).

Question and Answer session:

Q. Mr. Mascia (MM): What is the bridge made of and how wide is it?

A. Mr. Savchick: (DS): Steel, 20' wide.

Q: Mr. Black (SB): Is the bridge removed when harvesting done? Is there going to be harvesting right within the NRP zone?

A: DS: The bridge will be removed immediately once harvesting is complete. Yes, there is harvesting planned for the NRP zone, but not within 75' of the pond or wetlands.

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(at this point, DS reviewed site map of the property, which included an overlay of the NRP zone within the property).

Q: Mr. David Johnson, Chairman (DJ): How wide is the skidder trail? And will you be doing chipping?

A: DS: Skidder trail will be 8-10 feet wide. Water will flow off the trail to prevent erosion in the trail. Chipping will occur but it is not the main activity. The focus will be high quality saw logs; remainder will be chipped.

Q: DJ: Sweden Conservation Society asked David to question the proposed driveway entrance, and to see if that was the only good place to enter the property. DJ also wondered if there will be a roadside landing area where logs will be piled.

A: DS: Yes, it was the most ideal spot given road ditching in most of the rest of the road frontage. The "landing" for timber logs will be right inside the entrance but they will keep the size of that space as minimal as possible.

Q: SB: What about having to dismantle part of the stone wall to put the driveway in?

A: CEO Eric Gulbrandsen (EG) noted that town had approved the driveway permit, and that the width of the entrance will have to be large enough to accommodate trailers with limited turning radii.

Q: However, EG noted that the number of trees that would need to be taken down to put this driveway entrance in would be quite large. Would the applicants consider moving the driveway entrance west about 100 feet to avoid stones and have a bigger space for driveway opening and trucks?

A: DS: we are open to that.

Q: DJ: do you realize that any damage done to the road is your responsibility to fix? This is in our ordinance too.

A: DS: yes, understood.

Q: DJ: what is the entry/exit route for traffic to and from the site?

A: DS: depends on where wood is going; sometimes Lee Gray Rd. to Rte. 93, other times Sam Ingalls Road to Rte. 302.

Q: MM: how soon will you start?

A: DS: upland (outside of the NRP zone) could be anytime but not until ground conditions are firm. Would only harvest in NRP zone after and if the CUP is granted.

Q: EG: how long a timeframe for the entire harvesting project?

A: DS: about 2 weeks

Q: SB: what percentage is being harvested in the upland portion?

A: DS: there is mixed age wood there, hard to say, but at least enough to serve as regular maintenance on the property.

Q: SB: will you be working at night?

A: DS: no, but will start early in the morning, after 1st light.

SB: OK, that's not a problem for me.

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Q: DJ: as part of the logging equipment, will you be using a buncher?

A: DS: yes

Q: MM: what happens to the stone wall once you are done?

A: EG: this will be a permanent entrance as it has been approved by the town; a driveway permit has been issued.

Q: DJ: do you ever put the wall back?

A: DS: sometimes; it depends on the future use of the property.

Q: Laura Chadbourne (LC): in the CUP application materials, you include a letter from the Maine Dept of Inland Fisheries and Wildlife (IFW) with a review of your harvesting plan. In that letter, it recommends you contact a Region A wildlife biologist “in order to plan an approach to harvesting that best avoids and minimizes unavoidable impacts to the designated Significant Wildlife Habitat.” Have you done this? Do not see evidence of having contacted a biologist.

A: DS: the recommendation is reserved for instances where the activities would impede water flow – like a dam – which would disrupt wildlife. In this case, the temporary bridge is just crossing the stream, not impeding water flow.

Q: MM: when you harvest timber in the winter, I can’t imagine they can work unless the ground is completely frozen. Can you confirm that?

A: DS: there is quite a bit of upland before the brook and it’s rocky and quite firm there now. Across the brook, there is more softness so it would be harder to work if not frozen. EG: the type of harvester they are using is fairly low-impact. The harvester cuts and moves trees to a spot where they can process them. This keeps the skidder away from the deep woods.

DJ noted that the Board would definitely encourage doing the harvesting work when the ground is completely frozen.

After a final request for questions and hearing none, Chairman David Johnson closed the Public Hearing section of the meeting.

Site Walk: In accordance with Section XIII. **Conditional Use** in the Zoning Ordinance, which states that within 45 days after the board votes and agreed that the application was complete, a site walk and public hearing are scheduled, the Board held a site walk at 3:00 pm today, Tuesday, December 18, 2012 at the site of the property at Map R-6, Lot 23. The following Members were present at the Site Walk: Chairman David Johnson and Member Bob Scott. Two members of the Sweden Conservation Committee also attended the site walk: Becky Johnson and Janet Mahannah. Abutter Mike Mascia also attended. Member Laura Chadbourne had previously viewed the site on a separate occasion.

The Board findings from the site walk were covered during the question and answer session.

Application Review: The Board reviewed the application in accordance with the Zoning Ordinance Section XIII Subsection E (Page 49), “Factors Applicable to Conditional

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Uses". The Board reviewed each criteria and developed the **Findings of Fact and Conclusions of Law**.

Zoning Ordinance Sect. XIII Subsection E (Page 49) outlines the **Factors Applicable to Conditional Uses**. It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. To approve the application, the Board concluded the following:

1. The use will not have an adverse impact on the spawning grounds, fish, aquatic life, bird or other wildlife habitat. *LC moved, GB seconded the following conclusion: **The Maine Natural Areas Program (part of the Maine Department of Conservation) carried out an environmental site review for this project. In addition, the Maine Department of Inland Fisheries & Wildlife (DIFW) also reviewed its records of the property. Both noted a Significant Wildlife Habitat with moderate value Inland Waterfowl and Wading Bird Habitat around Berry Pond and wild brook trout in Plummer Brook; responsible timber harvesting activities using "Best Management Practices" were recommended by these agencies. Board vote: unanimous.***
2. The use will conserve shore cover and visual, as well as actual, access to water bodies. *LC moved, GB seconded the following conclusion: **There will be no timber harvesting within a 75' buffer of Plummer Brook, nor within a 75' buffer of the wetlands. Board vote: unanimous.***
3. The use is consistent with the Comprehensive Plan. *LC moved, GB seconded the following conclusion: **The Planning Board sees no conflict with the Comprehensive Plan. Board vote: unanimous.***
4. The need for a particular location for the proposed use. *LC moved, GB seconded the following conclusion: **Not applicable as the application relates to timber harvesting on privately owned property. Board vote: unanimous.***
5. Traffic access to the site meets the standards contained in this Ordinance, and traffic congestion has been minimized in accordance with performance standards in this Ordinance. *LC moved, BS seconded the following conclusion: **Lee Gray is a quiet secondary road and traffic access and congestion should not be an issue. A driveway permit from the Town of Sweden has been granted to the applicants; that permit shall be considered sufficient to meet this standard. Board vote: unanimous.***
6. The site design is in conformance with all municipal flood hazard protection regulations. *Board discussion: not applicable. **The timber harvesting activities as outlined should not cause or impact flooding.***

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7. Adequate provision for the disposal of all wastewater and solid waste has been made. *Board discussion: not applicable.* **Wastewater and solid waste will not be generated by the proposed use.**
8. Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *Board discussion: not applicable.* **Hazardous waste will not be generated by the proposed use.**
9. A storm water drainage system capable of handling a 25-year storm without adverse impact on adjacent properties has been designed, and will be put into effect and maintained. *Board discussion: not applicable.* **Storm water drainage will not be generated by the proposed use.**
10. Adequate provisions to control soil erosion and sedimentation have been made. *LC moved, BS seconded the following conclusion:* **The application outlines steps that will be taken during timber harvesting activities to minimize erosion, including the distribution of slash and woody debris in the trail to act as a firming and stabilizing material.** *Board vote: unanimous.*
11. There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes. *Board discussion: not applicable.* **The proposed use does not make any demands on water supplies.**
12. The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development such as, but not limited to, noise, glare, fumes, dust, odor and the like. *Board discussion:* **These issues are covered by existing Town timber harvesting rules as outlined in Section X.W of the Zoning Ordinance, “Timber Harvesting”. Applicants must comply with the Zoning Ordinance.**
13. All performance standards in this Ordinance applicable to the proposed use will be met. *LC moved, BS seconded the following conclusion:* **As noted in #12 above, applicants shall comply with Section X.W “Timber Harvesting” in the Zoning Ordinance.** *Board vote: unanimous.*
14. The proposed use will be compatible with all uses permitted in the underlying Zone and on abutting properties. *LC moved, GB seconded the following conclusion:* **The proposed timber harvesting activities will take place on a property that is partially in a Natural Resource Protection Zone. As outlined in Section VIII.B “Natural Resource Protection Zone”, subsection 3 “Conditional Uses”, “The following uses may be allowed only upon approval of the Planning Board in accordance with the provisions of Section XIII. CONDITIONAL USE:**

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- **New trails and stream crossings**
- **Timber harvesting and vegetative clearing (see also Section X.)**
- **Signs other than those specifically prohibited**
- **Agriculture, fisheries, and wildlife habitat enhancement”**

15. The proposed use will not have unreasonable impact upon Municipal facilities. *Board discussion: not applicable.* **The proposed use will not have an unreasonable impact upon Municipal facilities.**

4. The Board voted on each factor relative to the Conditional Use Permit and voted to approve the Application for Conditional Use with conditions. David Johnson moved for an overall vote; LC moved and BS seconded the motion. The Board approved the Conditional Use Permit unanimously.

5. Zoning Ordinance Sect. XIII Subsection F (Page 50) outlines:

Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above, the Planning Board attached the following conditions:

1. **Best practices:** Timber harvesting will follow Best Management Practices for timber harvesting as outlined in the information contained in the CUP application, including prompt removal of temporary skidder bridge over Plummer Brook. Under no circumstances will any harvesting be in violation of the Town of Sweden Zoning and Land Use Ordinance dated March 21, 2009, specifically section X.W “Timber Harvesting”.
2. **Hours of operation:** timber harvesting activities must be conducted only between the hours of 6:00 AM and 6:00 PM.
3. **CEO notification:** Code Enforcement Officer (CEO) Eric Gulbrandsen shall be notified timber harvesting activities begin, and also notified within 10 days after the completion of harvesting activities.

Notification to Applicants: Secretary Laura Chadbourne to send Letter of Decision to applicants within 7 days as required by the Zoning Ordinance.

6. **Read Minutes from November 20, 2012 Meeting:** The minutes from the November 20, 2012 meeting were read by David Johnson. Gail Bartlett moved and Bob Scott seconded the acceptance of the Minutes. The motion passed unanimously.

7. Communication & Bills

A. Correspondence Received (by date):

1. 11/23/12 rec'd at home by Laura Chadbourne, Secretary, letter from Tom Fadden, co-applicant for Fadden/Whitaker CUP. Letter states that Dimitri Savchick represents Mr. Fadden as Agent for the CUP.

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2. 12/1/12 rec'd by Laura Chadbourne, email from Dimitri Savchick with attachment of updated signature page for the Fadden/Whitaker CUP application. Updated signature page now contains signatures for both owners, Tom Fadden and Harold Whitaker. Previous version had been signed only by Tom Fadden.

B. Correspondence Sent (by date):

1. 11/20/12 sent by PB Secretary Laura Chadbourne to Treasurer Sarah Rose, check for Fadden/Whitaker CUP application fee in the amount of \$50.00.

2. 11/27/12 sent by Laura Chadbourne via certified mail, letters to applicant and all abutters re: Fadden/Whitaker CUP, notifying them of the site walk and public hearing scheduled for December 18, 2012. Individual letters were sent to the following abutters: Frank Berry, Sean Gagnon & Julie Wentworth, Michael Mascia, Elaine Demasse and Katherine Reilly, Davis W. Kimball, and Heirs of Lindon Merrill, c/o John Rand. Letters were also cc'd to the Board of Selectmen, Board of Appeals, and CEO Eric Gulbrandsen and placed in those respective mailboxes at the Town Office.

3. 11/29/12 fax sent by Laura Chadbourne to The Bridgton News, requesting placement of a block ad in the December 6 and December 13, 2012 editions of the paper. Block ad contained public notice of the Site Walk and Public Hearing regarding the Fadden/Whitaker CUP application. Note: block ads were printed and copies saved for the PB files.

4. 11/30/12 email sent to Dimitri Savchick, Agent for Tom Fadden, requesting assistance in obtaining Harold Whitaker's signature on the CUP application signature page.

6. CEO's Report: Eric Gulbrandsen presented the CEO report for November 2012. The following activity occurred:

- A. Building Permits issued: none
- B. R.V. Permits issued: none
- C. Certificates of Occupancy issued: none
- D. Violation Notices issues: none
- E. Timber Harvest notifications:
 - 1. Thomas Fadden, R6, 23, Lee Gray Rd.
- F. Other:
 - 1. Maine DOT entrance permit and culvert installation. R6, 5A, Bridgton Road. Conditional Use Permit application by Thomas Fadden for Timber harvesting in a Natural Resource Protection Zone, R6, 23.

Gail Bartlett moved and Bob Scott seconded the acceptance of the CEO's November 2012 report. The motion passed unanimously.

7. Old Business:

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- A. **Fadden/Whitaker CUP:** Laura Chadbourne was able to confirm after the 11/20/12 PB meeting that the owners of record for Map R-6, Lot 23 were in fact Harold Whitaker and Tom Fadden. The 2012 tax binder in the Town Office did not show them as owners. Laura met with the Sweden Town Clerk, who was able to produce documentation showing that Mr. Fadden and Mr. Whitaker had purchased the lot on April 30, 2012.

8. New Business:

- A. Fadden/Whitaker CUP application review (concluded earlier).

9. Announcements:

- A. The next regular Meeting will be Tuesday, January 15, 2013 at 7:00 PM at the Sweden Town Office.
- B. The board has an opening for one alternate (an alternate serves a one year term). Should anyone express interest, they can be appointed by the Selectmen.

Gail Bartlett moved and Bob Scott seconded that the meeting be adjourned at 8:30 PM. The meeting was adjourned.