

Minutes for Tuesday, June 20, 2017 Planning Board Meeting

1. Call to Order: The meeting was called to order at 7:00 PM.

2. Introduction of Attendees: Present were: Chair David Johnson, Secretary Laura Chadbourne, Members Kevin Taylor and Morris Gibely, alternate Member Ron Kiesman, and CEO Larry Lyle. Absent: Member Dan Cousins. Also present: First Selectman Lori Bennett, Selectman Wayne Miller, Sven Cole from Bridgton Academy, Rick Dunton from Main-Land Development, and Dan and Julia McQueen, landowners.

3. Minutes from the May 16, 2017 Meeting: The minutes were reviewed by the group. Laura Chadbourne moved and Morris Gibely seconded the acceptance of the minutes as written. The motion passed unanimously.

4. CEO's Report for May 2017: CEO Larry Lyle presented the report:

1. Building Permits Issued:

- **#01/17 Map R08 Lot 35-5** John Lylerla, 535 Knights Hill Rd – Rebuild home that burnt down. Foundation good – bump out addition. See drawing attached. Issued 05/10/17. \$356.20
- **#02/17 Map R02 Lot 23** Lee Fraitag, 656 Waterford Rd – Shed roof 14'X10' over existing porch – supported by 3 12" sonotubes with 2x8 rafters. Issued 05/16/17 \$52.50
- **#03/17 Map U04 Lot 12** Rick McLaughlin, 63 Keyes Pond Rd – Rebuild a 16x40' deck set on sonotubes for deck foundation. Issued 05/16/17 \$101.40

2. R. V. Permits Issued: None

3. Certificates of Occupancy Issued: None

4. Violation Notices Issued: None

5. Timber Harvest Notifications: None

6. Other:

- 05/04 Shoreland Zoning seminar at LEA in Bridgton.
- **Map 04 Lot 34** James Mathison, 94 Tapawingo Rd. Erect 14x20 garage – discussed placement and building envelope – filled in app. 05/20 Issuing permit and had change of mind on location – where it would encroach on side lot line.
- Andrew Bariteau – Looking to purchase 8 acres on Knights Hill Rd. across #409 – staked out building envelope.

7. Status of Open Permits:

- **#03/17 U04 Lot 12 Rick McLaughlin** 63 Keyes Pond Rd – 05/01/17 12" sonotubes excavated ready for placement. 05/16/17 Issued permit – collected \$101.40. Inspected sonotubes and anchor bolts, framing P.T. 2x10 – 16" O.C. Solid bridging at midspan (8'-0) 05/20/17 Frame complete – no stairs.
- **#01/17 Map R08 Lot 35-5** John Lylerla, 535 Knights Hill Rd. 05/10/17 Home burnt down – Rebuilding in same footprint-plus 12x12 addition, drawing to follow – issued permit #01/17 \$356.20.
- **#02/17 Map R02 Lot 23** Lee Fraitag, 656 Waterford Rd Permit #17-02 Cost \$52.50. Shed rppf 14'x10'0" over existing porch , supported by 3 12" sonotubes 2x8 rafters

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05/16 John Smolinski Constructor for Lee discussed location and frame. Sonotubes excavated ready to pour.

05/23 Frame complete , roof on job complete.

- 05/10 Met Julie McQueen 3:00 PM Filing in office, change format of currant CEO reports, map- lot permits.
- 05/10 Visited Bridgton Academy – review erosion control at cul-de-sac. No significant infiltration of sediment. Check dams working - Fines are filling them up. Good at entrance - Go up hill 80' winter run-off has created gullies and channels – site needs to be maintained.
- 05/11 called Sven Cole, left message
- 05/14 called back and discussed measures to maintain site erosion.
Also, Bridgton Academy's cabin – what needs to be done for compliance.

Kevin Taylor made a motion to accept the CEO's May 2017 report. Laura Chadbourne seconded the motion. The motion passed unanimously.

5. Communication & Bills

A. Correspondence Received (by date):

1. Copy of letter from Bridgton Academy (BA) dated June 6, 2017 to Larry Lyle, CEO, received in Planning Board (PB) mailbox. Package contained: 1) Erosion and Sedimentation Control Plan dated June 5, 2017; 2) Stormwater Maintenance Plan dated June 6, 2017 (page 1 only); 3) 8.5" x 11" copies of two plans; 4) Consent Agreement dated June 6, 2017 signed by BA only.
2. Letter from BA dated June 9, 2017 received by mail on June 12th at PB member home addresses. Package contained an application from BA to approve a phosphorus control plan and remediation and re-vegetation plan for a right-of-way (ROW) over the land of Julie and Dan McQueen (landowner), Map R1, Lot 2. Specifically, package contained: 1) Cover letter from BersteinShur dated June 9, 2017; 2) Erosion and sedimentation control plan dated June 5, 2017; 3) Stormwater Maintenance plan dated June 6, 2017; 4) Phosphorus control remediation and re-vegetation plan C2.1, revised June 6, 2017; 5) Right of Way Plan, S1.1, revised June 6, 2017; and 6) Consent Agreement (unsigned copy), dated June 6, 2017.
3. Letter from the Town of Sweden dated June 13, 2017 received in PB mailbox and forwarded by mail to all PB members, the CEO, Bridgton Academy and the McQueens (landowners). Package contained: 1) a letter from the Selectmen dated June 13, 2017; 2) a copy of the Consent Agreement signed by BA and 2 of the 3 Sweden Selectmen; 3) the "Settlement Term Sheet" dated Jan. 17, 2017; 4) a red-lined version of the two plans, and 5) a letter of approval with conditions from Julia McQueen (landowner) dated June 6, 2017.

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B. Correspondence Sent (by date):

1. Letter (email) from PB Secretary on May 20, 2017 to Lori Bennett, First Selectperson, informing her of the 6/6/17 deadline for receipt of materials by PB members in order for the material to be included in the 6/20/17 meeting agenda. Email also briefly outlines the process for PB to review and approve applications.
2. Letter (email) from PB Secretary on June 5, 2017 to James Mathison, property owner on Tapawingo Road (Map R4, Lot 34-B). Email contained information from the Zoning Ordinance related to property setbacks for structures as well as information about variances. Email was in response to a phone call the property owner had placed to the town office, then a subsequent conversation between the owner and the PB secretary.
3. Email from PB Secretary to PB members on June 8, 2017, informing them that secretary had spoken with Lori Bennett, First Selectperson, about the PB's continued need for administrative support. Lori noted that the town's current Administrative Assistant had resigned and a posting would be going up to find a replacement. Select Board will be sending a letter to the PB with an update.
4. Letter (email) from PB Secretary dated June 9, 2017 to Janet Davis at BernsteinShur, law firm representing Bridgton Academy. Email was in response to a phone call that same day from Ms. Davis, looking for names and mailing addresses for PB members. Secretary attached names and mailing addresses to the email, and noted that the deadline to submit materials for the 6/20 PB meeting had passed but the Board would make best efforts to review before the meeting and would include the item on the agenda.

6. Old Business

- A. Board asked First Selectman Lori Bennett for an update on the PB's request for administrative assistance for the PB and CEO. Lori noted that the town's administrative assistant had recently resigned. The Selectboard was finalizing the job description and posting which would include support for the PB and CEO. The job should be posted shortly.

7. New Business:

- A. Planning Board (PB) reviewed for completeness the materials received from Bridgton Academy (BA) and the Town of Sweden related to the proposed phosphorus control plan and remediation and re-vegetation plan for the right-of-way (ROW) over the land of Julie and Dan McQueen (landowner), Map R1, Lot 2

The PB received two additional pieces of information which were brought to the meeting:

1. From BA, drawing C2.1 dated June 20, 2017, entitled "Right of Way Location, Phosphorus Control, Remediation, and Revegetation Plan", which replaced the previous two drawings entitled C2.1 and S1.1.
2. From the landowners, a letter dated June 20, 2017, conditionally approving the following documents with additional changes as agreed to that day between BA and the landowners. Additional changes were to the following documents:

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- Redlined version by Ross Cudlitz of Erosion and Sedimentation control plan received from BA. Redlined version is dated June 13, 2017
- Redlined version by Ross Cudlitz of Stormwater Maintenance Plan received from BA. Redlined version is dated June 13, 2017
- Redlined version by Ross Cudlitz of drawing C2.1 dated June 13, 2017
- Redlined version by Ross Cudlitz of drawing S1.1 dated June 13, 2017

The PB voted to incorporate in their review: the information in the red-lined drawings, the updated June 20th C2.1 drawing from BA, and the landowner's June 20, 2017 conditional approval letter.

Ordinarily, submittal of a phosphorus control plan is required prior to construction and encourages the use of vegetated buffers. In this case, the area was disturbed over a year and a half ago by Bridgton Academy on the land of Julie and Dan McQueen. BA has a 50 ft. ROW; therefore, some of the usual requirements of the plan, such as buffers, cannot be met and must be replaced with adequate control measures.

The Board first reviewed applicable sections of Sweden's Zoning Ordinance: Section VIII.A (page 5) requires a phosphorus control plan for construction within a watershed within 500 ft. of any lake. This project is within 500 ft. of the lake so it is not exempted.

VIII. ZONE REQUIREMENTS

A. General Requirements. The following general requirements shall apply to all Zones:

1. Development Permits and Requirements.

- a. A Building Permit and associated Plumbing Permit shall be required for all buildings and structures according to the provisions of this ordinance.
- b. Permit applicants are responsible for any reasonable cost to the town incurred in approving any permit application. These costs may include, but need not be limited to, administrative and technical review costs.
- c. Permitted Uses and Conditional Uses shall conform to all other applicable provisions of this Ordinance.

d. Phosphorus Control.

- (1) For all other new construction in lake watersheds, including but not limited to the construction/reconstruction of any structures and roadways, and any earth-moving activities that disturb more than 1000 square feet of surface area, phosphorus control is required in accord with the standards contained in Appendix D (actually C) of this Ordinance. Phosphorus control methods utilize the design criteria contained in the manual "Phosphorus Control in Lake Watersheds" published by the Maine DEP (now called Maine Stormwater Best Management Practices Manual found easily online). The following are exempted:

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(c) Development activities which are more than 500 feet from any lake, pond, or non-intermittent stream appearing on the USGS 7.5 minute topographic map, and which do not contribute stormwater runoff to any ditch that directly drains channelized flow to any such stream, lake or pond. (The intent is to exempt channelized flow that is dispersed into a vegetated buffer area.)

Right of Way is situated in the Rural Preservation Zone. Page 10 of the Zoning Ordinance states:

- B. Rural Preservation Zone.** The Rural Preservation Zone includes the predominantly undeveloped lands, as designated on the Sweden Zoning Map, generally situated in those areas least accessible to public or private roadways.
1. **Purpose:** To maintain Sweden's rural character and natural scenic beauty; to encourage preservation of existing larger open spaces and forest conservation areas; to ensure significantly less intensive residential development and land uses than in the Residential and Limited Residential Zones; and to reduce development pressures upon certain of the Town's environmentally sensitive areas.
 2. **Permitted Uses:** All Permitted Uses allowed in the Natural Resource Protection Zone, Limited Residential Zone and Residential Zone.
 3. **Conditional Uses:** All uses listed under Conditional Uses in the Natural Resource Protection Zone, Limited Residential Zone and Residential Zone upon approval of the Planning Board in accordance with the provisions of Section XIII. CONDITIONAL USE, *except* mobile home parks.
 4. **Prohibited Uses.** Uses not specifically allowed as Permitted Uses or Conditional Uses are prohibited.
 5. **Dimensional Requirements.**
 - a. Minimum Lot Size: 220,000 square feet (approximately five acres)
 - b. Minimum Lot Frontage:
 - 300 feet roadway frontage
 - 200 feet shoreline frontage
 - c. Structure Setbacks:
 - 125 feet from roadway centerline
 - 100 feet from high-water line of a great pond or river; 75 feet from a stream or upland edge of a wetland
 - Height of structure from rear and side lot lines, but not less than 30 feet
 6. **Performance Standards.** In addition to any other requirements of this Ordinance, Permitted and Conditional Uses allowed shall also meet the requirements of all applicable land use and performance standards as contained in Section X. PERFORMANCE STANDARDS.

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7. **Major and Minor Subdivisions.** Any plans for major or minor subdivisions, in addition to meeting all other requirements of Sweden's Subdivision Regulations, shall incorporate clustering of individual lots/dwelling units, in accordance with the provisions for cluster development in Section X.

Section **X.D PERFORMANCE STANDARDS** (page 20) states:

D. Erosion and Sedimentation Control

1. All activities that involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - a. Mulching and revegetation of disturbed soil.
 - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - c. Permanent stabilization structures such as retaining walls or riprap.
2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible and natural contours shall be followed as closely as possible. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity.
4. Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked, by use of riprap, sod, seed, and mulch or other effective measures. In all cases permanent stabilization shall occur within 9 months of the initial date of exposure. In addition:
 - a. Where mulch is used, it shall be applied at a rate of at least one bale per 500 square feet and shall be maintained until a catch of vegetation is established.
 - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - c. Additional measures shall be taken where necessary in order to minimize siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
5. The Code Enforcement Officer is empowered to inspect and identify any existing source of erosion or sedimentation that has the potential to deliver soils or sediment to any water body protected by this Ordinance. Any such sources shall be immediately stabilized to temporarily prevent such erosion and

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sedimentation. Following temporary stabilization, which must be accomplished within one week of notice of violation, an erosion and sedimentation control plan and maintenance provisions shall be submitted for review within thirty days of notice of violation. The erosion stabilization plan shall demonstrate that the requirements of this Ordinance will be met. The erosion stabilization plan shall be completed within two years of notice of violation.

The roadway that BA built does not meet the Zoning Ordinance standards of **Section X.P "Roads and Driveways"** (page 29) and is therefore referred to temporarily as a travelway which will be converted to a vegetated footpath as per the Consent Agreement and Settlement Term Sheet. Therefore, this Section X.P of the Zoning Ordinance does not pertain to the Board's review.

Section X.T "Soils" (page 32) states:

"All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal shall require a soils report based on an on-site investigation and prepared by state-certified site evaluators. The report shall be based upon an analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data that the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist."

Section X.U "Storm Water Runoff" (page 32) states:

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Storm drainage management and construction shall meet all applicable standards.
2. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.
3. Storm water runoff systems shall be maintained as necessary to ensure proper functioning, and any resultant deposited materials shall be properly disposed of.

Section X.Y.5 "Water Quality Protection" (page 35) states:

"No provision of this Ordinance shall prohibit the revegetation or stabilization of a disturbed area if a stabilization plan is filed with, and approved by, the CEO. The use of fertilizer containing phosphorus within the buffer area is prohibited except as part of an approved stabilization plan."

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Appendix C "Phosphorus Control Standards for Sweden's Watershed Areas"

(page C-1) requires the plan to include: property boundaries, approximate boundaries of disturbed areas, topography, general pre and post-development drainage patterns, boundaries of buffer areas, and provisions for re-vegetation, stabilization and erosion control. Photographs showing pre-development conditions shall also be required. The ordinance requires a letter of agreement in which the lot owner agrees to retain the buffer are in their vegetated state which are binding upon all future owners.

The Board's review showed:

1. Property boundaries are clearly indicated
2. Approximate boundaries of disturbed area are shown on S1.1 but should be titled "existing conditions"
3. Topography is represented on the plans
4. General pre- and post-development drainage patterns: due to circumstances, pre-development drainage patterns are unavailable due to work performed by BA without approval; in light of these circumstances in lieu of pre-development information which is not available, the Board is reviewing the post-development drainage patterns as indicated on S1.1.
5. Boundaries of buffer areas - buffers are not being used. BA has a 50' right of way which would make use of buffers not practical as additional land use beyond 50' would be required. Review by Ross Cudlitz will confirm adequacy of BA's proposed phosphorus control, remediation and re-vegetation plan.
6. Provisions for re-vegetation, stabilization, and erosion control: review by Ross Cudlitz will confirm adequacy of BA's proposed re-vegetation, stabilization, and erosion control plan.
7. Photographs showing pre-development conditions are unavailable due to work performed by BA without approval.

Discussion of completeness of the application by the PB:

The Board discussed whether any additional information is required to consider the application complete, and voted unanimous agreement on the following:

In order for the application to be considered complete, the following additional information is required and must be provided by July 4, 2017 to Planning Board members at their home mailing addresses, as well as to the CEO, McQueens, and the Sweden Select board.

1. BA to provide incorporation of red-lined changes from Ross Cudlitz dated June 13, 2017 into plans C2.1 and S1.1.
2. BA to provide "Plan References" documents noted in the C2.1 plan. Documents are entitled:

"Existing Conditions Plan" - Stearns Pond, Sweden Maine, made for BA, surveyed by Sawyer Engineering & Surveying, Inc. and being unrecorded", **AND**

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"Plan of land in Sweden, Maine', dated November 21, 1995, made for Carolyn O'Brien, surveyed by Sawyer Engineering & Surveying, Ind. and being unrecorded."

The PB also outlined next steps:

1. Planning Board to schedule a site walk following standard protocol on July 18th at 6:00 PM at 162 Wint Road.
2. Planning Board to request a review by Ross Cudlitz of adequacy of the Phosphorus Control Remediation and Re-vegetation Plan to be completed by June 30, 2017. Review to include (but not be limited to) the sections of the Zoning Ordinance listed above.
3. The next scheduled PB meeting is July 18, 2017 at 7 PM at the Town Office; PB agreed review of the complete application will be placed on the PB agenda, assuming timely receipt of required documents.

The PB secretary noted that a letter would be sent to outlining the Board's review details, required documents for a complete application, and requirements to obtain approval of BA's phosphorus control remediation and re-vegetation plan.

Following the PB's review, there was a brief discussion between the CEO, BA, and Rick Dunton about the building permit BA is required to obtain for repairs to the cabin. Building permit will require approval by the PB since the building is in a shoreland zone and the original foundation has been removed.

8. Announcements:

- A. The next regular Meeting will be on July 18th at 7:00 PM at the Sweden Town Office. A site walk will be conducted just prior to the meeting at 6:30 PM at the right of way located at 162 Wint Road.
- B. The board has an opening for one Alternate Member (Alternate Members serve a 1-year term). Should anyone express interest, they can be appointed by the Selectmen.

Kevin Taylor moved that the meeting be adjourned at 8:37 PM. Chair Dave Johnson adjourned the meeting.

Respectfully submitted,

Laura Chadbourne
Secretary, Sweden Planning Board