

Minutes for Tuesday, April 24, 2019 Planning Board Meeting

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

2. Introduction of Attendees: Present were: Chair Dave Johnson, Secretary Laura Chadbourne, Members Morris Gibely, Melanie Eldracher, Alternate Member Ron Kiesman, and CEO Arthur Dunlap. Also in attendance were Mr. Ronald Leavitt, owner, Popple Hill Estates (PHE) subdivision and Mr. Dan Noblet, owner and resident of one of the PHE subdivision lots. Absent: Member Kevin Taylor.

3. Election of Planning Board Chair and Secretary: Morris Gibely moved and Laura Chadbourne seconded a nomination for David Johnson as PB Chair. The motion passed unanimously. Dave Johnson then moved and Melanie Eldracher seconded a nomination for Laura Chadbourne as PB Secretary. The motion passed unanimously.

4. Minutes from the March 19, 2019 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.

5. CEO's Report for March 2019: CEO reviewed the report with the PB. Laura Chadbourne asked for a verbal update on the possible renovation / expansion of the Hanratty property on Stearns Pond, Map U-5 Lot 7 (see correspondence). Arthur stated that he had not yet received a drawing or plan for what the property owners wished to do. Laura noted that if the owners intend to expand, move, or replace the home's foundation, the PB would need to review the plans before a building permit could be issued as per Sweden's zoning ordinance (pg. 14, Enlargements Controlled). Laura also wondered if the building had already been expanded in the past; answer not known and would have to be researched.

Morris Gibely moved and Melanie Eldracher seconded the acceptance of the **March 2019 CEO report**. The motion passed unanimously.

6. Communication & Bills

A. Correspondence Received and Sent (by date)

1. Ltr to CEO (Emails) to and from CEO (Planning Board copied) dated 2-12-2019 through 2-17-2019 with Dan Noblet, related to Mr. Noblet's property at Map R9, Lot 2-A-3, Carson's Way, within the Popple Hill Estates Subdivision. CEO demanded proof that sprinkler system had been installed as per requirements attached to a temporary Certificate of Occupancy (COO). Mr. Noblet responded and described research he had done to date on fire protection standards but that he was having trouble reaching the Sweden Fire Chief. Mr. Noblet asked for another extension.

2. Ltr to CEO (Email) from Town's Administrative Assistant (AA) (PB copied) dated 2-20-2019, regarding correspondence with Dan Noblet and his property at Map R9, Lot 2-A-3, Carson's Way, within the Popple Hill Estates Subdivision. AA noted that the phone number and email for the town's fire station as listed in the town's Annual Report as well as on the town website are correct; however, that the fire station was not often manned. AA called the Fire Chief; he confirmed he had not received any communication from Mr. Noblet via email or phone.

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3. Ltr from CEO (Email) dated 3-5-2019 to PB Secretary, responding to PB research about a house on Route 93 in Sweden that had not had siding on it for at least 2 years. CEO's email confirms he researched the records and that the house belongs to Mr. Christian Distefano, Map R9, Lot 9-3. CEO to do more research to understand the history of the house (i.e., building permit).

7. Old Business:

A. None.

8. New Business:

A. Board discussed package of materials received from Mr. Ronald Leavitt related to a subdivision amendment request for PHE. All references following are from the Town of Sweden, Maine Subdivision Regulations, Third Revision, March 12, 2009:

1. Group reviewed **Article IV – Administrative Procedure** of Sweden Subdivision Regulations, which addresses revisions to approved subdivision plans in section 4.3. Group reviewed each procedure point individually:

4.3.A Procedure: “An applicant proposing a revision to a previously approved plan shall request to be placed on the Board’s agenda at least 14 days in advance of a regularly scheduled Planning Board meeting...”. Did the applicant request enough time to be on the agenda, at least 14 days in advance of the meeting? **Yes; package was received on March 27, 2019**

4.3.A Procedure: “If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the plan may be reviewed using only the procedures for final plan approval, unless the Board determines that a more detailed review is appropriate.” Does the revision only involve modifications without the creation of additional lots or dwelling units? **Yes, based on the information in the application package.**

Board noted that they may require a site visit and public hearing (note: votes were taken on these items later in the meeting).

4.3.B Submissions: “Copies of the proposed revised plan shall be provided to the Code Enforcement Officer and to each member of the Board at least 14 days prior to a scheduled meeting of the Board.” Were copies received in the time required? **Yes; package was received on March 27, 2019**

Secretary noted that **Section 8.2.A Final Plan “Submissions”** notes that Final Plan information must be sent to each PB member and CEO via mail, not submitted to the town office to be distributed. In the future, applicant will be required to mail final application materials to each PB member and the CEO. A mailing list is available from the PB Secretary or the Town’s Administrative Assistant.

4.3.B Submissions: The application will include enough information to allow the board to make a determination that the proposed revisions meet the standards of these regulations.

Group then reviewed **Article I – Purposes**, which outlines the purpose of the Subdivision Regulations and the role of the Planning Board.

This section states that “The purposes of these regulations are to assure the comfort, convenience, safety, health and welfare of the people of the Town of Sweden. ... To this end, in approving subdivisions within the Town of Sweden, Maine, the Planning Board shall consider the following criteria and before granting approval shall make findings of fact that the provisions of these regulations have been met and that the proposed subdivision will meet the Review Criteria of Title 30-A, Maine Revised Statutes Annotated (MRS)A) §4404.”

Secretary drew the group’s attention to two particular sections under **Article I - Purposes**, which direction relate to the subject of the amendment application:

1.2 The proposed subdivision has **sufficient water available** for the reasonably foreseeable needs of the subdivision.

1.3 The proposed subdivision **will not cause an unreasonable burden on an existing water supply**, if one is to be utilized.

There was discussion by the Board about whether Section 1.2 related only to sufficient potable water for each home in the subdivision, or if it also included water required for firefighting purposes. Secretary pointed out that in **Article X - General Standards, under 10.7.B.2.c “Water Supply”**, the regulations state “The subdivider shall construct ponds, dry hydrants, and/or water storage tanks to provide for adequate water storage **for fire-fighting purposes.**” In the same section, it also states that “...adequate water **for firefighting purposes** can be provided without placing an undue burden on the source involved.”

Secretary also brought to the group’s attention that the burden of proof for showing that there is adequate water for firefighting in the subdivision is outlined by state law in Maine Revised Statutes Annotated MRS)A) Title 30-A, §4403, part 6: “**Burden of proof; findings of fact.** In all instances, the burden of proof is upon the person proposing the subdivision. In issuing its decision, the reviewing authority shall make findings of fact establishing that the proposed subdivision does or does not meet the criteria described in subsection 5.”

Subsection 5 states: “The municipal reviewing authority shall, within 30 days of a public hearing or, if no hearing is held, within 60 days of determining it has received a complete application or within any other time limit that is otherwise mutually agreed to, issue an order granting approval upon any terms and conditions that it considers advisable to:

1. Satisfy the criteria listed in section 4404;
2. Satisfy any other regulations adopted by the reviewing authority; and
3. Protect and preserve the **public’s health, safety and general welfare.**”

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Section 4404 criteria includes:

2. **Sufficient water.** The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;
3. **Municipal water supply.** The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;

2. Board then addressed the amount of the outstanding **application fee** for the proposed subdivision amendment. It was noted that the fee for a new subdivision is \$50 per lot. In the absence of a published fee schedule for subdivision *amendments*, Laura Chadbourne moved and Melanie Eldracher seconded to assess a non-refundable application fee of \$100.00, plus all expenses related to the processing and review of the application. The motion passed unanimously.

Ron Leavitt wrote out a check in the amount of \$100 to the Town of Sweden and submitted it to the Secretary, who noted that she will pass it on to the town Treasurer.

3. Board reviewed **Article III – Definitions** (page 9), specifically, the definition of a Major Subdivision. “Subdivisions, Major” is defined as “Any subdivision containing more than four lots or living units, or any subdivision containing a proposed street.” Group confirmed that PHE is a Major Subdivision as it contains more than four lots.
4. Board reviewed **Review Article V** (page 13), “Preapplication for Minor or Major Subdivision”, section 5.1.B “Notification of Abutters”. As this is a preliminary meeting, the Board will require that abutters be notified ahead of the next meeting.
5. Board reviewed **Review Article VIII**, Section 8.1.D and 8.1.E (page 24), “Final Plan for Major Subdivision” First, is the application complete? The Board turned to **Article III** (page 7), “Definitions”, specifically “Complete Application”, which is defined as, “An application shall be considered complete upon submission of the required fee and all information required by these regulations for a Final Plan, or by a vote by the Board to waive the submission of required information.”

A question was asked about the procedure for a site visit, and what the Board would be able to see related to fire protection within the subdivision. The PHE subdivision owner, Ron Leavitt, explained that the water cistern serving the subdivision has an external pipe connected to the cistern with a meter on the pipe showing the water level.

6. The Board then reviewed **Article VIII – Final Plan for Major Subdivision** (page 23).
8.1 Procedure

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8.1.A: Did applicant did request to be on the agenda and provide 14 + days prior?; Yes, however as previously stated, applicant will need to send information by mail to each PB member and the CEO for future submissions.

8.1.B: Are the following approvals appropriate for this amendment application?

1. Maine Department of Environmental Protection, under the Site Location of Development Act, Alteration of Coastal Wetlands Act, Great Ponds Act, Alteration of Streams and Rivers Act. **No; review was conducted at time of original PHE subdivision review and approval.**

2. Maine Department of Environmental Protection under the Natural Resources Protection Act. **No; review was conducted at time of original PHE subdivision review and approval.**

3. Maine Department of Human Services, if the subdivider proposes to provide a central water supply system. **No; does not apply; subdivider is not proposing a central water supply system.**

4. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized. **No; does not apply; subdivider is not proposing a centralized/shared subsurface sewage disposal system.**

8.1.D: Has applicant attended the meeting to discuss the final plan? **Yes, Ron Leavitt is present**

8.1.E: The PB shall notify in writing within 30 days of this meeting if the application is complete, or if not, what additional submissions are required for a more complete application.

8.2.A: Board confirmed that the applicant had included in the package:

- Letter from the applicant to the Board submitting a proposed amendment
- 2 mylar copies of the proposed amended plan
- 3 paper copies of the proposed amended plan
- 1 copy of the proposed amended plan in reduced size
- Revised subdivision covenants, showing tracked changes from original, removing the requirement for residential fire sprinkler systems in each residence.
- Application fee (received at this meeting by check)

For future meetings, one copy of the final plan and all accompanying information will need to be mailed to each Board member no fewer than 14 days prior to the meeting.

Secretary noted that the applicant had not submitted the **Subdivision Application form** contained in Appendix C of the Subdivision Regulations. Other Board members stated

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that since the applicant had submitted the application form when the original subdivision was built, it did not need to be filled out again.

Secretary also informed the applicant that the town did not appear to have ever received a paper copy of the last approved Plan for PHE entitled “Drainage Easement and Clearing Plan – “Popple Hill Estates.” She had checked the town files and it was not included. The town does have a mylar copy, but not a paper copy. **Secretary noted that a full-sized final paper copy of the “Drainage Easement and Clearing Plan – “Popple Hill Estates” would be needed before the Board could make a decision on the current amended Plan for PHE.** Applicant noted it would not be a problem to provide a copy of the prior Plan.

Board reviewed a paper copy of the current Plan before the Board. Board requested two minor revisions to the Plan:

1. Note 13 simply says “Deleted”. Applicant needs to add “see Note 22” after the word “Deleted” as note 13 is referenced in note 22.
2. In Note 22, “Time Cook” is misspelled and needs to be corrected to “Tim Cook”.

8.2.B: Is the submission information appropriate for the plan amendment and if so, was it included in the package?

1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Tax Assessor’s Map and lot numbers. **Appropriate and included on the Final Plan.**

2. The date the Plan was prepared; magnetic and true north point; geographic map scale; and names and addresses of the record owner, subdivider, and individual or company who prepared the Plan. **Appropriate and included on the Final Plan.**

3. Results of a field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances. The corners of the tract shall be located on the ground and marked by monuments. The Plan shall indicate the type of monument set or found at each lot corner. The field survey must be made and certified by a licensed and registered land surveyor. **Not required; review was conducted at time of original PHE subdivision review and approval. Note 11 of original plan waived the requirements for concrete or stone monuments.**

4. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, vegetative cover type, and other essential existing physical features. The location of any trees larger than 24 inches in diameter at breast height shall be shown on the Plan. **Not required; review was conducted at time of original PHE subdivision review and approval.**

5. If different than those submitted with the Preliminary Plan, a copy of any

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proposed deed restrictions intended to cover all or part of the lots or dwellings in the proposed subdivision. **Yes; included deed restrictions by covenant. Applicant included revised covenant language in application materials.**

6. The location of any zoning boundaries affecting the proposed subdivision. **Appropriate and included on the Final Plan.**

7. Indication of the type of sewage disposal to be used in the proposed subdivision. **Not required; review was conducted at time of original PHE subdivision review and approval.**

8. An indication of the type of water supply system(s) to be used in the proposed subdivision. **Yes, required.**

a. A written statement shall be submitted from the Fire Chief approving all hydrant locations or other fire protection measures deemed necessary. **Yes, required given the nature of amendment which seeks to remove the residential fire sprinkler requirement.**

1. **A written statement from the Fire Chief was included in the application materials.**

- Board Chair noted that the letter is unsigned, rendering it **insufficient to be considered compliant with the requirements.**
- Chair also expressed concern that the letter did not contain any facts supporting an assessment that a single cistern would be adequate to meet the subdivision's firefighting requirements. How did the Fire Chief come to his conclusion? Why is having a single cistern safe when the prior Fire Chief had wanted two cisterns? Chair would like more information from the Fire Chief on how much water is needed. Given that the amendment proposes to reduce the amount of water available to fight fires, the Board needs facts that demonstrate that the amount of water remaining will still be adequate for firefighting purposes as required by Article X, 10.7.B Water Supply: "The subdivider shall provide a written statement that adequate water for firefighting purposes can be provided without placing an undue burden on the source involved."

Secretary noted additional issues with the letter:

- Letter does not state the name or names of the people who the Fire Chief met with.
- The letter cites a "Sprinkler Appeal". There is no appeal appearing before the Board.
- Letter cites that another sub division was built (assumes it means in Sweden) but sprinklers were not required. If the Fire Chief intends to compare PHE to a different subdivision, a more thorough analysis of the similarities, differences, and requirements of both subdivisions should be included to ensure that the Fire Chief has all the information and understands the similarities, differences, and requirements of both subdivisions prior to providing a statement.

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b. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a written statement from either a well driller or a hydrogeologist familiar with the area. **Not required; review was conducted at time of original PHE subdivision review and approval.**

9. The location and size of existing culverts, and drainage ways on or adjacent to the property to be subdivided. **Not required; review was conducted at time of original PHE subdivision review and approval.**

10. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the proposed subdivision. The Plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The length of all straight lines, the radii of deflection angles, length of curves and central angles of curves, tangent distances and tangent bearings for each street shall be included. **Not required; review was conducted at time of original PHE subdivision review and approval.**

11. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers of cession to the municipality of all public ways and open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open spaces or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer of cession shall be included. **Not required; review was conducted at time of original PHE subdivision review and approval.**

12. A list of construction items that will be completed by the developer prior to the sale of lots, and a list of construction and maintenance items that must be borne by the municipality shall be submitted. These lists shall include, but not be limited to, such items as solid waste disposal, drainage ways, storm sewers, and streets. The Board may further require the applicant to provide accurate cost estimates to the municipality for the above services and the expected tax revenue of the proposed subdivision. **Not required at this time; may be required depending on the decision of the Planning Board.**

13. A summary detailing the impact on existing town facilities and services, the need for expanding these facilities and services, and all potential costs to the town. **Not required at this time; may be required depending on the decision of the Planning Board.**

Morris Gibely made a motion to accept the application as **complete with the following three conditions:**

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1. One full sized paper copy of the previously approved final PHE plan (entitled “Drainage Easement and Clearing Plan – ‘Popple Hill Estates’”) must be provided to the Board Chair.
2. A signed copy of a letter from the Fire Chief needs to be submitted to the Board.
3. Revisions to the Plan to notes 13 and 22. Two full sized mylars and three full sized paper copies of the revised Plan need to be provided to the Board.

These conditions must be satisfied at least 14 days prior to the next Planning Board meeting. The Board strongly encourages that the applicant source additional information from the Fire Chief as noted earlier in the meeting.

Melanie Eldracher seconded the motion. The motion passed unanimously.

The applicant asked whether he would need to mail smaller copies of the Plan to each Board member. The Board discussed and agreed that one 8.5 x 11 copy (with clear resolution) could be provided to the town’s Administrative Assistant and she would scan and send the copies to each Board member via email.

Dan Noblet then asked for the Board to clarify whether a public hearing was required. Article VIII, section F notes that “Upon determination of the completeness of the Final Plan Application, the Board may decide that a public hearing is necessary prior to making Findings of Fact on the application.” Secretary noted that in her 9 years on the board, public hearings had always been held by the Planning Board.

Laura Chadbourne moved that the Board hold a Public Hearing in regards to the proposed subdivision amendment. No one seconded the motion. The motion failed.

Laura Chadbourne moved that the Board conduct a Site Walk of PHE in regards to the proposed subdivision amendment. Melanie Eldracher seconded the motion. The motion passed unanimously.

There was further discussion by the Board on having a Public Hearing.

Dave Johnson made a motion that the Board hold a Public Hearing in regards to the proposed subdivision amendment. Laura Chadbourne seconded the motion. The motion passed unanimously.

The Board and applicant agreed to a date of **Tuesday, May 28th for the Site Walk, Public Hearing, and meeting of the Board to review the completed application.** Site Walk will be at PHE at 6:15 PM. Board meeting would commence at 7 PM, followed by the Public Hearing.

The Secretary noted that the following actions would be taken:

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1. **Letter from the Board to the applicant**, cc Dan Noblet and CEO, would be issued by the Board within 10 days, but likely within 7 days. The letter will confirm the acceptance of the application as **complete with conditions**, and will detail the conditions that need to be met for the application to be considered complete.
2. **Town of Sweden will notify abutters** of the Site Walk and Public Hearing on May 28, 2019.
3. **Town of Sweden will advertise the Site Walk and Public Hearing** as required by the Subdivision Regulations, by block ad in two editions of the Bridgton News, with the first publication no less than 7 days before the hearing.

9. Announcements:

- A. Due to anticipated lack of quorum for the next regular meeting date of May 21st, the next PB Meeting will be on **Tuesday, May 28, 2019** at 7:00 PM. The meeting will be preceded by a site walk at Popple Hill Estates at 6:15 PM.
- 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.

A motion was made to adjourn the meeting. The Chair adjourned the meeting at 8:40 PM.

Respectfully submitted,

Laura Chadbourne,
Secretary, Sweden Planning Board