

Minutes for Tuesday, May 29, 2019 Planning Board Meeting

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

2. Introduction of Attendees: Present were:

Planning Board (PB) Members: David Johnson, Laura Chadbourne, Melanie Eldracher, Morris Gibely, Ron Kiesman (Alternate). Member Kevin Taylor was absent, so Alternate Member Ron Kiesman served as a PB Member.

Code Enforcement Officer (CEO) Arthur Dunlap

Sweden Fire Chief Tim Cook

Applicant Ronald Leavitt

PHE resident Dan Noblet

PHE landowners Fran and Robin Calaguairo

Abutter Bill Graham

Board of Appeals Member Ardelle Foss

3. Public Hearing: Chair Dave Johnson called the hearing to order and determined that there was a quorum of PB Members (at least 3 members present).

The hearing began with comments from the applicant. PHE was built 12 years ago. At the time, the FC recommended two 30,000-gallon cistern tanks for firefighting purposes. Applicant agreed to one 30,000-gallon tank plus sprinkler systems in each home to get the subdivision approved, which overall took about 15 months. Cost was just under \$400K to put the subdivision in (road, cistern, pond, engineering surveys etc.). No lots sold for years. 18 months ago, lots began to sell but at a lower price than initially expected, and sprinkler system was an impediment for buyers.

FC noted that back at that time, town only had two pieces of firefighting equipment: one engine (1,000 gallons) and one brush truck (150 gallons of water). This may have prompted the FC at the time to go for the heavier requirement of two cisterns. Now, Sweden has automatic mutual aid dispatched and the engine trucks now carry more water. Given the mutual aid agreements with other towns, Sweden has 3,000 gallons to start in its own trucks, plus the 30,000 gallons in the subdivision cistern, plus 3,500 gallons from the Waterford engines, 5,500 from the Lovell engines, and 5,500 to 6,500 from Bridgton engines. In the FC's opinion, none of the towns are so far out that the Sweden firefighters would run out of water to fight a fire.

Question was asked about the risk of fire spreading. FC noted that it is very weather-dependent. In his 50 years of fire service, Sweden has not seen a lot of structure fires over the years. Sweden has a setback of 30 feet on each side; houses are not one on top of the other with a 10-foot setback like in some other towns.

FC stated that if the Planning Board chose to ease the sprinkler requirement, he felt it would not be a detriment to the town.

PHE resident also made comments: he did own research to see if 60,000 gallons of water as originally recommended by the FC at the time was necessary for PHE. He reviewed the NFPA 1142 guide which has calculations for firefighting. He also called the Southern Maine Planning and Development Commission (SMPDC) Director and talked with the State Fire Marshall's office who provided some

Minutes for Tuesday, May 29, 2019 Planning Board Meeting

examples of other Maine town subdivision regulations. Based on his personal research, he felt that the 30,000-gallon cistern was adequate for the PHE subdivision.

PB Chair read aloud a handwritten note from Daniel Mullins, owner of PHE lots 10 and 11. Mr. Mullins could not be present at the public hearing so submitted a written statement. The statement supported removal of the fire sprinkler requirement.

The PB Chair made a call for additional comments or questions. There were none. Chair closed the Public Hearing and the PB moved to its regular meeting.

At the regular meeting, the Board first voted as to whether the PHE application was complete. Secretary catalogued the information that had been submitted by the applicant since the previous meeting which appeared to satisfy all conditions the PB had placed on the applicant. Laura Chadbourne made a motion to accept the application as complete. Melanie Eldracher seconded the motion. The motion passed unanimously.

The Board then reviewed Article VIII – Final Plan for Major Subdivision, Section 8.1.J, which states:

Within 30 days of a public hearing, or within 60 days of receipt of a complete application if no hearing is held, or within another time as may be mutually agreed to by the Board and the applicant, the Board shall make Findings of Fact on the Final Plan. Findings of fact and conclusions will be made relative to the criteria contained in Title 30-A, MRSA §4404 and in these regulations. Findings of Fact include a summary of all basic facts involved in the application and Conclusions of Law are statements linking the specific facts covered in the Findings of Fact to the criteria in the regulations including, but not limited to, Article I – Purposes. The Board shall also review Article X – General Standards and Article XI – Street and Storm Drainage Design and Construction Standards. If the Board finds that all standards of the Statute and these regulations have been met, they shall approve the Final Plan. If the Board finds that any of the standards of the Statute have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

Board noted that Title 30-A, MRSA §4404 states the following: “**Sufficient water.** The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision.” This same language is included in the town’s Subdivision Regulations.

As required by Article VIII, the Board reviewed “Article I – Purposes” in the Subdivision Regulations, with a focus on the Board’s purpose to “assure the comfort, convenience, safety, health, and welfare of the people of the Town of Sweden.”

Board briefly reviewed Article XI – Street and Storm Drainage Design and Construction Standards, but determined that this section was not relevant to the nature of this subdivision amendment application.

Minutes for Tuesday, May 29, 2019 Planning Board Meeting

Note that the Board had reviewed each section of Articles VIII and X at their previous meeting and had determined which sections were applicable to the PHE application. The Board therefore focused on these sections:

Board reviewed Article VIII, Section 8.2.B.5, where it is noted “a copy of any proposed deed restrictions intended to cover all or part of the lots of dwellings in the proposed subdivision” must be included in the application. Board determined that the revised PHE covenant information submitted by the applicant was clear and met the purpose of the Subdivision Regulations.

Board also reviewed Article VIII, Section 8.2.B.8. which states: “An indication of the type of water supply system(s) to be used in the proposed subdivision.

- a. A written statement shall be submitted from the Fire Chief approving all hydrant locations or other fire protection measures deemed necessary.”

Board determined that the signed letter from the Sweden FC met the purpose of this section of the Subdivision Regulations.

Board then reviewed “Article X – General Standards”, Section 10.7.B “Water Supply” which states: “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.”

The Board discussed that, based on statements from the Fire Chief, several material changes had occurred since the PHE subdivision was originally approved. These changes positively influenced the ability to fight fires in the PHE subdivision:

1. Sweden now has mutual aid which is alerted and dispatched automatically. FC noted that Lovell fire trucks often arrive at Sweden calls even before the Sweden trucks.
2. Sweden now has two engines vs. one engine, so more water is available immediately
3. In the past, each town trained its own firefighters in its own way. Now, training for firefighters who are part of mutual aid is consolidated, with people from different towns all going to the same training with the same materials. This has led to firefighters working together more effectively than in the past.

It was also noted that Sweden has not been a naturally fire-prone area in the past, nor are there many structure fires, and multiple structure fires (i.e., spreading from one building to another) are very rare. Current SMPDC “Model Subdivision Regulations” recommend a 10,000 gallon cistern plus 2,000 additional gallons per lot, which would be 36,000 gallons for PHE. PHE would only have 30,000 gallons if sprinkler restriction were lifted; however, town trucks now have 3,000 gallons, and with mutual aid, Lovell would be expected to arrive quickly with another 5,500 gallons. This would provide about 38,500 gallons of water in short order in the event of a fire.

Board member asked applicant about lot owners who thought they would have peace of mind with a sprinkler system requirement in the subdivision, and what if that went away? PHE resident Dan Noblet showed the Board papers that he noted are written statements from all owners of PHE lots that they are in agreement with removing the sprinkler requirement. Board asked for copies of those statements. Mr. Noblet stated he will provide them.

Minutes for Tuesday, May 29, 2019 Planning Board Meeting

David Johnson moved to **approve** the Popple Hill Estates subdivision amendment application. Ron Kiesman seconded the motion. The motion passed unanimously.

Members of the public departed. CEO and PB members remained to continue their regular meeting.

4. Minutes from the April 24, 2019 Meeting: The minutes were reviewed by the group. Ron Kiesman moved and Melanie Eldracher seconded the acceptance of the minutes as written. The motion passed unanimously.

5. CEO's Report for April 2019: CEO reviewed the report with the PB. Melanie Eldracher moved and Morris Gibely seconded acceptance of the April 2019 CEO report. The motion passed unanimously.

6. Communication & Bills

A. Correspondence Received and Sent (by date)

1. Ltr to PB (Email) from Town's Administrative Assistant (AA) dated 4-24-2019, informing the Chair of the Appeals Board (BOA) and the Chair of the PB that the Board of Selectmen (BOS) had voted on 4-23-2019 to restrict legal inquiries to the Maine Municipal Association (MMA) to the Chair of each board. A few other town positions would be allowed to make legal inquiries including AA, Selectmen, Town Clerk, Tax Collector/Treasurer, and CEO. Email notes that AA is willing to assist the PB and BOA with legal inquiries to MMA if time permits in her schedule.
2. Ltr from PB (Emails) to and from Ronald Leavitt dated 4-29-2019. PB asked for confirmation of Mr. Leavitt's mailing address so that a letter confirming his application acceptance re: the Popple Hill Estates subdivision amendment could be mailed to him. Mr. Leavitt responded and confirmed his address.
3. Ltr from PB (Emails) to and from Ronald Leavitt and Dan Noblet dated 5-2-2019 through 5-3-2019. Correspondence asked for Mr. Leavitt and Mr. Noblet to confirm availability to be present at a revised date for the Popple Hills Estate subdivision amendment Public Hearing from 5-28 to either 5-29 or 5-30. Both confirmed that either date would work for them. Secretary confirmed back to both that the meeting would be held on May 29, 2019.
4. Ltr to PB (Email) dated 5-3-2019 from Dan Noblet to PB Secretary, informing the PB that he would be dropping off revised drawings at the Town office the following date, and that Ronald Leavitt had talked to the Fire Chief and that the FC would be submitting a signed letter shortly.
5. Ltr from PB dated 5-4-2019 to Ronald Leavitt, cc: Dan Noblet, Sweden CEO, BOS, BOA, and Fire Chief. Letter confirms PB acceptance with conditions of the Popple Hill Estates subdivision amendment application determined at the PB meeting on 4-24-2019. Letter notes that conditions would be considered complete if certain items were submitted to the PB by 5-15-

Minutes for Tuesday, May 29, 2019 Planning Board Meeting

2019, 14 days before the 5-29-2019 site walk and public hearing. Letter also strongly encourages applicant to source additional information from the Fire Chief for the PB's consideration.

6. Ltr from PB (Email) dated 5-6-2019 to Ronald Leavitt, cc: Dan Noblet with attachment. Email had attached a scanned, signed copy of the 5-4-2019 letter from the PB regarding the Popple Hill Estates subdivision amendment application. Email notes that letter is attached and reconfirms expectation by PB of receiving items required from applicant to consider the application complete. Email also reiterates the PB's strong encouragement of the applicant obtaining additional information from the Fire Chief.

7. Ltr to PB updated on 5-14-2019 with signature from Sweden Fire Chief Tim Cook (original date of 3-18-2019 letter remains on letter), regarding fire protection for Popple Hill Estates. Letter was forwarded to PB by Town AA on 5-15-2019.

8. Ltr to PB (Email) dated 5-15-2019 from town's AA, asking the PB to review a BOS response letter related to correspondence from Pietree Orchard, Map R2, Lot 35. The review is at the request of the BOS as per the BOS meeting on 5-14-2019. PB Secretary asked in subsequent email on 5-19-2019 for the AA to forward the original letter from Pietree, which the AA did on 5-20-2019.

9. Ltr to and from PB (Emails) with Dan Noblet dated 5-15-2019 and 5-19-2019. Email from Mr. Noblet notifies the PB that all items required for the Popple Hills Estate application to be considered complete had been delivered by the May 15th deadline. Email also asks if a third full size paper copy of the final plan was required. PB Secretary responded that, although the town's Subdivision Regulations call for three copies, she felt comfortable with the two copies that had been submitted and did not feel a third would be needed. PB Secretary also noted that it would be ideal if the Fire Chief could attend the public hearing on May 29th, not just the site walk, since board members by law cannot discuss or deliberate the application at the site walk – only at the subsequent public hearing.

7. Old Business:

A. None.

8. New Business:

A. Board reviewed correspondence related to **Pietree Orchard, Map R2, Lot 35** as requested by the Sweden Board of Selectmen (BOS). Pietree had informed BOS of its intention to remove an interior stone wall as required by Sweden Zoning and Land Use Ordinance (ZLU), Article X, Section E, "Historical Sites and Structures". The stone wall does not define a Town boundary line, cemetery or public road. The proposed action for Pietree to remove an interior stone wall is not prohibited by the ZLU. The specific section in Article X, Section E the PB referenced is:

Minutes for Tuesday, May 29, 2019 Planning Board Meeting

2. Under no circumstances will stone walls/stone wall traces that define Town boundary lines, cemeteries, or public roads; Town boundary markers; and cemeteries (to include walls, steps, gates and gateways, signs, and individual/group tomb markers) be defaced, dismantled, disrupted, destroyed or removed. Any maintenance, improvement, and/or alteration of these items requires official approval of the Town Selectmen.
3. In order to allow time for the Sweden Historical Society to determine any possible alternatives for preservation and/or salvage of materials (e.g., sale, gift, removal and relocation, in part or total, etc.) it is required that notification be made in writing to the Planning Board at least 60 days prior to any planned destruction, dismantling, or covering over of historic buildings, foundations or stone walls.

According to the ZLU, the town body that Pietree should have informed about dismantling the interior stone wall is the Planning Board rather than the BOS; however, the notification sent to the town in other respects was appropriate.

Melanie Eldracher made a motion to inform the BOS that Pietree had taken appropriate action to inform the town of an interior stone wall removal as per Article X, Section E of Sweden's Zoning and Land Use Ordinance, and that no further action was needed. Laura Chadbourne seconded the motion. The motion passed 4 in favor, 1 against (Member Ron Kiesman opposed, noting that in his opinion, all stone walls are important historical structures).

- B. Board discussed impact of Planning Board Chair's resignation. Dave had tendered his resignation to the BOS, but committed to remain active through the completion of the Popple Hill Estates subdivision amendment application. Dave's term would have ended next Spring, in March 2020. He is considering his options to remain or leave early.
- C. Melanie informed the PB that Bill Graham was interested in serving on the PB. With one alternate position open, Bill could be appointed by the BOS. Dave made a motion to recommend to the BOS that Bill Graham be appointed to the PB Alternate Member position by the BOS. Morris Gibely seconded the motion. The motion passed unanimously. Dave will follow up directly with the BOS to move the recommendation forward.
- D. Group discussed how to continue the update of the Zoning Ordinance; however, it appears the Planning Board Assistant may not be able to continue supporting the ZLU update effort after certain decisions by the BOS over the past few weeks impacted the Assistant's ability to continue in her role. Group decided to table the ZLU update discussion until the next meeting.

Minutes for Tuesday, May 29, 2019 Planning Board Meeting

9. Announcements:

- A. The next regularly scheduled PB meeting will be on **Tuesday, June 18, 2019** at 7:00 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 9:14 PM.

Respectfully submitted,

Laura Chadbourne,
Secretary, Sweden Planning Board