

Minutes for Monday, February 24, 2020 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 (Chair), Laura Chadbourne (Secretary), Morris Gibley, and Alternate Member Bill Graham. Absent: Members Kevin Taylor, Melanie Eldracher, and Alternate Member Ron Kiesman. In accordance with the PB By-laws, Bill Graham was designated by the PB Chair to serve as a voting PB Member. Code Enforcement Officer (CEO) was unable to attend. Additional attendees: Del Maxfield of Maine Survey Consultants, Nathan Wadsworth of K&W Timberlands, Maie Wakefield of the Bean Group, Sean Ferguson (potential land purchaser), and Rich Jordan of Flycatcher LLC. Julie McQueen, Planning Board Assistant, arrived later in the meeting.

3. Minutes from the January 13, 2020 Meeting: The minutes were reviewed by the group. Laura Chadbourne moved to approve the meeting minutes as written. Morris Gibley seconded the motion. The motion passed unanimously.

4. CEO's Reports for November 2019, December 2019, and January 2020:

Laura Chadbourne moved and Dave Johnson seconded that acceptance of the reports be tabled until the next PB meeting when the CEO would hopefully be in attendance. The motion passed unanimously. Secretary noted that she had one question on one report and would reach out to the CEO separately (about correspondence regarding lots in the Woodbury Hills subdivision).

5. Communication & Bills

A. Correspondence Received and Sent (by date)

1. Ltr (email) from PB dated 1-14-2020 to Sweden Board of Selectmen (BOS), amending language in the PB's request for up to \$25,000 in funding in the town's 2020 Warrant to include the balance to carry forward.
2. Ltr (emails) to and from PB dated 1-16-2020 to 2-1-2020 and John Bell, regarding potential amendments to the Woodbury Hills Subdivision.
3. Ltr from PB dated 1-17-2020 to Douglas Porter of the Sweden Historical Society (SHS). Letter outlines steps SHS would need to take in order to pursue improvements to the Brick Schoolhouse (Map R-05 Lot 41), including local and state level required reviews.
4. Ltr (emails) to and from Laura Chadbourne, PB Secretary dated 1-17-2020 to 1-24-2020 and Ann Freeman of Bernstein Shur. Ann, who has been retained as legal counsel to represent the PB, requested a waiver for a potential conflict of engagement of a solar power developer with a different lawyer at Bernstein Shur. PB Secretary explained any waiver would need to be granted via a vote of the full PB, and that the next meeting was 2-18-2020, so an answer could not be provided prior to then. Ann notified PB on 1-24-2020 that the waiver was no longer needed.
5. Ltr (email) from PB dated 1-19-2020 to Aimee Heath (Map U-01, Lot 2) regarding the Conditional Use Permit (CUP) application submitted to the PB for a dock. Email noted that due to constraints on time, the CUP application was not able to be reviewed at the 1-13-2020 PB

Minutes for Monday, February 24, 2020 Planning Board Meeting

meeting. Email also noted that a CUP review would likely be delayed further so that a site walk could be completed when snow was gone from the ground.

6. Ltr (emails) to and from PB dated 1-21-2020 to 2-11-2020 and Mr. Darren Stairs of Woodard & Curran, regarding a public information meeting that Woodard & Curran was organizing for 2-12-2020 about a potential solar project in Sweden on two adjacent lots: Map R-09, Lot 9, owner Charlotte Riley and Map R-09, Lot 17, owners Shannon and Francis Larosa.

7. Ltr (email) to PB dated 1-21-2020 from Jack Kenworthy of Walden Renewables, thanking the PB for taking the time to meet with him and others on 1-13-2020. Email notes that Walden would be in touch shortly with more information.

8. Ltr (email) from PB dated 1-24-2020 to the Sweden Board of Selectman (BOS), with attached detail (spreadsheet) to support the PB's request to increase its annual budget from \$3,000 per year to \$10,000 per year.

9. Ltr to PB dated 2-4-2020 from John Bell of Maine Survey Consultants, Inc. on behalf of Nathan Wadsworth of K&W Timberlands, LLC, attaching an application for a proposed amendment to the Woodbury Hills Subdivision.

6. New Business:

- A. The Planning Board received an application dated February 4, 2020 made by Maine Survey Consultants on behalf of Nathan Wadsworth of K & W Timberlands, LLC for a proposed amendment to the Woodbury Hills Subdivision. Planning Board members and meeting attendees physically reviewed Woodbury Hills subdivision plans, both the final, recorded, current plan in the town office as well as the proposed plan. Mr. Del Maxfield of Maine Survey Consultants presented the proposals:

Proposal #1: Convey 10.02 acres of the remaining land (Lot #10) to abutting lot owned by Jason and Sheridan Nagel. According to the previously approved and recorded plan, the size of the abutting lot is 5.06 acres.

Proposal #2: Relocate a meandering footpath easement that provides Lot 9 with access to the Open Space on Lot 11, so that Lot 10 can be accessed/developed without concern about inadvertently interfering with the easement.

The board noted that it has not received any written documentation stating that Maine Survey Consultants is an authorized representative of the landowner of Lot 10, K & W Timberlands. The board noted that they would need a letter signed by an authorized representative of K & W Timberlands indicating that Maine Survey Consultants is an authorized agent for K & W for this application before the Planning Board can proceed with further review or approval of the application.

Minutes for Monday, February 24, 2020 Planning Board Meeting

Planning Board's review of Proposal #1 – conveyance of 10.02 acres of Lot #10

The approved Woodbury Hills Subdivision Amended Plan, approved November 13, 2008, states, "Any further development will require planning board review and approval as a cluster subdivision, unless there has been a change to the Ordinance."

At the same time, based on state law, transferring land to an abutter does not create a new subdivision lot if the land is merged and does not create a new lot. Maine State law Title 30-A, §4401, Subchapter 4 "Subdivisions" part D-6 states:

A division accomplished by the transfer of any interest in land to the owners of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection.

Since Proposal #1 is to merge a portion of Lot 10 with an existing lot that is not part of the Subdivision, the proposal is exempt and does not require Planning Board review or approval for this action alone. However, a result of the action to merge the lots is subject to the following requirement of the Town of Sweden Subdivision Regulations Article X "General Standards", Section 10.9 "Cluster Developments", B.6. which states:

"Natural buffer strips of at least 100 feet shall be permanently deeded and maintained between the clustered housing area and abutting properties, as well as along the public roadway frontage abutting, or contained within, the subdivision. Where practical, the buffer strip will be maintained in the same way as the open space that is designated in the covenants."

The amended subdivision plan submitted by Maine Survey Consultants did not show all the required buffer strips. The amended plan drawing will need to be revised to show the buffer strip between the parcel to be conveyed (the 10.02 acres) and each of the following areas:

1. Black Mountain Road
2. The lots abutting Gerry Circle (Map R-8, Lots 28-2, 28-4, 28-6, 28-7, and 28-8, also shown on plan as Lots 2, 4, 6, 7, and 8)
3. The Remaining Land at Map R-8, Lot 28-9, also shown on plan as "Lot 10"
4. Map R-8, Lot 28-9, also shown on plan as "Lot 9", currently owned by Ryan and Jamie McIver
5. Map R-8, Lot 28A, shown as "Ex Subdivided Lot" in the plan, and currently owned by Jason and Sheridan Nagel

The board sketched out the approximate buffer locations on a copy of the proposed amended plan and gave it to Mr. Maxfield for reference.

Two other items were also noted by the Planning Board:

Minutes for Monday, February 24, 2020 Planning Board Meeting

1. The “Approved Waivers” appearing on the last approved Plan for the Woodbury Hills Subdivision do not appear on the proposed amended plan. The amended plan drawing must be revised to include those waivers.
2. The Board noted that the acreage listed for Map R-8, Lot 28-A (“Ex. Subdivided Lot”) in the proposed amended plan shows 5.07 acres. However, on the last approved plan, it shows as “5.06 acres”. It was explained to the Board by Mr. Maxfield that very small variations can occur when land surveys are refreshed, and that explained the difference. The Board was satisfied with this explanation and no action was needed.

Planning Board’s review of Proposal #2 – relocate the meandering footpath easement that provides Lot 9 with access to the Open Space on Lot 11

The Planning Board reviewed the warranty deed for Lot #9 of the Woodbury Hills Subdivision. The second to last paragraph notes that the grantor reserves the right to relocate the footpath but only with the approval of the Sweden Planning Board.

The Board also reviewed the Findings of Fact and Conclusions of Law for the Woodbury Hills Subdivision Amendment revised November 13, 2008 to understand the history of the creation of the footpath, in order to understand the impact, if any, of changing its location. In brief, when the Subdivision was approved initially, the Planning Board allowed a "meandering footpath" easement from Lot #9 to the additional Open space (Lot #11) as a temporary waiver to the requirement of 200 foot of road frontage with the understanding that road frontage will be required in compliance with the subdivision regulations should the subdivision be further developed and the open space serve any additional future lots. Stated a different way, when and if Lot #10 (remaining land) is further developed at a later date, road frontage will be required in accordance with the original conditions of approval for the Subdivision (and this will also require review by the Sweden Planning Board).

The Board then reviewed the proposed revised plan drawing showing the changed location of the meandering footpath. The existing footpath runs in a non-linear fashion from the corner of Lot 9 through the Remaining Land (Lot #10) to access “More Open Space” (Lot #11). The proposed new location of the footpath takes it a different way to Lot #11, from the corner of Lot 9, running along the back of Lot 9, then running along the back of the new merged lot, running along the side of Lot #8 “Open Space”, and finally accessing Lot 11.

The applicant noted that the intent of changing the location of the meandering footpath in the application letter was “to provide a more definitive location of that easement, so that Lot 10 can be accessed/developed without concern about inadvertently interfering with the easement.”

The Planning Board conditionally approved Proposal #2, the change in location of the meandering footpath, subject to the plan revisions required and outlined above, plus the following:

The Planning Board requires a signed letter from both owners of Lot 9 (Ryan and Jamie McIver) that they approve the attached amended subdivision plan. This signed letter must have attached a

Minutes for Monday, February 24, 2020 Planning Board Meeting

revised copy of the amended plan (revised to include the revisions noted above), indicating that the McIvers have seen and approved the revised plan.

the Board will also require at least two (2) full size copies of the revised amended plan as part of the updated materials.

Mr. Maxfield, Mr. Wadsworth, Mr. Ferguson, and Ms. Wakefield thanked the Planning Board and departed.

- B. Review Conditional Use Permit (CUP) application materials from Jim Heath (Map U-01, Lot 2) for completeness of application. The PB began to review the CUP application materials for completeness of application; however, the review was halted because it was confirmed that no application fee had been submitted to the town. The board reviewed the town's Fee Schedule, which requires a \$50 plus additional costs for CUP applications. It was noted that additional costs would include two block ads in the newspaper, certified mailing costs, and copying costs, with possible other expenses. Dave Johnson made a motion to set the application fee at \$125.00 and to table review of the CUP application until the applicant paid the fee. Laura Chadbourne seconded the motion. The motion passed unanimously. Laura will contact the applicants by email notifying them of the required fee.
- C. Verbal updates from PB Members who attended informational meeting on February 12, 2020 regarding new potential solar project (two adjacent lots) in Sweden. Laura Chadbourne and Bill Graham attended the meeting as Sweden residents, not as representatives of the Planning Board. Bill provided a brief verbal update of the proposed location of the proposed solar projects which would be on Knight's Hill Road. While there are two separate solar projects on two lots, the lots are adjacent so for the purposes of the state, the two lots are treated as one project. Since nothing has come to the Planning Board yet to review on this topic, the board moved to the next agenda item.
- D. Rich Jordan from Flycatcher, LLC asked to be able to provide a short verbal update to the board about Walden Solar's work to move their proposed solar project forward. Rich explained the approach that Walden took to provide for an overlay district in the town's Zoning Ordinance; any project in this district would still be required to come to the Planning Board for a conditional use permit if a solar project were considered in this overlay district. Rich then asked if the Board would consider beginning the amendment process for the Zoning Ordinance (ZO). The Board noted that it is awaiting a funding approval at the March town meeting to enable long-needed updates to the ZO. The question is whether the solar portion can be "fast tracked" ahead of the other changes. The Board will consider this question and discuss at the next meeting. Rich thanked the group and departed the meeting.
- D. At 8:26 PM, Laura Chadbourne made a motion for the Planning Board to go into Executive Session as per MSRA Title 1, Section 405, Subsection 6(A) which covers assignments and duties of appointees and to include Julie McQueen, duly appointed Planning Board Assistant. Bill Graham seconded the motion. At 9:24 PM, the Board ended its Executive

Minutes for Monday, February 24, 2020 Planning Board Meeting

Session. Dave Johnson moved and Morris Gibely seconded the following motion: to make a request to the Sweden Board of Selectmen to increase the Planning Board's original funding request from \$10,000 to \$16,000 to include \$11,000 for administrative support and additional funds to cover legal fees and standard expenses at the Board's discretion. The motion passed unanimously. Dave Johnson noted that he would send the written request to the Selectmen the following day.

7. Old Business:

- A. **Warrant for PB Funding:** Laura Chadbourne provided a brief update to the group that she had attended a Board of Selectmen (BOS) meeting in January and made the case for the importance of including the warrant article to raise funding for amending the Town's Zoning Ordinance in the Town Meeting warrant. Laura was happy to report that the BOS had agreed to include the article in the warrant.

8. Announcements:

- A. To avoid conflict with the St. Patrick's Day holiday on March 17th, a motion was made and seconded* to move the next regular Planning Board meeting from March 17th to Monday March 16, 2020, at 7:00 PM at the Sweden Town Office. The motion passed unanimously. Laura will ask the AA to post the notice on the Town website and at the Town office.

**Secretary's notes:*

The March meeting was cancelled due to concerns about COVID-19.

Names of board members who moved and seconded the meeting date change from March 17th to March 16th were not captured in the Secretary's notes.

A motion was made to adjourn the meeting. The Chair adjourned the meeting at 9:30 PM.

Respectfully submitted,

Laura Chadbourne,
Secretary, Sweden Planning Board