

BOARD OF ADJUSTMENT

FEBRUARY 7, 2007

MEMORIAL BUILDING

7:00 P.M.

The following are to be considered draft minutes only until approved by the Board at their next meeting.

Present: B. Manning, Chairman; Cynthia Hayes, Vice Chairman, John Graham and Gene Hayes. **Absent:** Andy D’Amico, Mark O’Halloran, and Bob Anderson.

B. called the meeting to order at 7:00 p.m. The roll was called.

Minutes: Cynthia requested correction to January 3, 2007 minutes, page 1, and second paragraph under Gestay Variance Hearing to read B. *read a letter dated 12/12/06 from Beaver Tracks Soils and Wetlands Scientist describing the wetlands area “on” changed to “near” Mr. Gestay’s property.*

Page 2, 5th paragraph, last sentence. *If “some” comes in, changed to if “someone” comes in.*

Cynthia moved to accept the minutes as corrected, seconded by John and unanimously approved.

Literature and Correspondence:

Cynthia referenced the May 3, 2006 minutes regarding the Variance granted to Harold Anderson. A condition of approval required the written sign-off of abutter Chris Fitzgerald. Cynthia would like to suggest follow up with another letter and a time limit as to when the Board would need written sign off from the Fitzgerald’s. The file will be reviewed at the March meeting and the Board will review a proposed letter in follow up.

Matarazzo – Continued Special Exception Hearing:

At 7:15 p.m. B. stepped down, Cynthia took over as chairman for the continue hearing. Gene Hayes stepped in.

Present: George Matarazzo, Bruce Gilday and Peter Blakeman.

George stated that since the last meeting they met with the Planning Board and asked the Board to definitively vote whether there any other reasonable way to access this site. This was one of the Zoning Board’s requests. Cynthia read the Planning Board minutes relative to this request. {See the following from the January 18, 2007 Minutes of the Planning Board}.

“The Board discussed the reasons why the Board feels there are no other feasible alternatives to access locations.

- 1. An entrance to the property (from Hazzard Road South) would be greater than 3,000 feet and another point of egress would be required.*
- 2. Other points of entrance would have similar situations with road lengths and wetlands crossings.*
- 3. An entrance from Hazzard Road creates safety issues due to the narrowness of the road and the location of the existing houses due to the increased traffic that the development will create.*

A motion was made by Peter Keene,” after reviewing the plan presented; the Board finds that there are no other feasible alternatives, specifically both ends of Hazzard Road due to road length requirements, safety issues at each end, and wetlands crossings.” The motion was seconded by Linda and unanimously approved.”

George reported the Town Farm Road wetland crossing has been eliminated. Lot line adjustments will be made for Lot 16 to eliminate a driveway wetlands crossing. Lot 16 will have a ROW through Lot 17. The crossing in Lot 17 will be through the buffer but will not be in the wetlands. They have reduced the number of wetlands crossings by 2. They have mapped the new wetlands observed and discussed last month. Maps were reviewed. Lot 1 is crossing a buffer but not a wetland.

Cynthia stated the setbacks for septic systems are shown as 100 feet from wetlands and surface water. The Zoning Ordinance indicates that septic systems must be 125 feet from surface waters, and the definition of surface water includes wetlands. George indicated it appears that he can meet those setback requirements

George stated there are now 5 wetlands crossing for the road off Four Corners Road. There are no driveway crossings and no wetlands crossing off Town Farm Road, but within the buffer.

Cynthia stated George has responded to the steps in the Zoning Ordinance for Special Exception. In reviewing Wetlands Conservation Overlay District regulations in the Zoning Ordinance there are 7 things that the Board needs to check. (As follows :)

*“WETLANDS CONSERVATION OVERLAY DISTRICT**Purpose:*

Wetlands are extremely important to the Town as they provide area for floodwater storage, wildlife habitat and groundwater recharge. It is intended that this Overlay District shall:

- 1. Prevent the development of structures and land uses on naturally occurring wetlands which will contribute to pollution of surface and groundwater by sewage or toxic substances;*
- 2. Prevent destruction of or significant changes to natural wetlands which provide flood protection;*
- 3. Protect unique, rare and valuable natural areas;*
- 4. Protect wildlife habitat and maintain ecological balance;*
- 5. Protect potential water supplies and existing aquifers (water bearing stratum) and aquifer recharge areas;*
- 6. Prevent expenditure of municipal funds for the purpose of providing and/or maintaining essential services and utilities which might be required as a result or misuse or abuse of wetlands;*
- 7. Encourage those low intensity uses that can be harmoniously, appropriately and safely located in wetlands.”*

Cynthia asked the Board for direction in reviewing those 7 items? She questioned whether the Board would be amenable to asking the Conservation Commission to help them out? Gene Hayes stated he thought it would be a good idea to get more advice as to how this is impacting the wetlands. George stated he felt every one of the 7 items could be justified with the required buffers and with no other feasible way to get to this site. They are doing everything in their power to keep septic systems back and wells in the right locations. They are respecting the site conditions that exist.

George reviewed the septic setback areas. Peter Blakeman stated if a lot configuration limits the ability to propose a 4,000 square foot septic area as the State requires, in lieu of that the State allows for a septic system design to be submitted for that lot, which would involve an area considerably smaller than the 4,000 square foot area

George stated that the 100 foot buffer is a significant amount of property which is not able to be developed and leaves a great deal of open space on the property.

Cynthia stated that the 7 items have to do with natural resources and the Zoning Board is bound to make sure that these provisions are met. She feels that this is what the Conservation Commission is there for and to help and guide the ZBA with any information they can.

Cynthia reported some members of the Conservation Commission were on the site walk, and some of them have seen some of the initial maps, but have not seen more recent maps or had a chance as a Board to review them.

Gene stated he does not feel the ZBA has enough expertise to look at the maps and judge from what was seen on the day of the walk. They feel they need more help with this.

Cynthia stated this is the first time the Board has gone through this type of Special Exception Request. They want to be sure that they have covered all bases.

Cynthia would like to ask the Conservation Commission to comment on the 7 areas. Peter stated that it would be helpful if George could write something up addressing these 7 issues that could be presented to the Conservation Commission. Cynthia stated she would also like to include the information received from Bruce Gilday and Peter Blakeman.

Peter Blakeman provided maps and reviewed the overall drainage area including sub drainage areas and explained this allows drainage comparisons to be made pre-development and post development. The whole drainage area above George's property is 228 acres. George's land is 125 acres of that. The only part that is outside George's land is a small southern corner along Hazzard Road. Peter explained the flow of the drainage areas and is mostly from open land above George's property.

Bruce Gilday reviewed his response to the Board's request regarding the aquifers. Bruce stated that he reviewed hydro geological maps created for this area. He discussed with hydrogeologists how the aquifer was determined, and how it would be protected or used as a water source. He found this aquifer was not created by any kind of test wells. The outline from these wetlands was determined by Sullivan County Soil maps. He was told that this was the lowest yielding aquifer you can possibly have. This would never be tapped by a municipality as a water source or by anyone who would want to have a community well. The water for each lot is located in the bedrock, and this does not affect the aquifer. Bruce was informed that testing of this aquifer would never preclude development of the nature that George is proposing. Protection of the aquifer is done above the ground and is addressed through Site Specific permits and erosion control measures required by the State. Testing of water quality would take place during development. He has never heard of any case where a well on a property has been contaminated by effluent coming from the property's septic system. The soil naturally treats the effluent. Effluent is clean within 45 feet through natural leaching from the system. Additional protection is provided with 125' setbacks. This is a low yielding aquifer. Additional management practices pre and post development reduce impact to the aquifer. Treatment swales are designed to filter out erosion. Protections for aquifers do not eliminate residential roads, houses, and lawns etc. There will be no depletion of the water quantity or the water quality from anything that goes into the ground on this site.

Bruce asked to address the 7 points presented to them tonight.

Purpose:

Bruce - flood water storage. The 5 wetlands crossings have zero flood water storage capacity. Ponds, detention ponds, and the lower area off the property have high flood storage capacity. The impact to the wetlands is not through high flood water storage capacity.

Wildlife habitat in vernal pools etc. needs to be considered. Groundwater recharge will take place by naturally.

1. Bruce - People's wells are not contaminated by their own septic systems. The setback has been built into this. You can't prevent development because of that. You make the wisest choices to make narrow crossings with minimal impact. George has conscientiously presented a proposal of that nature.

Pervious and impervious surfaces were discussed. The Site Specific Permit also addresses storm water treatment and impact from pervious and particularly from impervious surfaces.

2. Bruce - The first two stream crossings are naturally occurring. Some of these wetlands areas have been caused by skidder damage. These areas are shown on the plan. Flood protection and detention basins will be shown on the site and will be shown on the final drainage plans which will be submitted to the Planning Board. George stated that there will be no increase in water flow off this site from the development.

3 Bruce – As part of the dredge and fill process, the Natural Heritage Department and DRED offices need to be contacted. The developer is required to make note of any rare or valuable natural resource areas on the site.

4. Bruce – With plantings there will be no negligible detriment to the wildlife habitat from the residential road. The shrubs around the homes will become wildlife habitat. George stated the setbacks create a lot of natural habitat areas on the site. George this development is not being intensified. Lot size averaging is around 5 acres per lot.

5 & 6 Bruce – Aquifers have been previously discussed in this session. Bruce encouraged the Conservation Commission to contact the specialists that he spoke to assist them with residential development relative to aquifers. DES will apply certain conditions to the Site Specific Permitting regarding wetlands stabilization and aquifers. These will be adhered to and are the responsibility of the DES to monitor, not the municipality. Permits should be kept on site; the EPA or DES will monitor the site and often does spot checks. Quite often, follow up is done by a complaint being issued by some other party.

7. Bruce – The buffer zones help to minimize the impact. A residential subdivision can fit harmoniously if it is not overloading or taxing the land. George –The road and the two stream crossings are the critical points. Those crossings will be addressed as to how the crossings will be created and the erosion control measures in the State's permitting process and the final plans to the Planning Board. The crossings do not involve rerouting any streams, and will not increase any flooding. The treatment from septic systems has proven themselves. There are many other areas off this site that contributes watershed to this aquifer.

The Board discussed reviewing these concerns with the Conservation Commission. Cynthia will send a copy of the material presented by Peter and Bruce, as well as the maps to the Conservation Commission. George would like the opportunity to meet with the Conservation Commission. A request to be placed on the Conservation Commission agenda will be made for their March 8th meeting. Cynthia stated that in the meantime, the Conservation Commission has a sub-committee that will probably be taking a look at these plans.

The Board discussed continuing the hearing to the April 4th meeting at 7:15 p.m. John Graham stated the applicant has done everything the Board has asked him to do and every time he comes back the Board asks him to do something more. He does not feel that this is being fair to Mr. Matarazzo. John suggested that George Matarazzo's request for a Special Exception Hearing for the road wetlands crossings in the Conservation Overlay District on property located on Four Corners Road and Town Farm Road be given a yes or no vote tonight. John moved for the Board to vote on the request tonight. There was no second.

The Board agreed to continue the hearing to April 4, 2007 at 7:15 p.m.

Cynthia thanked George and his team for their time.

George asked where the ZBA role begins and ends and when the Planning Board takes over again. Cynthia stated that their role is with the Wetlands Overlay District and how it affects the road. That is what the Special Exception is given for. They can only deal with the regulations in the Zoning Ordinance. George stated the ZBA has to be convinced that what they are doing is in the best interest of the Town and the use of this land. B stated that he doesn't think that the ZBA has an issue on the use of the land. The issue this Board has is with the appropriateness of the wetlands crossing. Cynthia stated the wetlands crossings and buffer crossings are what the ZBA is concerned with. George stated he is concerned with what the Conservation Commission's recommendations will be. Cynthia stated for the ZBA purposes, the Conservation Commission will be dealing with the 7 issues the ZBA has presented. Should the Conservation Commission have other issues to do with the planning of the subdivision, they would go to the Planning Board. She stated the Conservation Commission will have greater impact when dealing with drainage issues.

Michael Hansen Properties – Special Exception:

At 8:20 p.m. B. stepped back in as Chairman. The hearing for Michael Hansen Properties was begun. Present: Michael Hansen, Abutters Bob Richardson, Todd Richardson, and Drew Edmunds. Abutters were notified by Certified Return Receipt Mail, notices posted in two places (Post Office and Town Office) and published in the Intertown Record.

Michael Hansen stated the property is located off Maple Lane. He proposes upgrading 200' of Maple Lane, which is currently abandoned after it passes by his property. He would like to build a 250' x 100' building for heated boat storage. The Lake Sunapee Boat Valet company would be involved in the project. This is a service that provides delivery of boats to the Georges Mills Harbor. Owners request their boats to be delivered to the harbor. The valet service delivers the boats and brings the cars back to store until while the boat is being used. This alleviates parking issues at the harbor. This is only done 4 months of the year.

The ship store would be in the existing house, to sell boat related supplies. Another tenant would like to house 6 or 7 boats along the side of the building. There would not be a sales person on site. Sales would be by appointment only. He would like to site the building so it is not visible from the highway and maintain as many of the trees as possible on the property for a buffer. No one will be on site in the winter. The building will house about 100 boats. There will be no oil changes or servicing of boats on the property. They will not sell used boats. All boats will be stored inside. They will not have shrink-wrapped boats all over the property. The front of the building will be timber-frame with an overhang to look like a lodge. It will be a metal building but the front of the building and front of the existing house will be designed to blend with the

landscape. The building is proposed to be a one-story building approximately 14' high with 26' at the peak.

Mike does not anticipate being open weekdays. He expects to be open on weekends and holidays. Valet parking would be available for about 100 boats. A PSNH power line easement runs through the property. Parking areas can be built under the easement, but structures are not permitted. The property is 5.9 acres. The parking areas are where the cars are stored so they do not have to find parking at the Georges Mills Harbor. Cynthia discussed concerns with the amount of traffic with 4 trips per boat delivery.

Todd Richardson, present with his father, Bob Richardson, an abutter; the Manager of Star Lake Properties an abutter, and as a member of the Conservation Commission. He stated there are wetlands issues on the property and is concerned with the setback shown of the proposed building to a stream on the property. The stream is being shown as a drainage swale.

Todd indicated clarification regarding the status of Maple Lane needs to be determined. Whether this is a discontinued road or a Class VI road and how it was laid out needs to be resolved, before permission is granted to update the road.

Michael stated the wetlands will have to be delineated and if wetlands exist he will have to have a wetlands scientist look at the property.

The Board explained to Mike that they would want to make a site visit and this would be best in the spring. B stated that a Special Exception is granted for a very specific reason. Mike needs to be sure his request is specific for what he wants to do. He should consider how the facility could grow. B. stated traffic would be an issue. Site Plan approval would be required from the Planning Board. There would need to be a statement from the Town regarding what the status of the road is. Michael stated there is an existing bathroom in the existing house and existing utilities and an existing well on the site. There will not be any further bathroom facilities.

The Board agreed they should do a site visit at a later date to be determined. The building location should be staked. The Board discussed the size of the lot and how the building would fit if there are wetlands on the property. Mike stated he would have the wetlands delineated. B. stated at that point in time the Board would review where the building was going to be.

Mike stated, the boats are all stored on one level, and a pickup truck is used for delivery. There is no fork lift. Mike says the Town of Sunapee likes this idea because it decreases parking issues in the Georges Mills Harbor. Traffic issues were discussed. Mike said he would be willing to put a cap on how many boats are moved during a day.

Cynthia stated that she would like clarification as to the classification of the Town Road. Todd reported Star Lake has had Pierre Bedard look into the road. It is clear this section of the road was a Town Road once. It is now shown as a discontinued road. Discontinued roads may revert to the landowner, but it depends on how the Town voted to discontinue, and where the easement was when the road was developed. The road used to go through to Stoney Brook Road but was changed when the Interstate went in. Todd will share information he receives from Pierre. Pierre has more research to do.

Todd addressed his concerns with the size of the building, and the height of the building due to the change in the elevation from Bob Richardson's property to this site. The Richardson's property would be one residential property surrounded by two businesses. Cynthia asked how Northwind has affected the abutter? Bob stated he can see the lights through the trees at this time of year. There is a very large buffer between Northwind and the Richardson's property, and there is very minimal impact. This proposal does not offer as many options as that property did. Todd also addressed concerns safety issues due to limited sight distance off Maple Lane to Georges Mills Road.

Parties agreed to:

1. Mike will get a wetlands scientist in and provide delineation and will stake out the lot for a site visit when the weather allows.
2. He will put in writing what it is he is proposing to do and what the potential is for business.
3. Todd Richardson will share information from Pierre Bedard with the Board.
4. The ZBA will send a letter to the Selectmen to see if they have information regarding the status of Maple Lane and what their stand is on upgrading of Class VI roads.

John Graham stated that Mr. Hansen has been before the Board in the past for a Special Exception for his bridge company, and he more than upheld his end of all stipulations that were put into place. He is confident that he will continue to do so with this proposal.

Mike discussed the possibility of getting a right of way across Bob Bell's property to access the upper portion of the property. Todd stated that there could be issues with that section of property as well.

B. stated this hearing could be continued to the March ZBA meeting. If Mike is not ready, he could request a continuation. B. stated that it was important that the abutters be kept informed of the process. Mike stated that the wetlands cannot be delineated until the snow cover has gone away. The Board agreed to continue the hearing to May 2, at 7:30 p.m.

Miscellaneous Business:

The Board discussed obnoxious use and noise ordinance information.

Cynthia discussed with the Board requiring applicants to present application information, including maps and sketches drawn correctly to support what is being requested.

Cynthia presented suggestions for updating the Zoning section of the website so it no longer shows as “under construction” The Board agreed to her suggestions. Janet stated the Zoning Ordinance will be available on the web site soon.

B. stated the Board should suggest to the Planning Board updating the Zoning Ordinance to include the ability for the Board to grant an equitable waiver. He discussed the difference between an equitable waiver and a variance.

With no further business, Cynthia voted to adjourn at 9:15 p.m.

Respectfully Submitted,

Janet Roberts,
Recording Secretary