



TOWN OF BOW Planning Board

10 Grandview Road, Bow, New Hampshire 03304

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Approved as amended on May 9, 2019.

MINUTES

April 18, 2019

The Town of Bow Planning Board met on Thursday, April 18, 2019 at 7:00 PM in the Town Municipal Building, 10 Grandview Road, Bow, New Hampshire. Chair Oldenburg called the meeting to order with an introduction of the Board.

7:00 ROLL CALL

Other members present were Sandra Crystall, Vice Chair, Tony Reynolds, Secretary (arrived at 7:16 PM), Don Berube, Jr., Allen Lindquist, Adam Sandahl, Willis Sloat, David Glasier, and Kristen Hayden, and Selectboard representative Mike Wayne. Also present and were Matt Taylor, Community Development Director and Alvina Snegach, recording secretary.

Mr. Oldenburg noted that Mr. Reynolds was not in yet and appointed Alternate Sloat to vote in his place.

MINOR SITE PLAN MODIFICATION

Application 202-16, GSS Enterprises, LLC., Block 2, Lot 159-F7, located at 57 Ryan Road for a site plan modification to add a solar array panel.

Mr. Oldenburg read the item into the record.

Jamie Harris from GSS Enterprises was present to answer questions about the types of added arrays, two of which had been approved administratively and are trackers with 24 panels, and the third one would have 30 panels and needs approval by the Planning Board as it exceeds the administrative approval threshold. Members briefly discussed the limited amount of space the trackers occupy on the lot and *Mr. Berube made a motion to approve the minor modification to the Site Plan application #202-16 as presented. Mr. Sandahl duly seconded and motion passed unanimously.*

PUBLIC HEARINGS

Application #202-19, 13 Dunklee Road LLC. (dba Tri State Curb), Block 2, Lot 159-F2, located on 13 Dunklee Road. Site Plan for a 5,000 square foot office/warehouse. For expedited review.

Mr. Oldenburg read the item into the record. Matthew Moore, P.E. from Matthew Moore Civic Engineering introduced himself as the project engineer and noted that the owner Douglas Carr is in the audience. He then displayed the plan on the board and went over the following details of the proposal:

- Vacant lot with abutting commercial properties and metal buildings;
- There are two entrances to the lot;
- A lot line adjustment had been approved prior, and the site had been used for storage, which is proposed to remain only in the back of the lot;
- Ryan Road right of way is paved, and the driveway will be angular stone;
- The proposed use is curb business, which will use a warehouse and a small office, plus parking (paved, with one van accessible spot);
- Proposed drainage features on the proposed plan and existing grades and conditions;
- Proposed landscaping with silver maples and a waiver from landscaping standards;

- Screening the dumpster; and
- Minimum lighting;

Then Mr. Moore answered questions about the following:

- Drainage;
- Snow and material storage; and
- Rationale for using non-native silver maple in landscaping;

A short discussion ensued about giving preference to native species like oaks or pines that would be more appropriate for dry soils. The owner Mr. Carr noted that he was open to suggestions and just wanted a nice lawn and some trees. A suggestion was made to him to consult someone about native trees to plant. The Board also discussed the fact that the expedited review had been requested before the applicant decided to request some waivers, which disqualified him from expedited review.

Further discussion included the following:

- Drainage design features, existing and proposed post-development;
- Using a 50 year storm event for calculations;
- Road drainage;
- Low lying pockets, where water is puddling, due to the fact that there is a layer of pavement under the soil that had been discovered by a septic test pit, and the need to remove the pavement layer, which will improve drainage even more, given the sandy soils on the lot;
- Removing all the currently stored items from setbacks and all containers that are now stored onsite;
- Letter from Stan & Pete Inc. about issues with drainage and storage of materials in the setbacks;
- Extending a drainage/infiltration swale on the east and south side of the lot to keep the water from leaving the property;
- Building elevations;
- Waiver requested from aesthetic design standards for landscaping, building façade, screening and parking;
- Waiver requested from roadway dedication requirement; and
- Confirmation of no wetlands being present on the property and NHDES septic system approval;

Mr. Oldenburg opened the public hearing at 7:33 PM.

- Stanley Emanuel, Stan and Pete, Inc., 330 River Road, addressed the Board with the concerns that were noted in the letter that his engineer Bruce Scamman provided to the Board. Mr. Emanuel said that his major concern was drainage and water getting on his site from the abutting property.

Mr. Oldenburg explained that the infiltration swale that the applicant had proposed on the east and south side should prevent that from happening.

- Mr. Emanuel also said that the two trees that are proposed along Dunklee Road (north of the driveway) will be blocking the view of his building.

The Board discussed the design standards and the choice of trees and general consensus was that the applicant should work with the neighbors to make sure that the landscaping is acceptable.

Having nobody else to address the Board, Mr. Oldenburg closed the public hearing at 7:41 PM.

Mr. Berube made a motion to accept the Application #202-19 for expedited review. Mr. Lindquist duly seconded and motion passed unanimously.

Mr. Berube made a motion to grant the waivers from the Bow Site Plan Regulations requested in the letter from Matthew Moore, dated April 11, 2019, finding that granting the waivers will properly carry out the spirit and intent of the regulations. Mr. Lindquist duly seconded and motion passed unanimously.

Mr. Berube made a motion to approve the Application #202-19. Mr. Sandahl noted that there were comments from the Town officials that have not been discussed yet. The Board reviewed the comments and noted that there were none where concerns would need to be included into the approval.

Mr. Berube added the following conditions to his motion to approve the application:

- 1) drainage swale be continued on the east and south side of the lot;*
- 2) native plantings be used for landscaping that would be acceptable to the neighbors.*

Mr. Lindquist duly seconded and motion passed unanimously.

Application #502-19 Raleigh & Ann Tobine - Block 2, Lot 10, located at 117 Woodhill Road. Major residential subdivision creating one additional house lot. *For Receipt of Application.*

Mr. Oldenburg read the item into the record. Mr. Reynolds arrived at the meeting at 7:16 PM and was voting. Eric Mitchell introduced himself as the project engineer and presented and answered questions about the following details of the proposed subdivision:

- 68.7 acre parcel being subdivided into two lots (2.16 acres with the existing residence and 66.6 acres to sell);
- Requested waivers due to the limited nature of proposed development (only one house to be built), notwithstanding the larger lot size;
- Staff comments and how they have been addressed;
- The lot with the house will be monumented; however, the larger lot will only have bounds (already existing) in the front, due to the limited nature of proposed development;
- Driveway layout (parallel to the existing driveway) for the newly created lot and how wetland impacts will be avoided;
- The need to add a wetland delineation standard note to the plan;
- Road frontage lengths for both lots; and
- The reason for the major subdivision qualification being the potential to further subdivide the larger lot, although this was not the intent of this application;

Mr. Berube made a motion that the Board finds that there is sufficient information and to accept the Application #502-19 for review. Mr. Reynolds duly seconded and motion passed with everyone voting in the affirmative.

Discussion ensued on whether this subdivision had any regional impact as it was on the border with another town, and general consensus was that it is exclusively accessed from Bow, thus there is no such impact.

Mr. Oldenburg opened up the public hearing at 7:57 PM.

- Brian Pike from 2 Twist Hill Road in Dunbarton, asked about the potential for further developing the larger lot and putting a road in without wetlands and buffer encroachments.

It was noted that the applicant will need to come back to the Planning Board with any further plans to develop this lot in extent of what this application proposed.

Having nobody else there to address the Board, Mr. Oldenburg closed the public hearing at 7:58 PM.

Discussion ensued about the requested waivers:

- *from Section 6.03(C) – Complete Boundary of the Entire Tract;*
- *from Section 6.03(N) – Wetland & Buffers;*
- *from Section 3.06(A) – Yield Plan;*
- *from Section 3.04(D) – Environmental Assessment;*
- *from Section 3.02(E) – Lot Boundaries;*
- *from Section 7.04 – Monuments;*
- *from section 6.03(W) – Operational Brief;*
- *from section 8.05 for the existing house – Underground Utilities.*

Mr. Mitchell noted that the waiver for the utilities is only being requested for the lot with the existing house, and the newly created lot will have the utilities overhead only across the road and then continue underground to the location of the future residence.

Mr. Berube made a motion to approve all the requested waivers, finding that the granting of the waivers will properly carry out the spirit and intent of the regulations. Motion was duly seconded by Mr. Reynolds and passed with a unanimous vote in favor.

Mr. Berube made a motion to continue the public hearing to the May 16, 2019 regular meeting of the Planning Board at 7:00 PM at 10 Grandview Road, Bow, NH. Mr. Lindquist duly seconded and motion passed with everyone voting in favor.

Application #501-19, G. Gardner Contracting, LLC (Owners - Paul, Gregory, & Julia Cullen) - Block 3, Lot 133-L, located at 23-27 Bow Bog Rd. Open Space Residential Development subdivision creating 34 house lots, an open space parcel, a recreation parcel, and 5,232' of new roads; and associated Wetlands Protection Conditional Use Permit #401-19w for 5,985 SF wetland and 32,091 SF wetland buffer impacts. The specific purpose of this hearing is to review the yield plan and or a new conceptual subdivision plan. (Continued from the February 21, 2019 meeting.)

Mr. Oldenburg read the item into the record and noted that the public hearing was continued from February 21, 2019. Ms. Crystall recused herself and sat in the audience. Mr. Oldenburg appointed Alternate Sloat to vote in place of Ms. Crystall. He then noted that the discussion will mainly focus on the presentation of the new yield plan and review of hydrologist qualifications.

Jennifer McCourt from McCourt Engineering introduced herself as the project engineer and began by offering the Board to extend the review clock to May 16, 2019. She then displayed a new yield plan on the board and went over the changes, among which were the following:

- no wetland/buffer impacts for access to any of the lots;
- added a five bedroom house with a two car garage depiction to the lots in question;
- driveways are shown;
- added a 40 feet backyard, a 20 foot side yard depiction to the lots in questions and adhered to the 35 feet front setback;
- road length is 5,930 feet; 8,194 sf of wetlands impact (24% less than the previous yield plan); total wetlands impact going down from 1.4% to .97% of all wetlands onsite; and buffer impacts are 36,147 sf (down 6% from the last yield plan); and
- total of 34 lots.

Discussion ensued about some lots that were still questionable; 4K areas; stormwater improvements locations; using the actual design calculations for estimating the yield plan wetland crossings (3 or 4) impact numbers; and Peaslee Road subdivision having twice as much wetlands impacts, according to Ms. McCourt, including the road and access to lots.

Mr. Oldenburg opened the public hearing at 8:17 PM. The following individuals addressed the Board:

- Linda Millman, 80 Robinson Road, spoke about a presentation given by Johanna Kuss, a landscape professional, at the Board's April 4th meeting, where she identified a number of lots that were unreasonable. Ms. Kuss had also looked at the new yield plan, and Ms. Millman read in a letter from Ms. Kuss where she identified problems with each single lot, such as, but not limited to - no building envelope depicted, well radius overlapping the building envelope, interesting shape, and etc. Ms. Millman noted that the subdivision requires more studies, field measurements by a surveyor, evaluation by a wetland scientist, and evaluation by a hydrologist along with a mitigation plan. She also said that there is no certification provided on the yield plan which is required by the Town regulations.

A short discussion ensued about the regulations that do not require a depiction of a house with a side yard on the plan, and that it was done by the engineer to provide more information to the Board. The Board also asked Ms. McCourt some questions about the driveway being too close to the wetland buffer on lot 18, and she responded that there is a two foot distance between those.

- Raya Jean Zaczyk, 6 Dunmoore Drive, spoke about the wildlife; the need for a hydrology study to be done later, when there is not so much water; water table; driveways; rural character; overcrowding the schools; traffic; taxes; and whether there will be any impact fees for the new houses. She concluded that 34 houses was not reasonable.
- Jean Rich, 11 Nesbitt Drive, spoke about the taxpayers' concerns with the number of lots proposed and whether these were addressed; high rank habitat; schools; water; wildlife; certifications; hydrology; and the fact that the hydrologist should be chosen independently and not by the project engineer. She also spoke about the Master Plan and that this development was not in line with it; that the school evaluation was not adequate and that there are a lot more kids than it stated; and that the Board can impose other conditions.

Discussion ensued about abutters having similar concerns while Ogden Drive was developed; the plans to eventually connect Smokey and Nesbitt in line with the Master Plan; the intent of open space development to keep more open space from being impacted, which is where most of the wetlands and habitat are.

- Ms. Rich stated that Ogden had less lots and that this subdivision was a different type of neighborhood, and that the elementary school is overcrowded.

Mr. Glasier noted that the approval of the yield plan does not automatically set the final number of lots in the subdivision, it is only a maximum number that the developer can propose on the actual plan, which will also be reviewed in detail later. He also spoke about the need to consider the hydrology study results before the final approval.

- Sandra Crystall, 1 Shoreview Drive, Bow Conservation Commission, spoke about the wetlands conservation district that was set up to protect unique natural areas, which is what the vernal pools are and this is what the vernal pool buffers are there for. The issue is with extending Smokey Road right through the vernal pool buffer. Should all the valuable areas on this lot be taken into consideration to not be impacted, the yield plan, or any other plan will not look like what has been presented. These unique places are defined by our ordinance as unique habitats with unique wildlife, and our buffers are pretty ridiculously small, and if we cannot stay out of the 50 foot buffer, it is absurd. Ms. Crystall concluded that there cannot be by any expectation of fitting 34 lots when all these unique features have been taken into account.
- Ben Soucy, 2 Ogden Drive, provided an opinion that the Board should ask for a plan with the minimum required waivers. He said that the fact that other subdivisions were done incorrectly should not relate to this one, which has four major wetland crossings. Mr. Soucy also said that the engineer's first plan was done incorrectly, where abutter definition was not right, thus abutting lots were not sized correctly, and concluded that the Board should start with requiring no waivers at all for any plans going forward. He added that the Town does not have wetlands police and it is up to the Board to make sure that such policing will not be necessary after any approvals.

Discussion ensued about the reality and that waivers and conditional use permits (CUP's) are part of the regulations and are often granted or no lots would be developed at all. Considerations for granting a CUP were also discussed and what evidence may be needed for such a decision to be made and whether the Board indeed has this evidence. It was noted that the road wetland crossings were of concern as well as the runoff and whether it was reasonable to have so many wetlands crossings.

- Ms. McCourt responded that the first plan was prepared according to the open space regulations and the abutter definition was specified by an attorney later, thus the plan was not done incorrectly; and that she designed the road in accordance with the NHDES alteration of terrain standards and there will be some fill and a detention pond; however, this was the yield plan, and not the actual design plan, which would be reviewed in further detail.
- Robert Varney, 9 Nesbitt Drive, asked if there was an actual plan for Smokey and Nesbitt to be continued and that there was no evaluation of sensitive resources and never a consideration that there was going to be a loop road connecting the two dead end streets.

Mr. Oldenburg explained that it was a planning tool in the Town regulations when the dead end roads were planned so that there is possibility to connect them at some point in time.

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- Tom Sokoloski, from TES Environmental Consultants, wetland scientist for the project, spoke about the purpose of the yield plan and that it was to demonstrate the number of lots on the parcel that would be allowed, and that it is not intended as an elaborate design which will be used for the actual subdivision. The open space plan will be the ultimate one and that it is planned to minimize all the impacts and preserve a lot of the areas that are so concerning to abutters.

Mr. Glasier noted that the reasonableness standard does require to evaluate wetlands impacts on the yield plan.

- Kristen Cook, 7 Smokey Road, spoke about Smokey Road currently ending right before the wetland buffer and wondered how it could be continued through.
- Aliksandr Shakhau, 9 Ogden Drive, spoke about the traffic study not including Ogden Drive and that it should be rectified as he was very concerned with Ogden Drive being affected. He also spoke about impacts to the schools, and that there was no follow up from the school administration on the school impact study.

Discussion ensued about the fact that the yield plan does not require to address either a traffic or a school study, only the number of lots and environmental impact and that the former should be addressed at an appropriate time. It was also noted that the School Administrator did provide a response to the questions from the Board.

- Peter Cook, 7 Smokey Road, noted that a letter was submitted to the Board by abutter Dave Obolewicz about the connectivity of the vernal pools around Smokey Road proposed extension and spoke about concerns with the water quality.
- Joseph Lane, 8 Smokey Road, spoke about the small distance between the houses on 7 and 8 Smokey Road and the grades and wondered how a road can be put through there.
- Jean Rich, 11 Nesbitt Drive, asked how many Board members were out at the sitewalk on Saturday and said she was concerned that there was not a good representation of the Board there.
- Crystal Proulx, 26 Bow Bog Road, asked how many Board members walked the whole site.

Ms. Hayden said that she felt offended by someone trying to allude that the Board has not seen the site enough to make an informed decision.

- Frank Ritter, 77 Bow Bog Road, claimed that there were prime wetlands on the site as shown by Google and that the engineer's assumptions that most of the site is not a prime wetland was wrong.

Ms. McCourt and Ms. Crystall corrected Mr. Ritter by confirming that there are no prime wetlands on the property.

Having nobody else to address the Board, Mr. Oldenburg closed the public hearing at 9:31 PM.

Discussion ensued about the following:

- That Ms. McCourt was given guidance and she added all the requested items to the plan, although the number of lots remained at 34 as the maximum;
- The three of four wetland crossings by the road were identified in terms of square footage from the actual design and the fourth was calculated based on the open culvert placement numbers;
- The new yield plan does minimize the impacts, however, the proposed road is not improving the wetlands and there are still impacts from the road and lawn drainage;
- The Board had concerns with the amount of wetland and wetland buffer impacts;
- Other plans that have proposed impacts to wetlands and were approved were not as extensive in impact amounts;
- Connecting Smokey Road through vernal pool buffers;
- Whether the access point proposed for the development is reasonable, although it was the best compromise that was found;
- The notion that the most concerns were about the impacts to the wetlands and the number of proposed lots;
- The latest sitewalk had provided a much better picture of what the site looks like in terms of wetlands;
- The new yield plan seemed somewhat similar to the old one, and still impacted every wetland on the property and whether it was necessary;
- According to Jenn McCourt, proposed wetland impacts are only 1% of all the wetlands on the property; and
- The Board having no issues with lots on the Boulder cul-de-sac and on Robinson Road, but the ones in the middle and the road itself;

Then various access and road designs were discussed, which included a road through Nesbitt Drive only with a waiver for a 12 lot maximum for a dead end street; providing a gated emergency exit through Smokey Road; or accessing the site from Robinson Road.

Then the Board further discussed the reasonableness of wetland crossings and how secondary impacts are also of concern with people impacting the wetlands after their lots have been developed. It was noted that the engineer was given guidance at the previous meeting without too much specifics about how to put the pieces of the puzzle together, and that the number of lots that was presented again was too high. Different scenarios were discussed where the road design would limit the number of lots.

Ms. McCourt noted that the Board had approved plans before without considering the secondary impacts and that Smokey connection is needed to get the lots in. She also asked if the hydrology report was still necessary if the Board was inclined to limit the number of lots. Having received a response from the Board, that there were plenty of concerns expressed about the wells draw down, Ms. McCourt asked if the Board could request, from whomever it chooses, to not do any work until there is a plan approved.

The Board then discussed the qualifications and costs of the two specialists who offered their services for the hydrology study. Lewis Engineering did not have a hydrogeologist on staff and GZA proposal needed verbiage clarification on the scope of work. General consensus was that GZA was more qualified to do such work and the Board asked Mr. Taylor to clarify the scope of work with them. It was also agreed that no company would be hired until there is a design approved.

Mr. Berube made a motion to continue the public hearing to the Planning Board regular meeting on May 16, 2019 at 7:00 PM in Room C at 10 Grandview Road, Bow, NH. Mr. Lindquist duly seconded the motion and it passed with a unanimous vote in favor.

The Board took a break from 10:15 PM to 10:20 PM. After the break Mr. Oldenburg noted that an abutter to the Gardner subdivision submitted a letter right before the meeting that was accompanied by several articles, including one from the Bow Times. Members discussed inaccuracies that the article had published and whether it was necessary to contact the newspaper to correct the record. The Board decided not to offer any corrections.

OLD BUSINESS

Pinnacle Lane bond reduction request.

Mr. Oldenburg read the item into the record. Ms. Crystall returned to the table and was voting. Bob Beaver introduced himself as the owner of the High Meadows (Pinnacle Lane) Subdivision. Mr. Beaver also introduced Pat Panciocco as his attorney. Ms. Panciocco gave a brief historical overview of the bond/letter of credit reduction issue for the Pinnacle Lane subdivision and said that she was not sure why it was not reduced before. She noted that there is a two million dollar house out there that is ready but unable to get a certificate of occupancy due to the same issues that are holding up the letter of credit. Mr. Beaver also distributed a handout from TFMoran with their calculations for the remaining work on site based on their most recent visit.

Discussion ensued about the following:

- Issues on site (failing drainage, silt, detention pond, erosion, etc.) and why the Board had asked for a restoration bond before it can partially release the letter of credit;
- The inability of the developer to secure a restoration bond due to having a letter of credit that is not being released by the Town;
- Letter of credit expiring in May 2019 and it is a self-calling bond;
- NHDES alteration of terrain permit requirements and the letter of violation;
- Detention pond construction issues as it was not built according to its original design;
- Remaining work on site according to TFM estimate and whether restoration is part of that punch list;
- Parameters of a substantially complete road and the Board of Selectmen making that determination for every road in Town;
- Bond statute that does not allow the Board to hold the full bond if improvements are being made; and
- The current state of the site and lack of progress with addressing the issues and the fact that the construction bond (letter of credit) will not cover any restorative work or alteration of terrain related work, that is under NHDES jurisdiction;

Chair Oldenburg noted that there was a resident in the audience. Chris Schwieger from 6 Dunbarton Center Road introduced himself and distributed a handout with pictures of his property and all the erosion problems that have been occurring there since he purchased the house. He also said that the State is now making him move his driveway which was not installed according to the issued permit. Another problem is that the property bounds have not been installed and his neighbor may have encroached onto his property as the property lines are not defined. Mr. Schwieger also noted that the people were living in the

other house on Pinnacle Lane without a certificate of occupancy and that the developer had promised many times to fix everything, however, not much has been done.

The Board discussed the impossibility of issuing a certificate of occupancy to anyone until the issues on the site have been addressed and that there is no such thing as a temporary residential certificate of occupancy. It was also noted that it is not the Planning Board's jurisdiction when such certificates are issued. Then discussion focused on what needs to be done on the site and the fact that the Board would need to come out and walk the property before any further discussion could take place.

General consensus was that Mr. Taylor will arrange a sitewalk with TFMoran, who represent the developer, by himself to see what the current state of the site is and then the Board will walk the site on May 16th before their regular meeting, at which the bond issue could be taken up again.

ADJOURNMENT: *Mr. Lindquist made a motion to adjourn, and Mr. Berube duly seconded. Motion passed unanimously. Meeting adjourned at 11:13 PM.*

Respectfully submitted,

Tony Reynolds,
Secretary