

PLANNING BOARD
Monday, January 4, 2021
Public meeting convenes at 7:00 p.m.
Appointments scheduled to begin at 7:30 p.m.

Due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically. Please note that there is no physical location to observe and listen contemporaneously to the meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, this is to confirm that we are:

- a) Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means;*

We are utilizing the Zoom platform for this electronic meeting. All members of the Board have the ability to communicate contemporaneously during this meeting through the Zoom platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following phone # 1-929-205-6009, 1-312-626-6799 or 1-301-715-8592 Meeting ID 889 9931 3926 and passcode 803584, or the following website:

<https://us02web.zoom.us/j/88999313926>
Meeting ID: 889 9931 3926
Passcode: 803584

- b) Providing public notice of the necessary information for accessing the meeting;*

We previously gave notice to the public of how to access the meeting using Zoom, and instructions are provided on the Town of Chesterfield website at: <https://chesterfield.nh.gov/>.

- c) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access; If anybody has a problem, please call 603-499-6534 or email at: tricia.lachenal@nhchesterfield.com.*

- d) Adjourning the meeting if the public is unable to access the meeting.*

In the event the public is unable to access the meeting, we will adjourn the meeting and have it rescheduled at that time.

Please note that all votes that are taken during this meeting shall be done by Roll Call vote.

Present: James Corliss, Jon McKeon, John Koopmann, Joe Parisi, Roland Vollbehr, Jeanny Aldrich, and Joe Brodbine.

Call to Order

James Corliss called the meeting to order at 7:05 PM.

Seat Alternates

Corliss asked if Maibusch has been appointed at alternate. Maibusch noted he has not been sworn in to date.

Review of the Minutes

December 21, 2020

Joe Parisi moved to approve the minutes from December 21, 2020 as amended. The motion was seconded by Joe Brodbine and passed by roll call vote.

Appointments (7:30)

Town of Chesterfield Planning Board - A public hearing will take place to review and vote on the petitioned warrant article to Amend the Official Zoning Map of the Town of Chesterfield to change the present zoning of Map 11B, Lot A-12-4 from Planned Development District #3 to Commercial/Industrial.

Corliss noted that this is a petitioned change and asked if there was anyone here from the petitioners that wanted to address the petition. Nobody spoke up about the petition. Parisi noted that he wanted to note that the Planning Board is not approving or disapproving this, just noting if the Board supports the petition or does not support the petition. Corliss noted that the Planning board is recommending or not recommending the change.

McKeon asked if Corliss asked the Town Attorney if there is anything different or out of the ordinary with the petition because it is a PDD. Corliss noted that he did ask, but does not remember the exact response, but noted that the request is legal. McKeon noted that he wanted to make sure that all information was gathered for the petitioners so that it does not get approved by the Townspeople only to find out that it cannot be done because it is a PDD. Corliss noted that the Attorney believed it could be done. Corliss noted that the lot in question is Ames Performance. McKeon noted it is also the Fire Department and the residential lots. Corliss noted the petition only mentions Map 11B, Lot A12.4 which is only Ames Performance. Corliss noted that he looked at what is allowed and none of the things they do are prohibited. Corliss noted that he does not see an advantage in changing from PDD to commercial as this will change the front setback from the current 30 feet to 50 feet, losing 20 feet of their lot. Corliss noted that his understanding is that they were concerned about going back to the Zoning Board if they decided to grow their business. Corliss noted that he believes the petition would be a net negative for the petitioner. Corliss noted he does not see a reason the petitioner would pursue it. McKeon noted that when the PDD went through, he had suggested that they include an area to expand in the future and McKeon noted that he believes they had done that. Koopmann noted that the PDD regulations are designed to promote innovation in land planning outside the standard ordinances. Corliss noted that he believes the Planning Board should not recommend it, as it is bad for the applicant to make the change or at least not helpful. Parisi noted he would have a hard time not recommending it. Parisi noted that the applicant has something in mind. Parisi noted that they are smart people and noted that following Corliss' train of thought is believing that what they are asking for is bad for them. Parisi noted that he is not sure he is willing to accept that train of thought. Parisi noted he would like to hear them out on why they would like the change.

Joe Parisi moved to continue the Public Hearing on reviewing and voting on the petitioned warrant article to Amend the Official Zoning Map of the Town of Chesterfield to change the present zoning of Map 11B, Lot A12.4 from Planned Development District #3 to Commercial/Industrial to January

18, 2020 at 7:30 PM via Zoom. The motion was seconded by Jon McKeon and passed by majority. (No: Brodbine)

Brodbine noted that they are asking for the change and have had more than a month to explain why they would like the change.

Orange Door Design, LLC – Application for a Minor Subdivision for property located at 745 Route 9 and Poocham Road (Map 13 Lot H19) consisting of approximately 27 acres in the Rural/Agricultural Zone and 2 acres in the Residential Zone. This is a public hearing and may result in approval or denial of the application.

Wendy Pelletier was present for the applicant.

Corliss noted that he received an updated plan today and asked what changed. Pelletier noted that the changes were made from the notes from the last meeting. (Tax map numbers and acreage to 100th)

Joe Parisi moved the Orange Door Design, LLC application for a minor subdivision is complete enough for review. The motion was seconded by Joe Brodbine and passed unanimously by roll call vote.

Corliss noted that (showed on the plan on his screen) that there is rebar set on the plan where the Planning Board standard require a monument. Parisi asked if the high and low points were addressed on the plan. It was noted that they are not shown on the plan. Koopmann noted that high and low points are required for each lot. Parisi noted that test pits are required on the non-developed lot. Land Development regulation 403.2B requires test pits on lot 1. Brodbine noted that there are 2 existing driveways onto Route 9. Pelletier noted that they are not proposing anything, both driveways currently exist. Pelletier noted the paved driveway has State approval. Parisi noted that the Land Development Regulations also require drainage vectors. It was noted that the applicant has not asked for any waivers in the application. McKeon noted that one monument has been noted as missing, but there is another place where a monument will be required.

Pelletier noted that part of the application is based on having the portion of Poocham Road discontinued at Town meeting. Pelletier noted it is shaded on the plan and noted in the narrative. Corliss noted that a conditional approval with that condition would mean that if the Town did not approve the discontinuance, the approval would be void. Pelletier noted that she is aware of that and noted that the only lot in Town that this will affect is this lot and the likelihood of it not passing is slim.

Corliss noted that if the board is inclined to approve the subdivision, then this could be a condition. It was noted that without this piece, the larger lot does not have enough frontage.

Corliss noted that the applicant will need to come into compliance with 403.2B, have monuments installed at all lot line intersections with road and the Town will have to grant the discontinuance of that portion of Poocham Road. Vollbehr noted that the portion adjacent to the Poocham Road even though it is not directly adjacent is considered part of Poocham Road and that means the frontage is there now.

Public input:

Angie Church was present as an abutter and noted that she attended the meeting to see what was going on. Church noted that it is hard to live on Route 9 and noted it is hard to hear about more houses going in that area, although she is happy it is only 2 more houses. Corliss noted that it would only be one additional house as there is already an existing home on one of the lots. Church noted that she is aware that more housing is needed, but she is focused on how dangerous this section of

Route 9 has become with traffic and is also concerned about the wetlands in the area. Sandy Cormier (Owner of property) noted that the plan is that Poocham Road will be the entrance for the new lot. Church noted that Poocham Road also must enter Route 9 and there is a lot more activity during vacations and also a lot of motorcycles. Cormier noted that originally, they had presented at 3 lot subdivision, but did change it to the 2 lots that are in front of the board now to be more respectful of the area.

Corliss noted that because this application includes a need to pass through Town Meeting, he would like to get Town Counsel information on how a conditional approval wording could be legally achieved and bring it back to the next meeting. McKeon noted that getting Town Counsel input is in everyone's best interest. McKeon asked if the petition had been submitted yet. Pelletier noted that the deadline is the end of January.

Joe Parisi moved to continue the hearing for Orange Door Design, LLC to January 18, 2021 at 7:30 PM via Zoom. The motion was seconded by Roland Vollbehr and passed unanimously by roll call vote.

Town of Chesterfield Planning Board - A continuation of a public hearing will take place to review and vote on the proposed addition of section 220 "Spofford Lake Watershed Steep Slope Overlay District Ordinance" to the Chesterfield Zoning Ordinances. Please see the Town website for full draft of proposed regulation. (chesterfield.nh.gov).

Koopmann noted that the subcommittee came up with some language for an exception. Koopman noted that the language as presented was intended not for approval from the Planning Board, but for discussion. Kopmann noted that the vote was not unanimous.

The new wording proposed by the Planning Board Sub-committee is as follows:

Proposed B under Exceptions:

Development on Lots of record may be exempted from these restrictions on slopes less than 20% if the landowner presents a professionally engineered development and enforceable maintenance plan that demonstrates permanent improvement from runoff to surrounding properties or waterways approved by code enforcement or their designated reviewer. Any third-party review required will be at the expense of the landowner.

Koopmann and Corliss both thanked the sub-committee members and members of the public that worked hard on this document.

McKeon noted that he was looking at the document and spent some time on it and noted that he did not see how "enforceable maintenance plan" could be defined and therefore he came up with additional potential wording to be included in the proposed new "B" under exemptions.

McKeon noted that he would suggest the following:

Development on Lots of record may be exempted from these restrictions on slopes less than 20% if the landowner presents a professionally engineered development and written maintenance plan that demonstrates permanent improvement from runoff to surrounding properties or waterways approved by code enforcement or their designated reviewer. Any third-party review required will be at the expense of the landowner. The written Maintenance plan shall include the frequency of inspection (duration between inspections, frequency due to rainfall events), method of maintenance. The inspection of the maintenance will be performed by a third party and will be completed at a

minimum of 90 day and Max. 180 days prior to the described deadline of the maintenance duration. The cost of the inspection by the third party will be borne by the property owner. the Third-party inspection agency will provide notice to the property owner of any outstanding maintenance issue remaining as outlined in the written maintenance plan. The items within the document issued by the third-party inspection must be completed within 90 days of receipt of notice by the property owner. If the items are not completed as outlined in the third-party inspection document within the 90 days after receipt of the property owner, the property owner agrees to compensate the Town of Chesterfield the cost of completion of outstanding items Identified by the Third-party inspection report.

Corliss noted he would like to see if the board is interested in adding what the sub-committee came up with to the document. Vollbehr noted that Spofford Lake is real jewel in the Town and noted that adding exemptions to the ordinance just adds loopholes. Vollbehr noted that he believes that the new wording should not be included, and no changes should be made. Vollbehr stated that some have said it is a property grab and the ordinance is too restrictive but noted that he feels that property rights come with an obligation to not infringe on neighboring properties and that includes the Lake and all of the abutters to the Lake. Vollbehr noted that an engineered plan can fail and spoil the water quality. Vollbehr noted the lake is for the Town's recreation in addition to the property owner's enjoyment. Koopmann noted that property rights are a valid concern, but this ordinance is not something unique to Chesterfield. Koopmann stated that this type of regulation is incorporated in Towns throughout New Hampshire and RSA 674:16 deals with Zoning grant of power which allows a community to zone selectively for the benefit of the community. Koopmann stated that 374:21 allows and encourages for innovative land use controls and one of the subparagraphs deals specifically with environmental concerns. Koopmann noted he is not opposed to adding language but is technically opposed to having an exception unless it is a reasonable, simple and enforceable one. Koopmann noted that there would need to be a mechanism to ensure that any maintenance plan follows the land. McKeon noted it would be part of the permitting process and therefore would follow the land.

Brodbine noted that he believes that this gives the Planning Board what is needed. Brodbine noted that it gives the Planning Board the ability to ensure that the lake is safe but is flexible for areas that need flexibility. Corliss noted that if there is not a steep slope on the property, it will not affect it. Corliss noted that there is no final wording at this point to be presented to the public.

*Jeanny Aldrich moved to amend the Spofford Lake Watershed Steep Slopes Overlay District Ordinance to include the wording from McKeon as follows:
Exceptions B:*

Development on Lots of record may be exempted from these restrictions on slopes less than 20% if the landowner presents a professionally engineered development and written maintenance plan that demonstrates permanent improvement from runoff to surrounding properties or waterways approved by code enforcement or their designated reviewer. Any third-party review required will be at the expense of the landowner. The written Maintenance plan shall include the frequency of inspection (duration between inspections, frequency due to rainfall events), method of maintenance. The inspection of the maintenance will be performed by a third party and will be completed at a minimum of 90 day and Max. 180 days prior to the described deadline of the maintenance duration. The cost of the inspection by the third party will be borne by the property owner. the Third-party inspection agency will provide notice to the property owner of any outstanding maintenance issue remaining as outlined in the written maintenance plan. The items within the document issued by the third-party inspection must be completed within 90 days of receipt of notice by the property owner. If the items are not completed as outlined in the third-party inspection document within the 90 days

after receipt of the property owner, the property owner agrees to compensate the Town of Chesterfield the cost of completion of outstanding items Identified by the Third-party inspection report.

The motion was seconded by Joe Brodbine.

Board discussion:

Vollbehr noted that from what he is reading, no engineered plan would have to demonstrate that it would handle a major rainstorm event. McKeon noted that he was attempting to provide language and responsibilities for what deeds to be in the maintenance plan and this allows a lot owner to improve the lot over what is currently in place. That improvement would handle a rain event better than what is currently in place. Parisi noted that he is alright with the suggested wording, but because there has not been any public input, he would vote against it. Aldrich noted that there were several comments at the last meeting from the public about needing exemptions.

Vote: (Yes: McKeon, Brodbine, Aldrich, Corliss) (No: Vollbehr, Parisi Koopmann)

The wording as suggested by McKeon will be included in the draft ordinance.

Public Input:

Val Starbuck noted that she was a member of the Sub-committee and is grateful for McKeon's clarification on the exception as there was considerable discussion on the topic of maintenance plans. Starbuck noted that she is happy with the re-wording. Cheryl Maibusch noted Regarding 100-year floods, properties without an engineered plan such as most already in existence around the lake will have a far greater negative impact than properties with an engineered plan. So, requiring an engineered plan for an exception should not be a harm to the lake. Maibusch noted that she would also submit that any warrant article relating to slopes that is put before the Town to vote should be first be vetted by professionals in the engineering field to determine the feasibility of the plan, as well as by legal professionals to determine the legality of the plan to not put something up for a vote that is not actually feasible or legal or that has too many gray areas subject to litigation. Corliss asked if Maibusch had any suggestions. Maibusch noted that she is neither an engineer or a legal professional but that if those professionals took a look at the proposal prior to actually submitting it for a Town vote, they could test the language to see where any weak areas were so, if approved, the Town wouldn't have a new ordinance that was actually more like a sieve, creating more questions than answers. Corliss noted that Mr. VanCor also spoke to the qualifications of the Planning Board in his comments and not in a positive way. Christopher Oot noted he wanted to start with thanking the Planning Board and the Subcommittee for all the hard work put into the proposed ordinance. Oot noted that he believes that the engineering plan requirement should include what it is supposed to achieve. Corliss noted that the ordinance states "it needs to demonstrate permanent improvement from runoff to surrounding properties or waterways". Oot noted that if it improves the property, that is a good thing, but noted that there should be a standard design that a land owner has to accomplish. Oot noted that current wording leaves room for someone to improve, but not up to Town standards. Oot noted that he is happy to see the language addition around maintenance, but is concerned about enforcement. Corliss noted that enforcement was attempted to leave where it is by law, but also allow Code Enforcement to designate when necessary. McKeon noted that the wording states a 3rd party will do the inspections and provide any necessary improvements/changes to the landowner and then after 90 days, the owner agrees the Town can hire someone else to do the necessary maintenance items at the property owner's expense. Oot noted that the burden will be on the Town to make sure it all happens. Tom Woodman noted that he has been listening to the meeting and everyone talk but noted it does not seem like the board has stopped to think about how it will affect a lot of people. Woodman noted that the wording for the exemption, is no exemption at all and does not allow someone to make small changes without paying a lot of money for an engineered plan. Woodman noted that an exemption should be just that, the ability to go before the

board, show that there will be no increase in runoff and be done. Woodman noted that there is nothing to improve the existing properties on the lake that have contributed and will continue to contribute to the degradation of the lake. Woodman noted that the slope as mentioned in the proposed ordinance is not steep and encouraged the board to look up the word steep. Woodman noted that he believes the board is going way overboard and not realizing that this will render some people's land useless. Woodman noted that the ordinance if passed will cause a lot of issues. Brodbine noted that this will go into the Zoning Ordinances and that will allow someone to request a variance. Corliss noted that variances must meet 5 criteria and that is not easy to do. Parisi noted that the Planning Board is only coming up with language to present to the Town, and the Town will approve or disapprove with their votes. Bob Maibusch noted that the Town gets to vote, but most of the Town is not personally affected by the ordinance and it seems unfair that everyone gets to vote on something that will not affect them. Starbuck noted that there are 2 towns in NH that have ordinances specifically similar to Chesterfield, which are Holderness and Barnstead. Starbuck noted that the quality of the lake affects all residents. Starbuck noted that the silt and nutrient runoff if allowed to continue will set the stage for weeds to continue to grow and for the fish to die. Corliss noted that the Planning Board and the Public should all digest the information presented. Corliss noted that the hearing should be continued as much of the information was just received. Jon Dix noted that the map is not posted on the website. Dix noted that he would like the map posted on the website. Dix noted that if his land was on a prohibitive slope, and he had an invasive weed choking out a good tree, then he would have no way to remove the invasive weed according to the proposed regulations as written. Corliss noted there is a square footage minimum that would be taken into consideration. Aldrich noted there is an exemption for forestry listed in the proposed regulation. McKeon noted that preventing the removal of the weed is not the intent or spirit of the document. Bruce Soltys noted that the proposed regulation is broad and can be seen as overreaching. Soltys noted that will turn a lot of people off. Soltys noted that a lot of work has gone into this document but something so broad will make people worry. Soltys noted that it is overreaching and limiting. Soltys noted that everyone wants the same thing, for the lake to be usable and pristine, but starting with something that can be so broadly interpreted is not a good idea. Aldrich noted that an exception for invasive plants could go in 220.7 B. Corliss noted that in a subcommittee meeting, a stump was used as an example. Corliss noted that he does not believe that the Town has any interest in one stump but would be interested in clearcutting and removing a bunch of stumps. Corliss asked if the board had any interest in putting in more language. Brodbine noted that it is impossible to address every situation that may come up. Briony Angus noted that she submitted comments to the Board today via email as well which included some edit suggestions to the exemption language. Angus noted that the goal was to make it more site specific and less broad. Angus noted that Roads End Farm is at the far extend of the watershed and noted that small agricultural use changes would have little to no impact in comparison to subdivisions and developments closer to the lake. Angus noted that there is no difference in the ordinance to differentiate the two. Angus noted that a greater degree of flexibility and looking at conditions would make the ordinance easier for people to pass. Angus noted that a PE plan should also not be required for all projects. Angus stated that smaller projects farther away from the lake should not require a full PE plan. Angus noted that Code enforcement should have the ability to waive the requirement for a full plan. Starbuck noted that the clipping of vines or invasive weeds that are harming trees is not what the intent of preserving the vegetative cover means. Starbuck noted that it is really about development and removing vines is not development. Starbuck noted that the removal of vines is already allowed, as long as there is no excavation and removing of the roots. Parisi noted that he would like to put a deadline on when people can submit information to the board before the next meeting. Parisi noted it is not fair to anyone that information is coming in 2 hours before a meeting. McKeon noted that a date should be picked and then everyone will know

the deadline. Koopmann noted the day should be the Thursday prior to the meeting to give Lachenal enough time to get it out to the Board.

The board noted that public comment is to be received by Lachenal the Thursday before the next meeting.

Jon McKeon moved to continue the hearing on the proposed addition of section 220 "Spofford Lake Watershed Steep Slope Overlay District Ordinance" to the Chesterfield Zoning Ordinances to January 18, 2021 at 7:30 PM via Zoom. The motion was seconded by John Koopmann and passed unanimously by roll call vote.

Items for Discussion (7:00)

Pine Grove Springs request for final approval

Corliss noted that he compared the Storm Water Management Easements and Covenants to the documents that went back and forth previously and he found them to be the same documents.

Corliss noted that the board has received the NHDES subdivision approval. Corliss noted that the documents to be recorded are the documents that were last seen by the board, but they have not been filed to date and they indicate an August date that is not filled in.

Corliss noted that he has all the documents via PDF and can sign them and forward them as a set back to the applicant for printing. Brodbine noted that Jeff Scott sent a series of pictures and he is not sure of the significance of the package is for the applicant. Corliss noted it has no bearing on the final approval. Corliss noted that he was asking that the pictures become part of the record as his intent was to capture the current state of Channel Road. McKeon noted that is good for the applicant and Town. Koopmann asked how future property owners will be aware of the pictures if they are just part of some anonymous record at the Town. McKeon noted they can be placed in all 4 property files. Maibusch noted that he has no issue with pictures being part of the record, but does have issue with people on his property without permission. Parisi noted that the wetlands were to be delineated by monuments and looking at the pictures, they are clearly marked with stakes and green flags. Mr. Maibusch noted that indeed the monuments had been placed, in addition to the flags. Corliss also showed the letter from the applicant's surveyor confirming that the monuments had been placed. Koopmann noted that he was one of the people that engaged in photographing and it was not to delineate wetlands, just to show the end of the property and the line of Channel Road. Koopmann noted Channel Road is Town Owned and would require selectmen approval before any changes were made. Koopmann noted that the photos were just a way to memorialize what is there upon approval.

Corliss noted that he does not see anything left for Pine Grove Springs precedent to final approval.

Joe Parisi moved that Pine Grove Springs has satisfied the conditions of the Conditional Approval (signed May 19, 2020) and be granted final approval. The motion was seconded by Joe Brodbine and passed unanimously by roll call vote.

January 18, 2020 – Holiday

It was noted that January 18th is a Holiday and Lachenal is unavailable to take minutes for a meeting. Aldrich noted that is the last day to hold a first public hearing on adoption or amendment of zoning ordinance, historic district ordinance or building code if a second public hearing is anticipated. Corliss noted that we would have to notice by noon tomorrow. Aldrich noted that the

BOS will be bringing something to the sign ordinance. Lachenal noted that she would need the information by Tuesday at noon to publish it in the paper.

Parisi noted that it should be left on the 18th and ask someone else to be the secretary.

The board will meet on January 18th. Lachenal will not be present. Corliss noted that hopefully the selectboard will get someone to take minutes.

Items for Information

Other Business

Items for signature

Adjournment

Jon McKeon moved to adjourn at 9:48 P.M. The motion was seconded by Joe Brodbine and passed unanimously by roll call vote.

The next meeting will be held virtually at 7:00 PM January 18, 2021, please see the Town Website calendar (<https://chesterfield.nh.gov/events/>) for the meeting ID.

Respectfully Submitted by:

Patricia Lachenal

Planning Board Secretary

Approved by:



James Corliss, Chair

19JAN2021

Date