

**TOWN OF CHESTERFIELD, NH
PLANNING BOARD**

Monday, February 3, 2020

Present: Joe Brodbine, John Koopmann, James Corliss, Roland Vollbehr, Jon McKeon, John Pieper, Joe Parisi and Norm VanCor.

Absent: Davis Peach

Call to Order

James Corliss called the meeting to order at 7:03 PM.

Seat Alternates

John Pieper was seated for Davis Peach

Norm VanCor replaced Jon McKeon for the Headwater Precision application only.

Review of the Minutes

January 20, 2020

John Koopmann moved to approve the minutes from the January 20, 2020 meeting as amended. The motion was seconded by Jon McKeon and passed with one abstention by roll call vote. (Abstain: Parisi)

Appointments

Town of Chesterfield Planning Board - A public hearing will take place to review and vote on proposed amendments to the Chesterfield Zoning Ordinances as follows:

Addition of Ordinance 220 Spofford Lake Watershed Steep Slope Overlay District

Corliss noted that the board held the first public hearing on January 20 and some changes were made to the original ordinance. Corliss asked if any of the members of the public needed an updated copy of the proposed ordinance. Nobody in the public needed an updated copy.

Corliss noted that the board received communication today from Mark Puffer of PretiFlaherty. Jason Stock was present and noted he was from PretiFlaherty. Corliss noted that there were a number of concerns in the letter and one of them seems to be a failure to include Timber Harvesting as being exempt.

Parisi asked if the board was to make any changes tonight to the proposed ordinance, then there would not be time to have it before the Town for this year's town meeting. Corliss noted that yes, this is the second hearing and it will either pass as presented tonight or will not be on the ballot at Town Meeting this year.

Koopmann noted that the proposed ordinances do not include the term "silviculture", but noted that he did not see it in any of the examples of steep slope ordinances he reviewed from other

communities. Koopmann noted that it is also clearly defined that this does not apply to any existing parcels.

Parisi noted that he was confused by the concern expressed in the letter regarding how this could limit timbering as it is noted as an exception.

Corliss noted that it is not the intent of this board to regulate forestry, logging or timbering as all of that is under the control of the State. Stock noted that they reviewed the regulations and there are several places where the proposed ordinance conflicts with State law. Stock noted that the language does not appear the same for preemptive as it does for prohibitive. Stock noted that there is also a question of driveways as sometimes people refer to woods roads as driveways and some towns require a permit. Stock noted that the letter indicates suggested language as follows: (Read from letter) "The requirements of the Overlay District established hereunder are not intended to prohibit or limit in any way forestry operations that are promoted by RSA 672:1, III-c and other State statutes, as long as forestry operations are practiced in accordance with New Hampshire Best Management Practices for Erosion Control on Timber Harvesting Operations (2016) as published by UNH Cooperative Extension."

Stock noted that while he appreciates that the board saying it is not trying to regulate this, the wording does not support that and it does not work the way it is worded.

Corliss asked if the Town adopted it as written and there was a portion of the regulation in conflict with State Law, State Law would override the ordinance and the Town could not enforce the ordinance. Stock noted that is what happened in Rockingham Superior Court. Stock noted that they are not comfortable with the passage of a flawed regulation simply because the Town is out of time. Stock noted that nobody wants to have to go to court to be able to practice forestry. Stock noted that there are already a lot of eyes reviewing timber, there is adequate regulation and the Town does not have the authority.

Bruce Potter (resident) noted that he has some forestry land and feels like these regulations are unduly taking value out of his property. Potter noted that it would be unfair to make him go to court to be allowed to do something that is lawful. Potter noted that if you utilize the Best Practices, none of the silt goes where it is not supposed to go.

Tom Woodman (Jackson Hill) asked if the 15% slope over 50 feet was a 7.5 foot drop. McKeon stated it was. Woodmann noted that he feels that is prohibitive and is not a big slope. Corliss noted that the Keene side of Chesterfield hill is only 9%. Woodmann noted that he has a lot of woods in town that he has no intention of logging, but noted that someone in the future may desire to do so and this regulation will take a lot of value out of his land. McKeon noted that this regulation is not prohibiting logging. Stock noted that if this regulation passes, and he logged the property, he would be breaking the regulation and therefore the Town is attempting to prohibit logging. Stock noted that the regulations clearly exempt logging from one area and not the other.

Bob Maibush asked if there is a slope of 15%, can the slope be amended. McKeon noted it cannot. Maibusch noted he is against the regulation.

Alex Winn (resident) noted that the problem with the 15% is that the State allows a septic on a 30% slope and asked why a house cannot be built on an equal slope. Winn noted that he does not want overpopulation but would like people that own property to be allowed to build on that property. Winn noted if this regulation is passed, it will be easier for it to be acceptable in the rest of town as well.

Corliss noted that there is a clear area in Town that the board is tasked with protecting.

John Caveney noted that he has been in forestry for a lifetime and he has been involved in managing timberlands that far exceed the 15% slope and methods are used to mitigate discharge and effectively keep soil in place. Caveney noted that this is really a taking. Caveney noted that his concern is not all about logging but also property rights as well.

Jim Phippard (Brickstone Land Use Development) noted that he has some areas that he will need clarification on in order to serve his clients. Phippard noted that 220.2 C1 reads that if the slope is 30 feet long it is exempt. Corliss agreed. Phippard noted that Keene uses 40 feet so that is similar, but Phippard was unsure if it applies to both calculations. Phippard noted that lot size and coverage or just lot size? Corliss noted that 220.9 exempts lots of record. Phippard noted that with new land development, it would be disturbed and therefore not exempt according to the way this is written. Phippard noted that he has more areas that would require clarification and believes the regulations are not ready to be adopted.

Pieper noted that he believes that wetlands are more important issue than the steep slopes and the board is focusing on the wrong thing.

Koopmann noted that this proposal is not unique to Chesterfield as many Towns have steep slope ordinances and some encompass the whole town. Koopmann noted that it is not intended to be discriminatory, but the Chesterfield Master Plan clearly indicates Spofford Lake is of immense value and it is the responsibility of the Planning Board to protect that asset.

Maibush noted that even some of the members of the board are confused by the current proposed wording and it is clearly not ready. Maibusch noted it appears to be a land grab and restricting people's property rights.

Parisi thanked the public for attending the meeting and for the input provided. Parisi noted that a number of people have indicated that the proposed regulation is restrictive. Parisi noted that it is restrictive and is intended to be restrictive to protect the lake. Parisi noted that the lake is the most valuable asset of this town and it is the economic engine. Parisi noted that in terms of the objective he is 100% supportive, however some of the feedback suggests to him that some of the language may need work. Parisi noted that he would like an ordinance in place, but is concerned about the language in this proposed ordinance.

Pieper asked if the board received input from Town Counsel. Corliss noted he does not remember. Pieper noted with all the concern, he would be more comfortable if counsel reviewed it.

Corliss noted that he really wants to see the Town protect the lake but agrees the clarity on logging rights could be better. Corliss noted that he would suggest having a few more hearing on the proposed ordinances.

John Pieper moved to table the discussion on the proposed Steep Slope Ordinance. The motion was seconded by Joe Brodbine and passed by Majority. (No: Vollbehr)

Addition to Ordinance 207 Requirements Applicable to all use districts: 207.7 A through C

Corliss noted at the last public hearing that the time frame was changed from 45 days to 30 days to coincide with an existing regulation. Brodbine noted that he read over Zoning Regulation 408 and it talks about the same things. Corliss noted that the new one is intended to be better for the Town and enforceable by the Town. Brodbine noted that there will now be two regulations dealing with the same thing and they are not even next to each other.

There were no questions or comments from the public

Jon McKeon moved to add the proposed regulation 207.7 RV's, Travel Trailers & Tents herein referred to as CU (Camping Unit) to the Chesterfield Zoning Regulations under 207 Requirements applicable to all use districts. The motion was seconded by John Koopmann.

Discussion: Parisi asked about the change from 45 to 30 days. Corliss noted that zoning regulation 408 states 30 days currently and it was changed to remain consistent.

Motion passed by Majority. (No: Brodbine)

Pine Grove Springs Country Club, Inc – This is a continuation of an application for a Major Subdivision review for property located at NH Route 9A (Map 5K, B8 and Map 5N Lot B9.1) consisting of approximately 93 acres in the Residential Zone.

Corliss addressed Patricia Panciocco (Attorney) and noted that she had previously written the board a letter from her indicating that the firm the Planning Board were talking to about completing the environmental study had a direct conflict. Corliss noted that he did not see a direct conflict and requested clarification. Panciocco noted that she understood that FB Environmental Associates had a conflict because they have already worked for the town and the Planning Board is asking him to report what is in the best interest of her client. Corliss noted that they have no financial benefit and therefore it is not a direct conflict. Panciocco noted that a review of a report would be representing the applicant, but preparing a report would be representing the Town. Panciocco noted that someone cannot represent both sides. Corliss noted that the purpose of an independent third party review is that they be impartial. Corliss noted that one reason the board was looking at that firm is due to the fact they have done some work with the lake and therefore would not have to duplicate some of it, saving money for the client. Panciocco noted she is in the dark about what needs to be done as the applicant has comprehensive reports and studies already done. Corliss noted that at the time the board was pursuing the environmental impact study, the applicant had not and indicated he did not intend to provide the board with this information as he was just putting lines on a map.

Corliss noted that the new packet includes drawings that are conceptual development drawings and with the denial of the previously requested waivers (404.5B, C, D, and E), it is unclear how this provides the information necessary for a complete application.

Chad Branon noted that the drawing is labeled that way because it was only developed to address the items the board wanted to see in the application. Branon noted the drawing can be renamed, noting that the design is the way it is because the applicant has no intention of developing the property and therefore there are no set plans for development. Branon noted that the plans do address the items the board wanted more information on in the previous meetings including no increase in runoff from the properties. Branon noted that each lot will require a building permit before any building is done and the plan before the board contains the most logical locations and sizes, but the purchaser may want to make some adjustments. Corliss asked how that is enforced with individual owner across multiple lots. It was noted that some of the drainage systems cross the proposed lot lines. Branon noted that it is only the tip of a swale on one lot and that could be handled with an easement. Corliss noted that the Planning Board has to be able to ensure that any changes on the subdivision level are addressed as a whole because this is the last time it comes before this board. Branon noted that the plan is a development plan and it can be renamed to anything the board wishes. He noted that typically when a plan like this is done, a board will approve the plan subject to this plan being followed on a lot by lot basis. A Certificate of Occupancy is not issued until the Planning Board is satisfied the plan is followed.

Corliss noted that the drawing in front of the board is not what will be built and there is a note stating that it is a potential layout. Branon noted that the drainage needs to be part of the approval, but house and driveway location are conceptual due to the fact that the lots will be sold to other owners prior to development. Branon noted he can make clearer notes on the plan.

Panciocco noted that the title of the plan could be changed and a note could be added that any deviation from this plan must go before the planning board before being built.

Corliss noted he would like the documents the board is reviewing to be in the correct format and supplied to the board so it is clear what the board is looking at. Parisi noted he would like to hear the presentation and decide if there are any gaps in information. Panciocco noted that the deeds can

reflect the plan. Panciocco noted that they are willing to put that it shall be built as on the plan unless alternative approval is obtained from the Town. Branon noted that the plan is designed to depict the worst case scenario, the longest driveways. Parisi noted that another possibility, assuming any other issues are resolved, is to require that the applicant make the proposed storm water run-off controls at a full site level rather than rely on future individual lot owners.

Corliss asked if they are willing to put the drawing into the actual drawing format that is required by the Town and make it a plan that is in the package and approved or denied by this board and enforceable. Branon noted that he will update the plans and add clearer notes.

Corliss noted that there is Town property between the upper and lower parts of the lots and he is unsure of how access to the lower parts is proposed. Branon noted that it will only be foot traffic as its a class VI road subject to gates and is gated. Corliss asked if this could be addressed in the impact statement.

It was noted that the plan indicates there will be a 3rd lot included in a shared driveway situation, however regulations prohibit that. Branon will address that concern.

Branon noted he will provide a plan to the board including all of the items required by the regulations that will be recorded with the subdivision sheet.

Bob Maibusch noted that he clearly remembers a member of the board asking for conceptual plans of development. Branon noted that the details in the storm water and in the plan meet the goals and objectives of the ordinance and he will answer any questions and put it in any format the board prefers. Koopmann noted that there are areas that are noted that vegetation will grow or fill in once it is not maintained as a golf course, but that needs to be indicated on the plan. Branon noted that he will look at a better way of depicting that on the plan.

McKeon noted that the board should decide now if they are going to require a 3rd party review of the submitted plans. Brodbine noted he believes the board has enough information. McKeon noted that most developments have a 3rd party review of either the provided documents or the work is performed by the 3rd party. Koopmann asked if the board needed final plans for that. Corliss noted that if there was a package ready, the board could vote next meeting to have it reviewed. Panciocco asked if the board was referring to a review of the completed work of Branon. Corliss noted that yes, the board is talking about a 3rd party to go over the reports and plans prepared for the application.

Branon noted that he will have 4-5 sheets married and reports to go with it which will break out more in detail.

Jon McKeon moved that the Planning Board hire a 3rd party reviewer to review a complete proposed package for Pine Grove Springs Subdivision application. The motion was seconded by Roland Vollbehr and passed unanimously.

Jon McKeon moved that the Planning Board give James Corliss the authority to obtain 3 estimates from consultants for the purpose of reviewing the Pine Grove Springs Subdivision application and to converse with the applicant for the purpose of deciding which engineering firm will be chose. The motion was seconded by Joe Brodbine and passed unanimously. .

Jon McKeon moved to continue the hearing on Pine Grove Springs Subdivision application to February 24, 2020 at 7:30 in the Town Offices. The motion was seconded by Joe Brodbine and passed unanimously.

Headwater Precision, LLC – This is a continuation of an application for Major Site Development for property located at Spaulding Hill Road/Route 9 (Map 14C, Lot D22.1) consisting of approximately 3 Acres in the Commercial/Industrial Zone.

Jon McKeon excused himself from the meeting and Norm VanCor took his place as selectmen representative to the board.

Dave Bergeron was present for the applicant and provided new plans.

Corliss noted that there were a few items previously noted about the application. Bergeron noted that the spelling of Headwater had been corrected on the plans. Bergeron noted that he received an email from Lachenal forwarding the comments from the Fire Department noting that the water supply would not be utilized from the Area 51 underwater storage tanks because it is tied into the sprinkler system. Bergeron noted that his recollection is that the sprinkler system has a separate tank. Bergeron noted that the Fire Department noted that water is available from other sources in the area and adequate water supply in the event of a fire was not a concern.

Bergeron noted that he spoke with DOT District 4 in Swanzey regarding the driveway culvert and was informed that the driveway culvert belongs to Headwater and that they will provide a permit for it to be replaced. Bergeron noted that there was a concern regarding a walkway being needed from an exit. Bergeron noted that the door will be removed instead of a walkway being installed.

Bergeron noted that he spoke with code enforcement regarding the fence and it was decided that a fence will be built on top of the wall. Bergeron noted that it will probably be a split rail fence with green wire fencing so it disappears into the background. Bergeron noted it will be 4 foot fence and will meet requirements. Bergroen stated that the landscaping originally called for arborvitae and has been changed to eastern red cedar to address the deer concerns.

Pieper asked about his concern regarding erosion on the road. Bergeron noted that he did go look, but with the snow it was hard to see what he was referencing. Bergeron noted that if there is any erosion on the property, it will be addressed and there is nothing being proposed that will cause erosion to happen. Corliss noted that the place where Peiper is speaking is uphill from the applicants property. Bergeron noted that the applicant will take care of any erosion on their property, but will not be working on the road. Bergeron showed the board samples of the materials and colors that are proposed on the property. VanCor asked if there are any requirements for State permits for the process. Gerry Duby noted that they have an EPA number and follow all guidelines. Parisi noted that in response to the traffic study, the original approved use will not change, but is there an anticipated change from current use. Duby noted that currently they are at about 16 and it may go up to about 20 employees.

The meeting was opened to the public:

Duby showed the products that will be made. Bergeron noted that it will be one of the only start to finish plants in the U.S.

John Pieper moved to approve the Headwater Precision Site Development application as presented. The motion was seconded by Roland Vollbehr and passed unanimously.

Items for Discussion

Items for Information

A save the date for the Planning & Zoning Conference in May was sent out today.

Planning Board February 3, 2020

Parisi noted that a special exception application has been received by the Zoning Board for a new manufacturing facility off of Stow Drive. Parisi noted if the special exception is approved, it will be a site plan application for us in the future.

Corliss noted he received a request from the Planning Board secretary in Walpole regarding Bed and Breakfasts. Corliss noted he has tried to get back to her, but they have yet to connect to date.

Other Business

Roland Vollbehr moved to allow the board to sign items after adjournment of this meeting. The motion was seconded by John Koopmann and passed unanimously.

Items for signature

January 6, 2020

Headwater Precision, LLC/Tire Bars Realty BLA Plans
Headwater Precision Site Development Plans
Proposed Zoning Regulation 207.7

Adjournment

John Pieper moved to adjourn at 10:45 P.M. The motion was seconded by Joe Brodbine and passed unanimously.

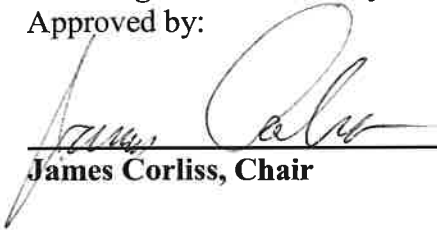
The next meeting will be held in the Town Offices at 7:00 PM February 24, 2020.

Respectfully Submitted by:

Patricia Lachenal

Planning Board Secretary

Approved by:



James Corliss, Chair

2 MAR 2020

Date