

Town of Plaistow, NH
Office of the Planning Board
145 Main Street, Plaistow, NH



PLANNING BOARD MINUTES
May 5, 2021

Call to Order: The meeting was called to order at 6:30 PM

Chair T. Alberti read the following COVID-19 statement:

The Plaistow Planning Board, due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, is authorized to meet electronically, and these reasons shall be reflected in the minutes. When there are public hearings scheduled, notice of this electronic meeting is sent to all abutters and published in the Eagle Tribune Newspaper.

The Plaistow Planning Board is utilizing the Zoom platform for this electronic meeting. All members of the Board have the ability to communicate contemporaneously during the meeting through the Zoom program, and the public has access to contemporaneously listen and, if necessary, participate in this meeting. The link to access this meeting was provided on the Town's website.

There is a "raise your hand" feature of the program that will allow attendees to participate in the discussion. There is also a Q&A box for the public to type questions during the meeting. The Public can also send emails with questions or concerns prior to the meeting to dvoss@plaistow.com. All emails received by 3:00PM on the day of the meeting will be read at that meeting. Please note: all questions and concerns typed into the Q & A box or sent via email will be read aloud to become part of the public record. The meeting will also be live on Plaistow Access Cable - Channel 17 and will be livestreaming on the Town's website.

1. ROLL CALL:

Tom Alberti, *Ch.* – Present at Town Hall
Tim Moore, *Vice Ch.* - Present at Town Hall
Laurie Milette - Present at Town Hall
Karen Robinson - Present at Town Hall
Greg Taillon, *Selectman's Rep.* Excused at Town Hall
Maxann Dobson, Alternate – excused (non-voting)
Bill Coye, *Selectman's Alt.* - Present at Town Hall (non-voting)
John Cashell, *Planning Director* –Present at Town Hall (non-voting)

Also Present: Charlie Zilch, SEC & Associated, Plaistow, NH
Bill Hall, Civil Design Consultants, Andover, MA
Kyle McManus, Total Construction Services, LLC, Kingston, NH
Lawrence Ordway, 3 Sequoia Lane, Plaistow, NH

2. REVIEW/APPROVAL OF APRIL 21, 2021 MINUTES:

Draft minutes were included with the meeting materials. No corrections were made.

T. Moore moved, second by K. Robinson to approve the minutes from April 21, 2021 as corrected

The motion to approve the minutes as issued passed 5-0-0.

3. PUBLIC HEARING:

Ch. Alberti opened the Public Hearing at 6:34 pm.

PB 21-05: The completeness of an application from Aaron M. Jackson, Dawn M. Jackson and the Town of Plaistow for a Lot Line Adjustment. The proposed plan will transfer 4.32A of land from a parcel known as Atkinson Line Backland, Tax Map 6, Lot 7, owners of record Aaron M. and Dawn M. Jackson, to a parcel known as Frogs Pond Woods, Tax Map 6, Lot 16, owner of record the Town of Plaistow. The transferred land will be added to Lot 16 and is not to be considered a separate buildable lot. Both parcels are located in the LDR zoning district and do not have frontage on a town road. If the application is found to be complete, the Board may immediately conduct the public hearing.

Ch. Alberti noted the staff recommendation is to accept the application as complete. T. Moore noted it is a standard lot line adjustment and that Plaistow has recommended purchase of the land and annexation to the Town Forest which abuts it. Ch. Alberti asked if any abutters wished to comment but there were none.

T. Moore move, Karen Robinson seconded to accept the application for a lot line adjustment that proposes to transfer 4.32A from the property known as Atkinson Line Backland, Tax Map 6, lot 7, owned by Aaron M. and Dawn M. Jackson to the property known as Frog Pond Woods, Tax Map 6, Lot 16, owned by the Town of Plaistow, as complete.

The motion to approve the application passed 5-0-0.

There were no questions regarding the plan.

T. Moore moved, Milette seconded to approve the lot line adjustment plan that proposes to transfer 4.32A from the property known as Atkinson Line Backland, Tax Map 6, lot 7, owned by Aaron M. and Dawn M. Jackson to the property known as Frog Pond Woods, Tax Map 6, Lot 16, owned by the Town of Plaistow, with the following condition: Completion of the Public Hearing Process by the Board of Selectmen as required by the RSAs for the purchasing of land.

The motion to approve the plan passed 5-0-0.

Ch. Alberti continued the Public Hearing from February 17, 2020 and April 7, 2021 on

PB 21-02: The completeness of an application from Total Construction Solutions, LLC c/o Kyle McManus for a subdivision that proposes a seven unit (3 bedrooms each) detached residential condo development PRD, with a public right-of-way. The subject parcel is 18.41 acres with 237.97 feet of frontage on Sweet Hill Road. The property is located at 44 Sweet Hill Road, Tax Map 62, Lot 29, in the MDR and LDR zoning

districts. The owner of record is 44 Sweet Hill, LLC. If the application is found to be complete, the Planning Board may immediately conduct the public hearing.

Charlie Zilch, SEC & Associated, Plaistow, NH, Bill Hall, Civil Design Consultants, Andover, MA, and Kyle McManus, Total Construction Services, LLC, Kingston, NH spoke for the application.

W. Coye said he was an abutter to the property and recused himself from the proceeding.

C. Zilch said the application had been advanced successfully since the last meeting on April 21, 2021. He noted there were four State applications associated with the project and noted the NH DOT application for the driveways has been granted. The NH DES application for septic system design has been conditionally approved pending receipt of the permit for DES subdivision for condo conversion which is also conditionally approved pending receipt of the DES DOT permit. He noted there had been no comments from the DOT for the last meeting but they were received shortly after with minor comments that have been successfully addressed and sent back to NH DES for review. The last thing needed is Fish and Game on a wildlife study and he expects this will be favorable.

C. Zilch said the condo documents have been submitted to Town Counsel review and his minor comments are being worked on. They have had sign off from the local departments: Fire; Highway, and Planning Board staff; and Steve Keach's final sign off has a few recommendations for conditional approval comments. He noted there are four waivers dealing with roadways. And pavement width design to lessen overall site impact.

L. Milette noted that she had previously asked about who would be responsible for the swales and that she now see that the easement has been added to the Town of Plaistow on plan page C4 and asked why it is has been added. B. Hall replied that it was recommended the easement be provided to the Town to make it at least the width of the standard right of way so they don't have trouble maintaining it and utilities going into that area. L. Milette said she was told last meeting the condo association would be responsible for maintaining it and now it sounds as if the Town is responsibility. B. Hall said the swale outside that easement would be the condo association responsibility. L. Milette said her copy of the February site drawings does not show the area as being the Town's responsibility and asked who said to make the change. C. Zilch looked at the set and said it was always intended to be the Town's as they needed to give the Town access to the roadway drainage structures to the infiltration pond if there was an issue. L. Milette asked then if it would be the Town's expense and C. Zilch said yes it was part of the roadway infrastructure.

Ch. Alberti noted the Board had not had a lot of time to discuss the Town's responsibility for the basin, and that he also understood this was not the Town's responsibility. J. Cashell said it will be a public roadway and all the infrastructure within the right of way is part of the public right of way authority and eventually the BOS will have jurisdiction over it. He noted any storm water management associated with a public way such as the swale and the piping is typically the responsibility of the DPW. He noted he did not recall any discussion before the Board about maintenance responsibilities for the structures.

K. Robinson noted that the original plan was individual housing but is now a condo development. It was noted that this and the utility road have not been discussed. T. Moore said his main concern would be the drainage coming off the Town road if we don't assume the responsibility for the infrastructure would be going onto private property and if they don't maintain it there would be potential for Town road drainage to flood the area. He said it is important to maintain the infrastructure so all is handled properly and asked about MS4 requirements.

J. Cashell noted that the Town requires all subdivision roadways be approved as public right of ways. He said the Town is an MS4 community and must comply with EPA requirements for managing all sources of

storm water. The public is responsible for maintaining all storm water infrastructures that manage the capture of pollutants before the water goes into any natural body of water. He noted all communities are facing this increased cost. He was asked about the outflow from the detention basin and referenced Steve Keach's answer that the design is adequate to handle the outflow.

Ch. Alberti asked if the Town would need to plow the utility road to ensure maintenance can be properly done. J. Cashell said that making sure the pipes are cleaned out once a year should be adequate and that the steepness of the grade and velocity of water is most likely to keep them open regardless and it is unlikely the Town will need to perform much maintenance over the winter months. L. Milette noted the open space is already wet and adding more water to an area might create a swamp and asked if there were plans to address this. There was a discussion of engineering design, professionalism and credentialing. C. Zilch said the design was made to accommodate a 50-year storm with rainfall of 7.4 inches.

Ch. Alberti noted that L. Milette's question was to protect the Town's interest and that it is part of the role of the Planning Board to review plans, ask questions and protect the Town. He noted it was a small but important change in the plans and that the Board had understood the condo association would be responsible for the maintenance of the swale. He said it is duly noted that S. Keach had responded. C. Zilch said that as things stand now storm water moves from the top of the hill into the wetland and that B. Hall was tasked with addressing the changes that come from adding pavement and other structures and the design is the result. He said there is a relief valve at the end of the basin that would release water from an extreme storm into the wetland if the basin reaches capacity. He said the easement is very similar to that approved for Carla's Way.

K. Robinson spoke to and T. Moore agreed on needing a gate for the gravel access road, and the concern of ATV use.

Ch. Alberti noted the discussion has been helpful and helped the Board understand under-discussed issues better. He also noted that necessary information from the Fire and Highway Departments had been received. K. Robinson noted that D. Garlington has said the snow will be plowed as with all existing cul-de-sacs trying not to cover mail boxes and utilities, so it will matter where they are put.

Waiver Requests

1. Ch. Alberti asked for a motion on Article VII § Z35-32,C - Street Design Standards: Request for the cul-de-sac right of way radius to be 45', instead of the required 60'.

T. Moore motioned, L. Milette seconded to grant the waiver from Article VII § Z35-32,C and allow a 45' cul-de-sac radius for the 7-lot PRD subdivision project at 44 Sweet Hill Road for the reasons stated in the submitted request.

The motion passed 4-0-0.

2. Ch. Alberti asked for a motion on Article VII § Z35-32,C - Street Design Standards: Request is for the pavement width to be 20' instead of the required 22'.

T. Moore motioned, L. Milette seconded to grant the waiver from Article VII § Z35-32,C and allow a 20' public right of way pavement width for the 7-lot PRD subdivision project at 44 Sweet Hill Road, for the reasons stated in the submitted request.

The motion passed 4-0-0.

3. Ch. Alberti asked for a motion on Article VII § Z35-32,C - Street Design Standards: Request for the cul-de-sac pavement radius width to be 40' instead of the required 50'.

T. Moore motioned, K. Robinson seconded to grant the waiver from Article VII § Z35-32,C and allow a 40' cul-de-sac radius width for the 7-lot PRD subdivision project at 44 Sweet Hill Road for the reasons stated in the submitted request.

The motion passed 4-0-0.

4. Ch. Alberti asked for a motion on Article VII § Z35-32,C - Street Design Standards: Request is for the width of the right of way to be 35' instead of the required 50'.

T. Moore motioned, K. Robinson seconded to grant the waiver from Article VII § Z35-32,C and allow a 35' public right of way for the 7-lot PRD subdivision project at 44 Sweet Hill Road for the reasons stated in the submitted request.

The motion passed 3 (T. Alberti, K. Robinson, T. Moore)-0-1 (L. Milette).

Ch. Alberti asked for public comments; there were none.

Ch. Alberti then addressed the conditional approval of the subdivision plan.

T. Moore motioned, Karen Robinson seconded to approve the subdivision plan for the seven (7) lot, detached, condominium, planned residential development at 44 Sweet Hill Road Tax Map 62, Lot 29 with the following conditions:

- 1) Receipt of the remaining State Permit Approvals and Updates the notes on Plan indicating permit numbers and when received. If there are significant changes required as a result of any State permit process, the applicant must bring the Plan back to the Planning Board for additional review;***
- 2) Relocation of the Electrical Structures on the Plan related to snow removal operations;***
- 3) Receipt of final favorable review of Condominium Documents by Attorney Charles Cleary***
- 4) Addition of a locked gate on the maintenance road just north of the first catch basin***
- 5) Addition of a Storm Water Pollution Prevention Plan***

The motion failed 2(T. Alberti, T. Moore)-0-2 (K. Robinson, L. Milette).

J. Cashell said that if you have participated in the proceedings you can vote yes or no but you can't abstain. There was a discussion on the history of the application and plan and the actions and duties of the Board.

Ch. Alberti asked if the Board members needed more discussion or whether to withdraw the motion.

L. Milette noted she had asked a question and understood there was some miscommunication about what the Town was responsible for.

There was discussion of procedures to allow the Board to ask more questions of public officials before taking more action, or to try to resolve the issues during the current meeting. It was noted actions that might lead to court cases should be avoided if possible, and the Board is supposed to rely on engineers, peer reviews and other hard work to come to decisions within the legal land development rights of the Town and the applicant's use of their property.

L. Milette asked for more information from Dan Garlington regarding snow removal, utility road, basin drainage and other costs to the Town. K. Robinson said she also wanted more information. Ch. Alberti asked if the motion should be withdrawn for additional discussion of the issues and a revote or if this should be continued to the next meeting.

T. Moore and K. Robinson agreed to withdraw the motion as long as specific questions could be identified and answered tonight and then the motion would be re-voted.

Ch. Alberti asked again for specific questions. L. Milette asked that Dan Garlington address what type of maintenance would be needed. Kyle McManus said that Dan Garlington specifically asked it be a public road and they made all the required changes for that change, and that D. Garlington knows where the retention pond will be as that part of the plan has not changed, and that he conceptually knows where the snow will be put when plowed. He also suggested that when they were asked to make it a public road, D. Garlington would know what maintenance would be required and that he would have had a second chance to review and recommendation has been given again. J. Cashell noted that regardless of what D. Garlington wants, MS4 requires the Town maintain the retention basin.

L. Ordway, abutter to the project, stated that the abutters and Town will have to live with the decisions and if it takes another month to get clarification the Board should vote to postpone for at least another month.

K. Robinson said a lot of her questions have been answered but she wanted to make sure the conditions raised tonight will be met. C. Zilch noted the plans have been changed at the request of the Planning Board to reduce the overall impact and it amounts to a substantial difference and he believes it is a good, well-blended plan. He noted that Dan Garlington has reviewed the plan repeatedly and he does not believe there are any issues he is uncomfortable with. He also said MS4 requirements have been met and basin access roads are part of them.

Ch. Alberti asked the Board to move forward either with a vote or to continue the application.

T. Moore motioned, Karen Robinson seconded to approve the subdivision plan for the seven (7) lot, detached, condominium, planned residential development at 44 Sweet Hill Road Tax Map 62, Lot 29 with the following conditions:

- 1) Receipt of the remaining State Permit Approvals and Updates the notes on Plan indicating permit numbers and when received. If there are significant changes required as a result of any State permit process, the applicant must bring the Plan back to the Planning Board for additional review;***
- 2) Relocation of the Electrical Structures on the Plan related to snow removal operations;***
- 3) Receipt of final favorable review of Condominium Documents by Attorney Charles Cleary***
- 4) Addition of a Storm Water Pollution Prevention Plan***
- 5) Addition of a locked gate on the maintenance road just north of the first catch basin or other optimal locations***

The motion carried 4-0-0.

Additional information for the applicant:

Pre-Construction Meeting:

- Prior to work commencing the applicant will need to schedule a pre-construction meeting through the Planning Department.

Bonding:

- After final approval, and prior to the scheduling of a preconstruction meeting, the developer must submit a Bond Estimate Worksheet for review by the Planning Board Review Engineer (PBRE). Once reviewed and then approved by the Planning Board, the bond for this project will be set at 50% of that reviewed/approved amount. As the site work progresses, the developer may request a reduction, with

the recommendation of the PBRE and the approval of the Planning Board and draw the bond down to no less than 10% of the site work costs. This 10% will become the roadway performance bond and be held for two (2) years upon acceptance of the roadway by the Board of Selectmen.

Impact Fees:

- Prior to acceptance of the roadway by the Board of Selectmen, the developer shall pay a New Roadway Impact Fee of \$2,265.00. This is based on a calculation of \$5.00/LF times 453 LF of new public roadway. If this dimension should change, so too would this assessment. There will be additional impact fees (school, recreation and public safety) applicable to the construction of the individual dwelling units. Those fees are assessed as part of this subdivision approval in accordance with the Planning Board Impact Fees as adopted by the Planning Board, August 2019. Impact fees for the individual dwelling units are payable prior to the issuance of a Certificate of Occupancy for each unit.

He thanked the applicants for their time.

He noted that he believes the Board's position as elected officials is to ask questions and get answers. He also wants to keep it civil so that all are working as a team towards the common interests of the Town. He noted that D. Garlington's concerns about private roads is that they will eventually become public roads and if he doesn't get input ahead of a private road he will have to deal with it later. The more waivers are approved the more we potentially end in a difficult position and the goal is uniformity. J. Cashell noted the waivers resulted from the project being designed to reduce the amount of environmental impact and the waivers allowed this.

Ch. Alberti closed the Public Hearing at 8:10pm.

4. MASTER PLAN PRIORITIES AND SUBCOMMITTEE ASSIGNMENTS:

Ch. Alberti noted there are two topics to work on in subcommittees 1) Natural Resources and Water Resources, 2) Transportation and, 3) Land Use.

He asked if CF-16 – update master plan with potable water system updates -- is already being done. J. Cashell said we could do this as progress is being made. It was noted the BOS are the commissioners and we could receive information from them in order to stay up to date on the progress and G. Taillon would be asked to provide the updates.

Ch. Alberti asked for input on whether to take these one at a time or address all simultaneously. T. Moore suggested Natural Resources is probably the most important. Ch. Alberti noted most of the categories overlap. T. Moore suggested the Recreation Dept. and Recreation Commission might be willing to update the Board on their work and B. Coye might assist this.

Ch. Alberti asked if the public is invited to be involved and it was agreed they should be asked.

The Board agreed to prioritize Natural Resources and Water Resources. Ch. Alberti suggested developing priorities, involving the public and other organizations, and bring together a working group with members of the Town. J. Cashell noted that transportation is in the public right of way which is in the BOS's jurisdiction and we might suggest they have a subcommittee focused on the Complete Streets program. He noted this would require involvement with the Regional Planning Commission. L. Milette noted that after the last meeting she learned the RPC is willing to take half of the \$7,700 dues and will now take \$3,800 and asked B. Coye to bring it to the BOS. B. Coye said it would be brought up at the next meeting and the BOS might want someone from the Planning Board to come speak to the issue. Either B. Coye or T. Moore

would do this depending on the date, but T. Moore noted the Town Manager said there was no money available. It was agreed the Town needs to be prepared for any Federal funds that might come our way.

J. Cashell noted the Annual Spring Planning and Zoning Conference on Saturday May 15, 2021 will be held via Zoom and registration closes of May 7.

6. NEW BUSINESS:

J. Cashell suggested delving into the publications regarding smart growth and mixed use commercial/residential corridors at the next workshop meeting. He said he'd like to look at the CI District map and look at what is there now and what room there is for development and start conceptually designing road, sidewalk and trail improvements for better flow of traffic, pedestrian corridors safety issues and road efficiency.

7. COMMUNICATIONS, UPDATES, FYI'S AND OTHER BUSINESS

Ch. Alberti asked about the Kingston/Plaistow project and J. Cashell said there had been no real movement. Ch. Alberti asked about the tow properties up for sale and B. Coye said the Rose Ave. property was approved for sale and the other has been tabled pending further information on whether some of it is wetlands and on the plans for the property. J. Cashell said the subdivision plan on North Street will be coming in soon. J. Cashell noted a lot of projects are being postponed due to costs of materials.

There was discussion of the roles of the Planning Department and the Planning Board and how we communicate. It was agreed there is a lot of learning involved with the Board's work and as long as everyone remains open minded and objective and keep discussions civil the work will proceed well.

10. ADJOURNMENT

There was no additional business before the Board and the meeting was adjourned at 8:47 PM.

Respectfully Submitted,

Charlene A. Glorieux
Minute Taker