

PLANNING BOARD MINUTES

August 6, 2008

ROLL CALL:

Phil LoChiatto, Chairman – Present	Nancy Prendergast, Vice Chairman – Present
Rick Okerman, Secretary – Present	Walter Kolodziej, Regular Member – Arrived 8:15 pm
Ruth-Ellen Post, Regular Member – Present	Pam Skinner, Regular Member – Present
Louis Hersch, Alternate Member – Excused	Kristi St. Laurent, Alternate Member – Excused
Sy Wrenn, Alternate Member – Excused	Bruce Breton, Selectmen Member – Present
Galen Stearns, Selectmen Alternate – Excused	

STAFF:

Al Turner, Director of Planning and Development – Present

Mr. LoChiatto opened the meeting at 7:00 pm. The Board stood and recited the Pledge of Allegiance.

MINUTES:

- Mr. Okerman motioned to approve the July 16 minutes as amended. Ms. Prendergast seconded. Passed 6-0. Mr. LoChiatto responded that public matters should not be sent through emails;
- Mr. Breton motioned to approve the July 23 minutes. Ms. Skinner seconded. Passed 4-0-2. Ms. Post and Ms. Prendergast abstained;
- Mr. Breton motioned to approve the July 30 minutes. Ms. Skinner seconded. Passed 3-0-3. Ms. Post, Ms. Prendergast, and Mr. Okerman abstained. *Ms. St. Laurent replaced Mr. Kolodziej.*

CORRESPONDENCE:

- Letter from Mr. Turner to the Board regarding the Pawtucket Road bond;
- Email from the State of NH regarding a weather advisory alert regarding unusual rain through Sunday. Board discussion regarding fixing the culvert on Locust Road;
- Postcard regarding 2008 Regional Transportation and Land Use Survey;
- Postcard regarding the NH Fall Planning and Zoning Conference.

OLD/NEW BUSINESS:

- Board discussion regarding a sign change at the corner of Rt 111 and Mammoth Road;
- Board discussion regarding a window display at XXXPosed;
- Board discussion regarding the potential issues regarding the ordinances that were passed in March, Attorney Campbell has been contacted via letter, one error was a typo, the other section was impact fees, and this will be discussed once the response is received from Attorney Campbell;
- Board discussion regarding upcoming workshop meetings, the Board will discuss zoning at the meeting on the 13th, and workforce housing and green construction will be discussed at future meetings.

PUBLIC MATTERS:

Spruce Pond Special Permit and Subdivision Amendment – Public Hearing Continued **Rockingham & Northland Roads, 3-B-602, 650, 800, 900 & 2002**

Mr. Turner stated this is a continuation of a public hearing. Mr. Breton motioned to reopen the public hearing. Ms. Skinner seconded. Passed 7-0. Mr. Turner stated that that the applicant is proposing to amend the subdivision and site plan to allow: 1) Individual house drinking water instead of a community water system; 2) Install fire cisterns to accommodate fire protection; 3) Eliminate the road connection to Derry and completing offsite road improvements in lieu of the connection which was denied by the

Board on July 28; and 4) Construction of additional vernal pools and detention ponds and a Special Permits to create ten vernal pools and one detention pond in the WWPD. Board discussion that item #3 has already been denied and is off the table for discussion.

Joseph Maynard, Benchmark Engineering, discussed that the vernal pool regulations have been adopted at the State level this past spring, the EPA is requesting mitigation for the vernal pools that are directly or indirectly impacted, ten vernal pools need to be constructed, initially there were 27 proposed vernal pools but after review these ten were proposed, they are close to the edge of wetlands, and he showed the vernal pools which are shown in yellow on a map. Board discussion regarding 3 of the vernal pools are proposed for Phase I. Mr. Maynard responded that it is not a change to the approval but a Special Permit request as mandated by the State. Mr. Turner agreed with Mr. Maynard's response. Board discussion the Special Permit should be acted with two separate motions one for Phase I and the other for Phase II, and abutters for both phases have been notified. Mr. Maynard continued his presentation regarding a lot of the vernal pool creation will be in the field, the EPA and State Wetlands Board will be present, the intent to not cut trees, it will be shaping individual areas by a wetland scientist, the dug areas will remain on site and trees that do come down will be left leaning as areas for critters to lay their eggs, the EPA and State permits require them to monitor the vernal pools for five years and submit a monitoring report, the vernal pools depths will be staggered, plan to make the vernal pools at the same time as the roads, and there is 2:1 mitigation and some may not take. Mr. Turner suggested signs be placed near the vernal pools so that the residents would not ask for them to be sprayed for mosquitoes. Mr. Maynard responded that the vernal pools are being placed away from the residences, the critters stay near the vernal pools, and he gave further impact details of the vernal pools.

Mr. Maynard explained his discussions with the EPA and Wetlands Board regarding the detention pond and the vernal pools, requesting a Special Permit to create a small berm where there is an existing trail, and it has minimal impact. Board discussion regarding the use of the trail, the trail has been blocked, the EPA and DES are happy with the plan, the waiver to increase water flow to another property will not be utilized, these vernal pools and detention ponds are conditions of approval from the State, he showed the detention pond on the pond that will not be built as per the conditional approval, and the filtering happens at the treatment swale.

Mr. Maynard stated that as per Section 601.4.8.3 they will not contribute to the degradation of surface or groundwater quality as they have agreed to use appropriate erosion measures for each vernal pool and areas will be grated for habitats for creatures that currently live in the WWPD areas, the proposed activity is appropriate and safe to locate in the WWPD as the Army Corp of Engineers have evaluated the areas that have been chosen, and the proposal is consistent with the intent and purpose of Section 601 of the zoning ordinance as the vernal pools are being made as a condition for the State permits and they will be additional habitat. Also Section 601.3.5 states that a wildlife refuge is an allowed use and this will create a habitat for creatures that currently inhabit the area.

Mr. Maynard stated in regards to the detention pond berm it will not contribute to the degradation of surface or groundwater quality as appropriate erosion measures will be used until the area becomes stabilized and it is a natural detention basin, the proposed activity is appropriate and safe to locate as the creation of the berm in place of the detention pond which will have less disturbance to the WWPD, and the proposal is consistent with the intent and purpose of Section 601 of the zoning ordinance at it is an allowed use and requires much less disturbance of the WWPD than other options. He also explained how he meets the requirements of Sections 601.1.1-601.1.5.

Public comment from Mike Withington, 34 Northland Road, asked about the size of vernal pools, who

decides the access to make the pools, and has any Board member walked the site. Mr. Maynard responded that they are from 500-800 sq ft in size each and looking to create pooling and keep the tree canopy, EPA has reviewed the plans including the access, plan to rent a small machine and not cut any trees, there are some existing trails that get to some of the vernal pool areas, and there was a site walk awhile ago, staff and the Conservation Commission have walked the site also, and the Board is reviewing the information now. Mr. LoChiato distributed the photographs to the Board. Board discussion regarding the vernal pools is a new requirement, the applicant is not going to remove trees, and any trees that are knocked down will be used to make a habitat.

Mr. Breton motioned to approve the Special Permit request for the construction of vernal pools in Spruce Pond Phase II noted as #10, 11, 14, and 15 based on the evidence presented to the Board with the following conditions: 1) All local, state, and federal permits shall be approved prior to the start of construction; 2) Erosion control best practices to be installed and monitored; and 3) There will be minimum disturbance to surrounding vegetation. Ms. Skinner. Passed 7-0.

Ms. Prendergast motioned to reference the minutes of October 3, 2007 and rescind the approved waiver request dated September 20, 2007 of section 702.9 of the subdivision regulations. Mr. Breton seconded. Passed 7-0.

Ms. Prendergast motioned to grant the Special Permit to create a berm with weir and utilize vernal pool 9A as a detention pond in lieu of tree clearing for the original detention pond as this is less disturbance and it is in keeping with our zoning ordinance section 601.1 and it eliminates increased flow to the adjoining property. Mr. Breton seconded. Passed 7-0.

Ms. Prendergast motioned to consider the additional vernal pools to Spruce Pond Phase I as a minor site plan amendment. Mr. Breton seconded. Passed 7-0.

Mr. Breton motioned to grant the Special Permits for construction vernal pools # 2, 16, 17, 19, 20, 21 in Spruce Pond Phase I based on the evidence presented to the Board with the following conditions: 1) All local, state, and federal permits shall be approved prior to the start of construction; 2) Erosion control best practices to be installed and monitored; and 3) There will be minimum disturbance to surrounding vegetation. Ms. Post seconded. Board discussion that all of this has been evaluated by the Army Corp of Engineers, the EPA, and the NH DES gives a lot of validity to what has been proposed and brings a lot of assurance that it is being done for the right reasons and will be done correctly, and all the abutters have been notified. Passed 7-0.

Mr. Maynard discussed the next request which is the change from a community well to individual well and a cistern instead of hydrants, the permitting process has began, after a year the hydrologist has come up with a cone and depression area, he discussed the process to get the water system, because of the evaluation and the time frame it would take for the permit they would like individual wells, and there will be 95 point sources rather than a few.

Dr. Ray Talkington, hydrogeologist, discussed how the water flows in a bedrock system flows through the fractures, the community well would take approximately 60,000 gallons per day for the subdivision and that could affect the abutting neighborhoods, and drawing water from a 700 acre parcel would have less impact to the aquifer and 80% of the water is recharged through out the subdivision. Board discussion with Dr. Talkington that there would be no required monitoring of the individual wells but they need to meet the standards to get a building permit, the time of travel of recharge water is a lot less going with individual wells, there are monitoring programs that could be required at the local level, and

the developer would go into an agreement if there were an impact for a period of time. Dr. Talkington described a well owner response policy (WORP), sometimes it is easier to replace a well rather than go into litigation, no insurance or bonding is involved but could be, his experience is mostly with water companies, irrigation systems reduce the water for recharge to 30-50%, and he explained the formula for the recharge.

Public comment from Mike Withington, 34 Northland Road, asked if the individual wells will take from the Phase I. Mr. Maynard stated that they do not.

Bob Cole, Morrison Road, asked whether a homeowner could put another well on their property, and recommends allowing the individual wells.

Mr. LoChiatto read a letter from Chris Rosette, 3 Mitchell Pond Road.

Board discussion regarding the cone of depression is large because of the amount of water it would draw, 200,000 gallon draw from one well vs. 600 gallon draw for each well, and there are four existing wells that could be monitored. Dr. Talkington discussed the dominant fractures, next door neighbors could have different well capacity because they are on different fractures, and the individual wells impact a small area for a small amount of time.

Board discussion with Mr. Maynard regarding them originally asked for the community well because it was convenient, there have been a lot of rule changes in regards to community wells, and the cone of depression will affect the neighbors and that's why they want individual wells. Mr. Turner stated there are other reasons for the community well including the fire department likes hydrants, and the water companies check the water constantly. Board discussion with Mr. Maynard regarding cistern locations, five cisterns are required, the Chief is satisfied with the locations, and table the discussion until a letter is received from the Chief.

Mr. Breton motioned to approve the change to individual wells for the Spruce Pond II subdivision. Ms. Skinner seconded. Board discussion regarding monitoring system. Dr. Talkington discussed the highest elevation wells would have the greatest impact first. Board discussion regarding monitoring a well from each phase. Passed 5-2. Ms. Post and Ms. Prendergast opposed.

Mr. Breton motioned to rescind condition of approval #26 and 27 from the original date of approval October 3, 2007. Ms. Skinner seconded. Passed 6-0-1. Ms. Post abstained.

Mr. Breton motioned to continue the public hearing to August 20 at 7:30 pm. Ms. Skinner seconded. Pass 7-0.

Mr. Breton motioned to change the order of the agenda to hear Logan Land Transfer before 10:00 pm. Ms. Skinner seconded. Passed 6-1. Ms. Prendergast opposed. *Ms. St. Laurent stepped down, and Mr. Kolodziej joined the Board.*

Logan Land Transfer – Public Hearing
Londonbridge & Castle Hill Roads, lot 14-B-2600 & 3450

Mr. Turner stated that the application is for a public discussion for a lot line relocation for lots 14-B-2600 & 3450, he showed the location on the map, the plan does not show any development, the lots meet lot sizing calculations, it is a public hearing, application is complete and ready for public hearing. Mr. Kolodziej motioned to open for public hearing. Ms. Post seconded. Passed 7-0. Mr. Turner stated

the application does not create any new lots, and he described the access to each lot.

Chris Nickerson, Herbert Associates, stated that Mr. Turner covered everything and asked for a motion to approve the plan. He further explained the lot line adjustment and showed the land exchange on the map.

Bob Shane, lot 3425, stated his concern is that the registered letter appeared that his home was going to be taken as part of this plan.

Mr. Breton motioned to approve the lot transfer between lot 14-B-2600 & 3450 as approved with all bounds be set and recorded. Mr. Kolodziej seconded. Passed 7-0.

Mr. Turner asked the Board to reconsider the motion as he remembered that he contacted Mr. Zohdi regarding that the plan does not depict the WWPD correctly, he was told that they were going to go to downgrade to a public discussion and he then rescinded his comments because the plan does not meet the Town's zoning requirements for the depiction of the WWPD, staff analysis was written as a conceptual discussion based on comments from Peter Zohdi, and the plan as shown would need variances because the WWPD is not depicted accurately. Board discussion there is no proposed development. Mr. Turner stated that the lot sizing calculations may not comply, and he is withdrawing his comments and would like the Board to reconsider their motion.

Board discussion that the motion has already passed, it was published as a public hearing, and why is the WWPD in issue without any development. Mr. Turner stated he met with Peter Zohdi on this issue and they were going to get back to him with a wetland scientist report, and to ask Mr. Nickerson why it wasn't fixed. Mr. Nickerson stated that it is not a subdivision but a lot line adjustment, and they rely on the staff report to prepare for the meeting. Mr. Turner stated he relied on Mr. Zohdi, the plan will not get recorded as it is in violation of the zoning regulations, and the wetland report needs to be submitted as required.

Board discussion regarding making a condition of approval. Ms. Prendergast motioned to reconsider. Ms. Post seconded. Failed 2-5. Mr. Breton, Mr. Kolodziej, Ms. Skinner, Mr. LoChiatto, and Mr. Okerman opposed.

Capital Improvement Program – Public Hearing

Mr. Turner stated that in June or July the Selectmen voted to for all department heads to submit to the Capital Improvements only those items that were \$100,000 or more, Mr. Sullivan wrote a letter to the Planning Board to revise the Capital Improvements, the Board would have to change the CIP definition in two places to make the document in compliance.

Ms. Prendergast motioned to open for public hearing. Ms. Post seconded. Passed 7-0. Board discussion as to why go from \$50,000 to \$100,000. Mr. Breton, Selectmen Representative, responded that they want the CIP to be for large capital items so not to affect the taxes, items under \$100,000 can be incorporated in the budget, and he served on the CIP as a citizen member for the past three years. Board discussion regarding budgets, items under \$50,000 should be in the budget, it will make the ballot shorter, ten items for \$50,000 would affect the taxes, why are vehicles in the CIP, keep true capital improvement projects in the CIP which become ballot items, letter went out to the department heads regarding the change, what would happen if the Board doesn't pass this change, this is the Planning Board's purview, the Selectmen should discussed this with the Planning Board, some Board's are under Selectmen purview, this was posted as a public notice, and the Board can keep it the way it is and those

under the Selectmen would need to comply. Board discussion regarding the wording in the document, vehicles aren't capital facilities, shouldn't everyone follow the same rules, and talking about the CIP at a workshop. Mr. Kolodziej motioned to move the Capital Improvements public hearing to August 27, 2008. Ms. Post seconded. Passed 7-0.

Mr. Kolodziej motioned to adjourn. Ms. Skinner seconded. Passed 7-0. Meeting adjourned at 10:30 pm.

These minutes are in draft form and have not yet been reviewed and approved.
Respectfully submitted, Nancy Charland