

HENNIKER PLANNING BOARD

Approved Minutes

August 13, 2008

Members Present: Kristin Claire, Chairperson; Ron Taylor, Selectman, ex-officio; Jim McElroy; Terry Stamps; Scott Osgood; Leon Parker, Alternate Selectman, ex-officio; Ed Miner, Alternate

Members Absent: Gary Guzouskas, Vice-Chair; Kellie Dyjak

Others Present: Laura Scott, Planning Consultant; Jennifer Astholz, recording secretary; Skip and Greg Sagris; Rik Humbolt; Jacques Belanger; A. Humbolt; Jennifer McCourt

Chairperson Claire called the meeting to order at 7:03 pm. Ms. Claire informed the audience that Mr. Miner would be voting in place of Kellie Dyjak.

Discussion of Site Plan Conditional Approval

Case #2008-004: Map 1 Lot 619-A located at 1805 Old Concord Road in the Heavy Commercial (CH) Zoning District.

Jim McElroy has recused himself from this case.

Laura Scott reviewed the following items relative to this case that were presented to the Board at this meeting : 1) a memo from the Conservation Commission; 2) memo from DES; 3) memo from Hoyle, Tanner & Associates. Ms. Scott stated that HTA has signed off on the three items listed in her memo dated 7/29/08. She also stated that the applicant has paid the additional escrow amount. Ms. Scott stated that when it was seen that there was site alteration and work done to the building without final approval that she and Chairperson Claire decided that it would be best to have a conversation with the applicant. Ms. Scott stated that all of the conditions of approval have just recently been met, and HTA signed off as stated in the memo dated 8/11/08. Chairperson Claire stated that things like removing vegetation and working on the building should not be done until final approval was granted.

Ms. Scott stated that before signing the final plans, the Board and applicant should discuss the issues. She stated that proper erosion control measures are now in place, but they were not at first. Ms. Scott stated that the applicant cannot get a building permit until final approval is given.

Ms. Stamps stated that the issue is really that work was started before final approval was granted. Skip Sagris apologized for any misunderstanding that occurred. He stated that he specifically requested that the Board take action at their 7/9 mtg that would allow him to 1) remove trees; 2) remove the outbuildings; 3) complete offsite improvements. Mr.

Sagris stated that he understood the conditional approval still had items to be completed, but thought that those items he requested were allowed.

Mr. Sagris stated that he has not been a “green builder” in the past; however, he is trying to recycle as much material as possible from the site. He stated that all of the removed trees were logged; all scrap wood was chipped; stumps are being ground into chips. He stated that approximately 4,000 plants were carefully removed so that they would not be wasted. Mr. Sagris stated that copper piping, wiring, lumber, the boiler and bricks are being recycled. He explained that Pike Industries is resurfacing most of the street, but they were still negotiating with the State about who would be doing the final coat.

Chairperson Claire stated that she understands what happened, but explained that there could have been a great deal of trouble if an abutter had filed an appeal within the allowed 30-day period. She stated that major conditions were left open, and the applicant moved ahead without meeting the terms of the conditional approval.

Mr. Sagris stated that no stumping has been done. He stated that the trees had to be removed so that the erosion control system could be installed.

Terry Stamps stated that she is concerned about the miscommunication that occurred in this case. She asked if other conditions need to be imposed to ensure that the details are clear. She stated that it appears that more trees were removed than what was shown on the plans.

Chairperson Claire stated that she has discussed this case with Ms. Scott and Town Counsel, and they are confident that sufficient checks and balances are in place throughout the process. She stated that additional site work will be checked.

Mr. Sagris asked if the Board would like to impose a \$20,000 bond. The Board stated that this is usually done when public infrastructure is required. Scott Osgood stated that private entities often require performance bonds.

Ms. Scott stated that she keeps a running checklist of conditions and communication. She stated that the applicant provides the final plans with the relevant stamps and seals and the Chairperson will sign off on them. She stated that she will check upon construction completion to ensure that all conditions are signed off at the time that the certificate of occupancy is granted.

Ms. Stamps suggested that all items in the conditional approval may need to be clarified. She stated that trees were cut down to the stream, which is different than what was shown on the plan.

Mr. Sagris explained that the trees developed a shallow and sharp root system. Once the trees were removed, the remaining trees were not stable. Ms. Stamps stated that she understands that this occurs, but the site plan communication is different than what actually occurred.

Mr. Sagris explained that the 56" culvert that goes under the highway apparently has not been cleared in many years. The idea is to clean up that area and seed it. He stated that water was flowing around the felled debris and washing out the embankment. Now that it's been cleared out, the water is flowing properly down the middle of the stream.

Mr. Sagris explained that there was a problem with the logger that was hired to do the tree removal. He has since hired a full-time supervisor for the rest of the work to be done.

There was discussion about the differences in terminology of "wetlands," "drainage ditch" and "stream." According to Mr. Sagris, there is no flagging on site as there are no "wetlands." Ms. Scott pointed out that there are wetlands shown on the plans, which were delineated by a wetlands scientist. It was determined that there is no wetlands impact to the stream.

The issue of the three remaining posts was discussed. It appears that the posts are on the line of the setback from the wetlands. Mr. Sagris stated that it would look nicer if they could be removed. The Board decided that it appears safe to remove the posts without impacting any wetlands. Mr. Sagris stated that he would simply cut them off at the ground, thereby not disturbing any soil.

Ms. Scott stated that HTA has reviewed the plans twice since the Board granted conditional approval. As all conditions have been met, the applicant can now get final approval and start their building permit process.

Mr. Sagris stated that the Dunkin' Donuts corporate office has approved the tan building color to coordinate with the green roof. Brown awnings, with no wording, will be installed. Mr. Sagris stated that he will not be using the new sign design suggested by the corporate office as it does not fit the site.

Ms. Scott stated that the pre-construction meeting is scheduled for Tuesday morning.

Ms. Claire apologized for any miscommunication. Mr. Sagris apologized for getting too far ahead of protocol. Ms. Claire stated that the Board may be clearer in the future about time-sensitive issues. She suggested that this issue be discussed at a future work session meeting of the Planning Board.

Jim McElroy rejoined the Board at 8:00 pm.

New Public Hearings

Case 2008-006 Lot Line Adjustment Application

Map 1 Lot 590 & Lot 590-G located on Flanders Road and Craney Pond Road in the Commercial Recreational (CR) Zoning District. The applicant, James Nash, is proposing a lot line adjustment that would modify Lot 590 from 5.29 acres and 916.26' of road

frontage to 4.2 acres and 815.47' of frontage and Lot 590-G from 2 acres and 186' of frontage to 3.09 acres and 286.79' of frontage.

Ms. Scott reviewed the items in the packet. The applicant is requesting four waivers; hardship must be demonstrated. Ms. Scott stated that there are no other outstanding issues at this time.

Mr. Nash stated that he wants to move the existing lot line to have a buffer area so there is no problem if someone were to buy the lot. The existing property line is being moved, and it does not alter the ability to subdivide. There are existing buildings on each lot.

Jim McElroy **MOVED** to grant the waiver requested from section 202-9B(1) from the Subdivision Regulations so that two acres of buildable area do not have to be shown. Ron Taylor **SECONDED** the motion. Motion **PASSED, 6-0**.

The waiver request from section 202-9F was discussed. It was noted that this is a subdivision regulation applied to a lot line adjustment; this is a nonissue since there are existing buildings on the lots.

Mr. McElroy **MOVED** to grant the requested waiver from section 202-9F as it meets the spirit and intent of the regulation. Ms. Stamps **SECONDED** the motion. Motion **PASSED, 6-0**.

A waiver from a tie to state grid coordinates is requested due to the fact that there are no available points within a reasonable distance to the site. The nearest grids are across Route 114.

Ms. Stamps **MOVED** to grant a waiver from section 202-9G as there are no close available points to tie to the State grid. Mr. McElroy **SECONDED** the motion. Mr. Miner stated that there are other ways to do this and suggested rewording the motion to specifically coincide with the regulations. Ms. Stamps **AMENDED** the motion to state that the waiver should be granted as there are no points within 250' of the property to tie to the State grid. Mr. McElroy agreed with the amendment. The motion **PASSED, 6-0**.

Ms. Stamps **MOVED** to grant a waiver from section 202-9H of the Subdivision Regulations due to the lack of USGS benchmark within a reasonable distance. Mr. Taylor **SECONDED** the motion. Motion **PASSED, 6-0**.

Ron Taylor **MOVED** to accept the lot line adjustment application for case 2008-006 as complete. Jim McElroy **SECONDED** the motion. Motion **PASSED, 6-0**.

Chairperson Claire called for any further discussion by the Board. The public hearing was opened at 8:24 pm. Hearing no comments, the public hearing was closed.

Mr. McElroy **MOVED** to approve the lot line adjustment between Lot 590 and Lot 590-G as requested. Ms. Stamps **SECONDED** the motion. Motion **PASSED, 6-0**.

Case 2008-007 Minor Subdivision Application

Map 1 Lot 752-B located on NH 114 in the Commercial Recreational 1 (CR-1) Zoning District. The applicant, Riki Humbolt, is proposing a 2-lot subdivision. Lot 752-B is proposed to be 6.2 acres with 795.1' of frontage and Lot 752-B1 is proposed to be 6.64 acres with 366.25' of frontage. The primary access from NH 114 for Lot 752-B1 will be required to have an access easement for a driveway to cross Lot 752-B.

Laura Scott reviewed her memo dated 8/6/08 outlining this case. Ms. Scott stated that the applicant and his representatives are present at the meeting tonight. She stated that items #2 & #3 of the memo have to do with access to the site. Items listed under #2 are her interpretations of the Subdivision Regulations and are issues that needed to be brought to the Board's attention. She stated that the Board will have to make a decision about these items before proceeding to the items listed in #3 of the memo. Ms. Scott stated that she believes completeness has been met, but the Board will have to interpret the driveway section of the subdivision regulations as they currently stand and are outlined in her memo #2.

Jacques Belanger, surveyor, made the presentation of the application. He showed plans and gave a brief history of the property. Mr. Belanger stated that Mr. Humbolt would like to split Lot 752 into two lots. The primary driveway accesses for the proposed lot (752-B1) is a 50' access strip comes in over Lot 752-B. He stated that the driveway is designed at a 10% grade.

There is currently a 3-family unit house on the property; the subdivision is proposed for a single-family home. Mr. Belanger stated that there is an odd-shaped lot configuration to meet the acreage requirement. He stated that the land was logged a number of years ago and created a nice, clean lot. He showed the 2-acre buildable area and the area of steep slopes.

Mr. Belanger stated that there was an error made with the legal description of the driveway easement and the correction will be made.

Jennifer McCourt, McCourt Engineering, stated that the driveway for and building on Lot 752-B are existing and grandfathered uses. She stated that they want to allow a secondary access for Lot 752-B through the proposed driveway for Lot 752-B1. She stated that a note could be added that if Lot 752-B1 is developed for more than a 2-family unit that it needs to come back to the Planning Board. She stated that it would have to come to the Board for Site Plan review if a 3-family unit was proposed.

Ms. Scott asked the Board to interpret the term "secondary access."

Ms. McCourt showed the existing dirt driveway for Lot 752-B. The easement for this driveway comes from the existing abutting property (752-C). She stated that that the proposed driveway could also be called an emergency exit instead of secondary access for Lot 752-B.

Mr. McElroy stated that the description could be put in the deed to ensure protection.

Ms. Claire asked if the applicant had made sure that a curb cut into NH 114 was available. The applicant stated that a curb cut was available for the proposed lot.

The proposed driveway plan was shown. Side slopes of 2:1 with erosion control measures were shown. Ms. McCourt stated that it is an area of sandy soil. She stated that they are keeping the driveway upstream to eliminate water coming down.

Mr. McElroy stated that he is most worried about access to the lot that is being created.

There was discussion about the language providing for maintenance of the slope.

Ms. McCourt stated that the tie to 6 acres is to avoid creating a nonconforming lot.

Ms. Scott stated that this plan is to create an access for a new lot that needs an easement from the parent lot, which is also going to be a secondary access for the parent lot. The new lot can possibly be for a 3-family unit, so one driveway can potentially serve one three-family unit as a primary access and another three-family unit as a secondary access. In essence, one driveway could provide access to 5 units without review by the Planning Board. If a 3-family home is planned, a site plan review would be necessary, and the driveway may need to be built to Town road standards.

Ms. McCourt stated that there is really one lot that will want to use the proposed driveway. She stated that the regulation was put in place to address multiple lots. She stated that this is one lot with a multi-family unit.

Mr. McElroy stated that the Fire Department is now involved in driveway accesses. He stated that if this is proposed as a shared access way, the applicant must show what is intended.

Ms. Scott stated that the Fire Dept. would like to review it at the building permit stage, but she can request that they review it again.

Ms. Stamps **MOVED** to find the application for Case 2008-007 complete. Mr. McElroy **SECONDED** the motion. Motion **PASSED, 6-0**.

The public hearing was opened at 9:00 pm. Hearing no comments, the hearing was closed.

Ms. Scott suggested that the following items be addressed:

- 1) Add slope easement language;
- 2) Note #6 and the note with the proposed driveway easement do not seem to be adequate to ensure that the Subdivision Regulations on driveways are followed;

- 3) Driveway Easement: i) Lists the ROW width to be 16', which is in conflict with the 50' width on the plan; ii) States that the access easement is for access to a single-family structure only, which is in conflict with Note #6;
- 4) Copy of Deed Restriction language mentioned in Note #6
- 5) NH DOT Permit is required for the new shared access;
- 6) Final plans are to have all original signatures, stamps and seals
- 7) Put a bench in driveway side slope
- 8) Show how the proposed driveway for lot 752-B1 will connect with the current driveway for Lot 752-B to provide secondary access

Mr. McElroy stated that the approach to Route 114 is 30-degrees and then straightens out.

Chairperson Claire stated that a site walk may be helpful in this case. Ms. McCourt stated that they will stake out the driveway and limits of the slope easement before the site walk. The site walk is scheduled for Monday, August 18, 2008 at 6:00 pm. Ms. Scott will invite the Fire Department as well.

Mr. Taylor **MOVED** to continue the hearing for Case 2008-007 to the next meeting of the Planning Board on September 10, 2008. Mr. McElroy **SECONDED** the motion. Motion to continue the hearing **PASSED, 6-0.**

July 23, 2008 Meeting Minutes – Review and Approve

Chairperson Claire and Terry Stamps stated that they are abstaining from reviewing the minutes as they were not present at the July 23, 2008 meeting. Mr. McElroy **MOVED** to approve the minutes as edited. Mr. Taylor **SECONDED** the motion. Motion **PASSED, 4-0-2.**

UNH Community Profile/Master Plan Visioning Programs

Ms. Scott stated that the application deadline is Friday, August 15, 2008. The Board reviewed the application and supported its entry. She stated that she will try to get a better idea of the time frame of the project.

Other Items

Ms. Stamps and Mr. McElroy gave a brief update of the Talbot case, which was heard in court on Monday.

Mr. McElroy **MOVED** to adjourn at 9:40 pm. Ms. Stamps **SECONDED** the motion. Motion **PASSED, 6-0.**

Respectfully submitted,

Jennifer Astholz
Recording Secretary