

**SOMERSWORTH PLANNING BOARD
MINUTES OF MEETING
SEPTEMBER 21, 2011**

MEMBERS PRESENT: Anthony Delyani, Vice Chairman, Dave Witham, City Council Representative, Paul Robidas, Erwin Grant, Matthew Durkee and Dan Proulx.

MEMBERS ABSENT: William Sweeney, Chairman, Bob Belmore, City Manager and Ron LeHoullier.

STAFF PRESENT: Dave Sharples, City Planner and Tracy Gora, Planning Secretary.

The meeting was called to order at 6:30 p.m.

1) APPROVAL OF MINUTES.

Motion: Witham moved to accept the minutes of the meeting of August 17, 2011.

Seconded by Robidas. Motion carried with a 4-0-2 vote with Proulx and Durkee abstained.

Motion: Witham moved to accept the minutes of the workshop meeting of September 12, 2011.

Seconded by Robidas.

Witham stated that there were not enough people who attended the workshop to pass a motion to approve the minutes. Informed the Board that he feels that the minutes are accurate and asked the Board to vote in favor of accepting them, even if they were not at the meeting.

Motion carried with a 6-0 vote.

2) COMMITTEE REPORTS

A) ZBA Report

See attached.

B) City Council Report

Witham stated that the Council met on September 6 and that there was also a workshop with the Friends of Somersworth regarding the reuse of the Hilltop School. Stated that it was just an informational session and that there were no votes taken. Stated that at the regular meeting the Council voted to accept funds for an HDC grant to continue the survey work. Stated that the surveys are a valuable tool for the Commission when reviewing applications. Stated that the Council approved the City Manager to enter into a contract with CMA Engineers in lieu of there being a City Engineer.

C) Site Review Technical Committee Report

Sharples reviewed the attached report and stated that the Committee reviewed a site plan application for Rymes for a new gas business on Route 108. Stated that he expects them to come before the Planning Board next month. Stated that the Committee also reviewed a site plan application for the Community Food Pantry for a new storage building. Stated that he also expects them to come before the Planning Board next month.

Robidas asked if Rymes is going into the A-frame building.

Sharples stated that they are planning to demolish that building and build a new one on the same footprint.

D) Minor Field Modification Report

None.

E) Strafford Regional Planning Commission Update

Witham stated that Councilor Tapscott reported that there is no update.

F) Vision 2020 Report

None.

3) OLD BUSINESS

A) Any old business that may come before the Board.

None.

4) NEW BUSINESS

A) The Anthony Kurlovich 2003 Revocable Trust is seeking design review of a proposed three-lot subdivision on property located at 93 Cole's Pond Road, in the Residential Single Family (R1) District, Assessor's Map 50, Lot 13.

Sharples reviewed his memo (see attached) and stated that this is design review, which allows for a non-binding discussion. Stated that this is not a formal application although abutters were notified in accordance with State law. Stated that no action can be taken. Stated that this is a review for a three-lot subdivision with two lots being carved out of the large lot. Stated that the applicant went to the SRTC with a formal application but that the SRTC needed a lot more information, including specs for upgrading the road. Stated that the applicant got a variance from the frontage requirements but that the variance doesn't trump the subdivision regulations. Stated that he had suggested the design review process to offer guidance for the applicant.

Public hearing opened 6:38 pm.

Art Nickless of Norway Plains represented the Kurlovich Trust and addressed the Board. Stated that this is a large property where there is an existing private road, which has four homes on it already. Stated that one of the existing lots was owned by the Trust when a family member purchased it and built a house. Stated that the applicant went to the ZBA for a variance to create lots without frontage. Read the definition of frontage from the regulations. Stated that the applicant submitted plans to create two lots and the SRTC asked where the road improvement plans are. Stated that the subdivision regulations have requirements for roads. Stated that Somersworth wants the road to be built to class five status but that the wants to talk with the Board tonight to see if there is room for negotiations for that requirement. Stated that the road is fully maintained by the people who use it. Stated that when Fermanis' son built the house in 2009, he had to get approval from the City Council because they are the only ones that can authorize building on a class six road, with certain stipulations. Stated that a limit of liability document was filed at the Strafford County Registry of Deeds (SCRD), which is common when lots get developed on private roads. Stated that there were health and safety issues and the

Fire Chief asked for certain improvements, which were done. Stated that he knows that there is some work that needs to be done, like a new culvert, which will need a NHDES permit. Stated that they are willing to address safety concerns. Stated that if the variance hadn't been granted then there would be nothing to talk about. Stated that Council will need to approve the building permit and the limit of liability document will need to be filed for these lots. Stated that there is a two-inch water line that will need to be upgraded.

Witham asked Nickless to point out the lots on the plan.

Nickless showed the two proposed lots on the plan. Stated that there is a right of way farther down that will that could be used as access if there was anything else ever done. Reviewed the size of the lots.

Witham asked about Blue Heron Drive versus Cole's Pond Road.

Sharples stated that the main parcel is about 65 acres in size and that its legal address is Cole's Pond Road. Stated that the parcel has frontage or access from several different roads and that the subdivision would be off Blue Heron Drive.

Proulx asked about the lot from 2009.

Nickless stated that it is owned by Zack Fermanis.

Steve Fermanis, representative of the Estate, addressed the Board. Stated that the parcel is actually about 56 acres in size with the homestead being accessed from Cole's Pond Road. Stated that the other parcel was deeded off long ago. Stated that there are three other properties that have been there for a while that are separately owned. Stated that the property does go to Rocky Hill Road but that they are looking to finish off the Blue Heron Drive portion. Stated that it is like a private driveway. Stated that he would like to honor the original plan for the property. Stated that there are wetlands on the large parcel. Stated that there is a two-inch waterline that services one house and that the other three have private wells.

Sharples stated that it was mentioned that there was a prior subdivision that was approved for the first lot and now it is being made bigger.

Nickless stated that there is an old plan that made the corner lot and another lot.

Sharples stated that it isn't shown on this current plan.

Nickless stated that there was never a deed drawn and that he is not sure it was ever recorded at the registry.

Delyani asked about the difference between a class five and six road and asked why the City needs a class five road.

Sharples read from the requirements of the Subdivision Regulations. Stated that the regulations do not specify classes, they just refer to a residential or urban classification. Stated that there are road requirements in the regulations that have to be met. Stated that the applicant is asking for flexibility on the road requirements since it will remain private.

Delyani asked if it is accurate to say that the road is nonconforming with the City's standards.

Sharples stated that he can't say that but that there are lots of record and that the roadway is not built to City standards.

Peter Houde of 104 Rocky Hill Road addressed the Board. Stated that he would like to see a conceptual plan of the entire parcel. Stated that they were here last year and that he would like to see a plan for the future.

Fermanis stated that the land is in current use and that the intent is to keep it that way. Stated that there are questions of whether this is a two-lot subdivision versus a three-lot subdivision and that he was calling it a two-lot subdivision because there is already one lot there. Stated that they are just looking to carve two new parcels off. Stated that this is the same as before and that there will only be two new properties. Stated that he has already applied for an intent to cut permit.

Nickless stated that the class five term is used in zoning and that is why he used it. Stated that class five really only means that the City owns and maintains it. Stated that they are not trying to circumvent the regulations but that they speak to new subdivisions with new streets. Stated that they are just asking to leave the street the way it is with maybe some improvements for safety.

Kathleen Hebert of 160 Lily Pond Road addressed the Board and asked if there will be other opportunities to speak on this in the future.

Sharples stated that the plans are in the office and can always be looked at. Stated that this is a design review and will need a formal application where there will be another public hearing and more opportunity to speak. Stated that abutters will be notified again.

Houde asked if abutters would be notified for the clearing of timber.

Sharples stated that there is no abutter notification requirement for a timber cut permit.

Houde stated that he is concerned that even if they don't develop that they will sell it to someone who wants to. Asked if there is a way to preserve the land to make sure it doesn't get developed in the future.

Public hearing closed 7:06 pm.

Witham asked how long Blue Heron Drive is from Lily Pond Road.

Fermanis stated that from Lily Pond Road to the turn around it is approximately 1000 feet but to the midpoint of the second proposed lot it is approximately 600 feet.

Witham stated that he would like an opinion from the Fire Chief regarding water because the City doesn't carry lots of tank water and there is a safety obligation.

Fermanis stated that a hydrant will be put in.

Witham asked if there is conservation land in close proximity to the remaining undeveloped land that would make it contiguous.

Sharples stated that he is unsure but that the golf course has two conservation areas and that he thinks one of them may abut this lot.

Witham stated that a conservation easement would interest him.

Sharples stated that the applicant is looking for direction from the Board regarding roadway improvements and what you would like to see.

Witham stated that he is hesitant but would be more open to explore this with a conservation easement as long as safety was addressed. Stated that it is in the best interest of the Board to do their part for safety. Stated that a release of liability was talked about but that he thinks the obligation goes farther than that.

Delyani stated that he is concerned with not wanting to ignore the City's standards just to save the applicant money. Stated that the ZBA abandoned their standards but that it is not an argument for the Planning Board to do the same. Stated that everyone else needs to build a better road so why not this applicant. Stated that he has deep skepticism and that he is concerned with the applicant not wanting to adhere because it is too expensive.

Proulx stated that he would like to echo the thoughts of the Chairman and that he would like to see more improvements to the road.

Sharples stated that he would be shocked if the City Council accepted this road and that he thinks the road will remain private. Stated that it can't be dumped on the City.

Proulx stated that there is follow up to these things in the future but that the City doesn't always have the manpower to always be checking up on them.

Sharples stated that he would imagine there being a homeowners association.

Proulx asked if there is oversight for adherence by the City.

Sharples stated that he would have to look into that but that he is hesitant. Stated that once the City has the limits of liability, the City is saying that they are not responsible but once you start reaching in sometimes comes obligation. Stated that he will look into it for a better answer.

Witham stated that the intent of the standards was probably for safety when the City takes over a road.

Nickless stated that there is a road there today that is used by four homes that isn't maintained by the City. Stated that they can work with the Fire Chief to be sure safety issues are addressed. Stated that they have already started putting together an association document. Stated that there is added responsibility being on a rural road.

Witham stated that he is concerned with the remaining piece of land. Stated that if on paper it could be developed, then he would be hesitant to grant what the applicant is looking for. Stated that he would be more inclined to consider this request if he knew it couldn't be developed.

Robidas stated that he is right on point with Witham. Stated that he doesn't know what is going to happen five years down the road. Stated that if he knew it wouldn't be developed then he would be more in favor of the request.

Fermanis stated that the elevations are not shown on this plan but that the pond drains through this land and goes to Rocky Hill Road and Salmon Falls Road. Stated that his point is that he supposes that someone could further develop but that it couldn't be built because of the wetlands. Stated that this is a great area to finish off. Stated that there are two high points from Rocky Hill Road where I guess could be used as access but that he has no intent for that. Stated that he doesn't think it would be good for this area because of the wetlands and that he doesn't foresee that happening ever. Stated that he can't say what someone else will do after he's not here anymore.

Witham stated that if this proposal comes back to the Board as a formal application, he would like to see a locus map with larger detail.

Nickless stated that they have surveyed the entire parcel and can provide that.

Sharples read from the regulations regarding the Board requiring a conceptual plan. Stated that he feels this lot has additional potential for further development.

Witham stated that the Board needs to be cognizant of the future.

Nickless stated that when they come back they will have a sketch of the conditions of the property.

Delyani asked where the access to this site is off Rocky Hill Road.

Sharples stated that there is an access between the two entrances to Rouleau Drive and another access farther down.

Fermanis showed on small map.

Sharples stated that you never know what the market holds.

Durkee stated that he echoes the comments of the Chairman and that he doesn't see a compelling reason to issue a waiver in terms of money. Stated that he finds it hard to support skirting around the regulations that are in place. Stated that he understands there are visions of the people who previously owned the land but that there are regulations in place that have to be upheld. Stated that he doesn't see where a waiver would be appropriate and that he wouldn't support it.

B) Any other new business that may come before the Board.

Delyani stated that there is a voluntary merger request that was not on the agenda.

Sharples reviewed his memo (see attached) and stated that the property owner is seeking a voluntary merger. Stated that no public hearing is required and the State RSAs state that the Planning Board shall approve the request as long as it doesn't create a violation of ordinances or regulations. Stated that no violations would be created and that both parcels are owned by the same entity. Stated that he recommends approval and that the request is for two lots on Salmon Falls Road.

Proulx asked where the property is located.

Sharples stated that the property is located between Curran Way and Squire Drive on Salmon Falls Road.

Motion: Witham moved that the request of Nathaniel Lee for a voluntary merger be **APPROVED**.

Seconded by Durkee. Motion carried with a 6-0 vote.

5) **WORKSHOP BUSINESS**

A) Any workshop business that may come before the Board.

None.

6) **COMMUNICATION AND MISCELLANEOUS**

Sharples stated that Capital Improvement Program (CIP) season is kicking off again and that the City is looking for input from the Planning Board. Stated that the Planning Board has had more involvement with the process recently. Stated that he would like to schedule a workshop meeting to review the CIP and that all City department heads will attend the meeting.

Proulx stated that if there is nothing on the agenda then he doesn't see having to schedule a separate workshop meeting.

Delyani asked what nights work best.

Sharples stated that Mondays and Wednesdays don't work.

Witham stated that Thursdays are probably best.

Robidas stated that the Board usually gets a copy of the draft CIP prior to the meeting and that he would like that this time as well.

Witham stated that it is helpful for the City Manager to give an overview of the CIP. Stated that it is helpful to look at what has been achieved in the past because some things don't get funded.

Delyani stated that he has found Belmore's presentations very helpful.

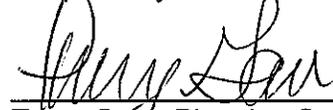
Sharples stated that he will look into it and put something together.

Motion: Proulx moved to adjourn the meeting.

Seconded by Robidas. Motion carried with a 6-0 vote.

Meeting adjourned at 7:42 pm.

Respectfully submitted:



Tracy Gora, Planning Secretary
Somersworth Planning Board