

**PLANNING BOARD
RINDGE, NEW HAMPSHIRE
January 21, 2014**

DATE: January 21, 2014 TYPE: Public Meeting APPROVED: February 4, 2014

TIME: 7:00 pm

CALL TO ORDER:

ROLL CALL MEMBERS: Chairman Kirk Stenersen, Hank Whitney, Bruce Donati, Charlie Eicher, Phil Simeone

ROLL CALL ALTERNATES: Holly Koski, Tim Halliday

EX OFFICIO: Roberta Oeser

PLANNING DIRECTOR: Mark Smith

PLANNING SECRETARY: Susan Hoyland

APPOINTMENT OF ALTERNATES Holly Koski for empty seat

ABSENT: Burt Goodrich

OTHERS PRESENT: Craig Clark, Evie Goodspeed, Larry Cleveland, Jed Paquin, Ray and Penny Rodriguez, Gillian L'Eplattenier, Kelen Geiger, John O'Day, Brenda Lashua, Rick Griffith, Judy Unger-Clark, Nancy LaBonne, Hosea Ketola, Mika Lassila, Rick Goodspeed.

1. Announcements

Chairman Stenersen welcomed Tim Halliday as an alternate to the Board.

Chairman Stenersen said that there had been no substantial changes to the Zoning Amendments at the last Public Hearing on January 6, 2014 and that the amendments were sent forward to Town Warrant. There will be no further discussion this evening of those amendments.

2. Approval of Minutes

a. January 6, 2014

MOTION: Phil Simeone moved to accept the January 6, 2014 minutes. Roberta Oeser seconded the motion. **Vote: 5-0-1 Charlie** Eicher abstained.

b. January 7, 2014

c. January 7, 2014 non-public session

MOTION: Phil Simeone moved to accept the January 7th public and non-public minutes. Charlie Eicher seconded the motion. **Vote: 6-0-0**

Chairman Stenersen appointed Holly Koski to sit for the vacant seat.

3. Old Business

a. Continued from January 7, 2014: CONSIDERATION OF an application for a Minor Subdivision submitted by Hosea Ketola. The property is located at Tax Map 10, Lot 3-2 at

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Fitzgerald Road. Fitzgerald Road is a scenic road. The applicant is seeking approval for a two lot subdivision.

Jed Paquin addressed the board on behalf of the applicant. He said that, for the record, the applicant is Edgewater Construction. Jed Paquin said that there have been some changes to the plans. He outlined the changes as follows:

- Reduced length of driveways,
- Changed location of home
- Eliminated wetlands impact by moving proposed curb cut locations
- Eliminated 50 foot strip of land along the southern boundary

Jed Paquin introduced Ed Rogers of Rogers Engineering Solutions who has been hired as a civil engineer to address the concerns that were voiced by the Board at the last meeting.

Ed Rogers said that he was asked to take a look at this project for Edgewater Construction specific to driveway design and mitigating potential impact to the public right of way in the existing wetland. Ed Rogers presented his design to the Board which included:

- Minimizing the length of the proposed driveways in order to limit impervious areas.
- The size of the proposed houses should not exceed a footprint of 1700 s.f. including decks or patios.
- Total clearing on each lot including areas for house and driveway not to exceed ¼ acre.
- No impervious surfaces within 50 feet of wetland
- Proposed catch basins and proper channeling of storm water runoff to eliminate erosion of the gravel shoulder of Fitzgerald Road.
- Each driveway to have a culvert
- Existing swale on Fitzgerald Road should be cleaned and lined with fabric and 6” stone material
- A plunge pool at the outlet of the lower driveway, lined with fabric and stone prior to the storm water entering the wetland.
- A rain garden is proposed to buffer and infiltrate storm water from the roof of the house on lot 3-2

Ed Rogers said he has prepared a design to minimize the impact of potential development on this site

Among items discussed by the Board were:

- 1700 s.f. for house and maximum clearing of ¼ acre talked about for one lot, but not for two (Mr. Rogers said these are included in his calculations and he will clarify that in his report)
- Houses not shown on Jed’s plan (Jed offered to add those)
- The amount of ongoing maintenance required for this plan to work as it is proposed

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- Who will oversee this maintenance?
- Can there be deed restrictions?
- The effect of land clearing and tree cutting on this model
- The 17 acre watershed model and a portion of property that does not contribute to the flow.
- Discussion about the ROW.
- Suggestion that the Road Agent should weigh in on this design.
- A need to refigure the calculations for the low point on the lower driveway
- A need to refigure the upper driveway culvert.
- Use of existing test pits for Rain Garden; recommendation by Mr. Rogers that test pits be done at time of construction

Chairman Stenersen opened the public hearing.

Judy Unger-Clark asked that the New Hampshire Department of Environmental Services Fact Sheet WD-WMB-17 “What is storm water”. 2010. (copy attached herein) be made part of the record. She said that she has lived here for over 30 years and has witnessed that when new houses come in; they have drastically changed the storm water runoff. Pollutants are picked up with storm water runoff and flow untreated into nearby lakes. Judy Unger-Clark read from Ed Rogers’ report (dated January 13, 2014) under Conclusions:

- “The steep slope of the subject property and proximity to an onsite wetland which is hydrologically connected to Grassy Pond pose design challenges that require careful consideration. A 2 lot subdivision development which is limited to, or less impactful than the proposed design detailed in the attached plans should be able to maintain existing flows, or slightly reduce them. Proper construction of the proposed catch basins and rain garden should improve the water quality entering the wetlands.” Judy Unger-Clark called attention to the word “should”.

Judy Unger Clark said her concern is: What is going to happen to Grassy Pond?

Ed Rogers said that the current condition of Fitzgerald Road and the storm water runoff is far from ideal. He said that his proposal is not designed to fix all the issues on Fitzgerald Road. It is designed specifically to make sure that this applicant does not make matters worse. There are an almost unlimited number of improvements that could be made on Fitzgerald Road to stop the flow to Grassy Pond. He said we cannot solve all those problems this evening and through this application.

Evie Goodspeed said that in a previous meeting they supplied a picture of the silt at Grassy Pond. She brought meeting minutes from 2006 when there was another subdivision and where the Board then had concerns. She asked the Board to go back out and look at the proposed driveway location. She said she has statements from the 2006 Planning Board, from the Fire Department, previous selectman, all stating concerns about this particular lot if it were to ever be developed. She said that last week, the Roadway Committee went before the Board of Selectmen with concerns about run off on the road and silt going to Grassy Pond. She said that this particular proposal will affect her and Rick as it will flood their property. She had pictures of a new house that went in recently that is now

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flooding another's property. She said that Mike Cloutier went on record that the builder had changed the plans after they were approved. Evie Goodspeed referred to Mr. Rogers' plans and referenced the need for many inspections necessary for this plan to work. She asked who is going to oversee these inspections and ensure that guidelines are followed. Who is going to make sure that the homeowner will follow these rules? Evie Goodspeed asked what would happen if a new homeowner came in and decided to clear cut his property. What would happen?

Richard Chamberlain, 220 Fitzgerald Road: When the last house was added, the homeowner's didn't follow regulations. He said that now, all the runoff goes to his property. He said, evidently, the Town does not have any authority to do anything after the fact, if regulations are not followed.

Tim Halliday said that years ago, Pete Anderson, former Road Agent, had tested all the bodies of water in town and found that Grassy Pond would have been the only body of water that could qualify for a reservoir for the Town of Rindge. He said that while there are no immediate plans to have a public water supply, if it ever came to be, Grassy Pond could support a reservoir. It is a unique body of water that future generations may need for drinking water supply.

Craig Unger-Clark said his concern is for run off and for accountability. He said that Mr. Rogers has done a good job on the plan from what he knows, but if there is no accountability, it is irrelevant.

Jed Paquin said that he understands the concerns and that they are valid. He asked the Board to make clarification on how they would address those issues.

Ed Rogers said that, if this is approved, and these plans become part of the approval, as well as the registered plat, and if the builder or homeowner fails to adhere to this, then it would become a matter for code enforcement if it is a condition of approval.

Rick Goodspeed and Ollie Lucier both expressed concern about the ability to oversee weekly inspections.

Selectman Dan Aho said that the responsibility should fall to the applicant to have his engineer certify that this has been done properly, so that the burden falls on the applicant, and not on the town.

Evie Goodspeed said that any more development in this area at this time would be hazardous. Judy Unger-Clark said that this property should not be developed. Evie Goodspeed asked, if this were to be approved, could the 8 acre parcel be subdivided again? Planning Director Mark Smith said that restrictions could be put on the plan to allow no further subdivision.

Ed Rogers said that to the extent that this property is being portrayed as undevelopable is incorrect. He said that the applicant is willing to allow this plan to be a condition of approval.

Roberta Oeser said that the town may need to consider a steep slope ordinance.

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Tim Halliday said that while the town may not have a Steep Slope ordinance, essentially, it is addressed in the Subdivision Regulations. He referred the Planning Board to Section VI -1A of the Subdivision Regulations which addresses this issue.

Judy Unger-Clark asked about new driveway locations and sight lines. Ed Rogers said these new driveway locations create the least impact. He said he has addressed the sight lines and can add a sight line certification to his plan. The new driveway locations will be cutting into stone walls. Chairman Stenersen said that two public hearings for Scenic Roads would be required for these driveway cuts. Chairman Stenersen asked Ed Rogers to check his calculations for the setback from wetlands. There may be a scaling problem on the plan.

Jed Paquin asked the Board to provide clear instructions as to what they would like to see at the next meeting.

Roberta Oeser said she cannot support this plan. She said she is not sure how the Planning Board could assure that this plan would be done properly and maintained. It would be at the taxpayer's expense to monitor this, even with an engineer paid for by the landowner. This ongoing maintenance does not end with a deed.

Phil Simeone said that while he thought they did a good job with the plan, he still has reservations about how this will be enforced and still has concerns for runoff to Grassy Pond. Phil said he doesn't know how you can monitor this.

Kirk Stenersen said that you can engineer for anything. He suggested that Mike Cloutier should weigh in on the culverts, ditch line and right of way. Kirk said that Mark Smith, Planning Director had suggested a peer review. Ed Rogers asked if the Board had any problem if he and Kirk discussed this outside of this meeting.

Hank Whitney said that inspections would have to be done every step of the way during construction. (He referred to page three of the construction instructions).

Bruce Donati said he agreed with Hank Whitney and that reviews by an engineer should be at the applicant's expense. Bruce said that the conditions should be placed on the plan.

Charlie Eicher said that this was a difficult case, to balance the property owner's rights. He said that common sense would say that if this would need to be monitored and inspected forever, that we do not have the capability to do that. Why bother with conditions to mitigate problems if we cannot assure that they will be followed.

Holly Koski said that she was at the Board of Selectmen's meeting last week when they were discussing the problems on Fitzgerald Road. She said she does not know why the Planning Board would consider approving any further development on that road at this time.

Mika Lassila said that a Performance Bond could be utilized as a means to monitor this.

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Ed Rogers said that there are two separate issues: monitoring of construction and monitoring after construction. He said there is also the clearing issue. If someone fires up a chainsaw, does anyone need to go out and monitor that? He asked to keep the construction monitoring separate from the post construction monitoring.

Ed Rogers said he would be glad to meet with the Chairman, The Planning Director and Road Agent to discuss this further.

Chairman Stenersen asked the Board if there was any point in continuing this hearing or would they rather vote to approve or disapprove this application.

Hank Whitney said he is in favor of continuing. He said that there are things that need to be changed on the plans, to show the punchbowl, the swale, change the wording on the clearing to ¼ acre, fix the boilerplate DES note, . He said that the inspections, on every sequence of construction, need to happen in a timely manner until it is done. The maintenance issues are a once a year inspection. Hank Whitney said that this is a very good plan.

Holly Koski said that if the applicant can provide something to assure her that there will be no additional problems on Fitzgerald Road, she would be willing to hear that.

Charlie Eicher said he needs to see an ongoing maintenance plan in writing.

Chairman Stenersen said that Jed Paquin would need to return with the following:

1. Showing the house site area and driveway on the topo sheet
2. Address the questions that were brought up on engineering driveway designs
3. Slope of driveway and culvert pipe

Chairman Stenersen said he would sit down with Ed Rogers to discuss concerns he has as long as the Board has no issue with that.

MOTION: Phil Simeone moved to continue this public hearing until February 18, 2014. Roberta Oeser seconded the motion. **Vote: 7-0-0**

4. New Business-Public Hearing Citizen Petitions

Chairman Stenersen said that two petition articles have been submitted. These articles will go on the ballot in March. The Planning Board's requirement is to show either support or lack of support for the article.

a. Petition Warrant Article, Wetlands Ordinance

Are you in favor of Amending the Town of Rindge Wetlands Conservation District Ordinance Section 5.F. to read as follows: "No underground or above ground storage of Hazardous

Materials shall take place in or within 125 feet of the Ordinary High Water Mark of Surface Waters or within 125 feet of Vegetated Wetlands.”

DISCUSSION included:

- This ordinance presently calls for 250 feet.
- Shoreline Protection act
- State requirement of 75 feet
- Where did the 250 feet come from? Why 125 feet?
- If this passes, then West of the Border could put in a double walled tank and not a triple walled tank. (per their ZBA variance)
- West of the Border distance from wetland to storage tanks is 125 feet

MOTION: Roberta Oeser moved to support this Warrant Article. Hank Whitney seconded the motion. **Vote: 4-3-0** Phil Simeone, Holly Koski and Bruce Donati voted no.

b. Petition Warrant Article, Wetlands Ordinance

Are you in favor of Amending the Town of Rindge Wetlands Conservation District Ordinance Section 5.D. to read as follows: “No net increase in peak flow of storm water runoff into Surface Waters or Vegetated Wetlands as a result of any development shall be allowed. Calculations to be based on a 25 year storm event.”

DISCUSSION:

- This petition article is eliminating words “ or overall volume”
- Very few towns have volume restrictions.

MOTION: Hank Whitney moved to support this warrant article. Roberta Oeser seconded the motion. **Vote: 5-1-1** Bruce Donati voted No, Phil Simeone abstained.

5. Planning Department Report

6. Work Meeting

- a. Kim McCummings request to be appointed as an alternate

Chairman Stenersen read Kim’s written request in to record. Kim would be available for at least one meeting a month and possibly two. Kelen Geiger spoke in opposition to Kim being appointed an alternate due to her availability. Kelen Geiger said that our Rules of Procedure state that alternates should be present at all meetings. (The Board explained that absences could be approved by the Chairman). The Board decided that Kim’s years of experience would be a welcomed addition to the

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Board and that her attendance would be acceptable to the Board. We currently have two alternates with five alternate positions.

MOTION: Roberta Oeser moved to appoint Kim McCummings to serve as an alternate for a term ending in March of 2016. Charlie Eicher seconded the motion. **Vote: 7-0-0**

7. Non-Public Session pursuant to RSA 91-A:3IIb

MOTION: Roberta Oeser moved to go to Non-Public Session pursuant to RSA 91-A: 3IIb for personnel, Mark Smith's 90 day review. Hank Whitney seconded the motion. Vote: Holly Koski-AYE; Hank Whitney-AYE; Bruce Donati-AYE; Kirk Stenersen-AYE; Roberta Oeser-AYE; Phil Simeone-AYE; Charlie Eicher-AYE

Adjourn: 10:40PM