

**PLANNING BOARD
RINDGE, NEW HAMPSHIRE
August 10, 2004
MINUTES**

DATE: August 10, 2004 TYPE: Work Meeting DATE APPROVED: 09/07/04

TIME: 7:00-9:30 PM. Katie Duffy, Chair

CALL TO ORDER, at 7:00 PM

ROLL CALL: Katie Duffy, Cheves Walling, Dr. Gerry Parker Charles Carroll Richard Isakson, Paul O'Connor, Kim McCummings, James Hoard, Arthur Fiorelli, Jo Anne Carr, Robyn Payson,

The goal of this work meeting is to discuss proposed changes to Site Plan Regulations as well as to begin to clarify what constitutes a Site Plan.

David DuVernay- has come to the Board for clarification on interpretation of site plan regulations as they pertain to code enforcement.

Jo Anne Carr- told the audience that to date there are no accepted changes to the Site Plan Regulations. She stated that the immediate question before her is, what triggers a site plan?

Katie Duffy- per her understanding of the regulation of the current Site Plan Regulations, a Site Plan is necessary if you plan on developing your land for some reason where it says;

“before any construction, land clearing , building, development or change has begun; before the permit for the erection of any building or authorization for development on such site shall be granted the developer or his authorized agent shall apply for and secure approval of such proposed site development in accordance with the following procedure.”

Should you need a Site Plan to access your land or clear it some, or just fill it in to use yourself, but have no plans to do anything with it? It has been hard to determine recently.

Cheves Walling -right now, unless there is an existing site plan that was approved, that’s what’s triggering it.

Dave DuVernay-cited four instances where he stopped people clearing their land because it appeared that they met the requirement to have a site plan before any changes to the land could occur.

Letters sent to:

B&S –Belletete- Cleared 2 lots-Jack Belletete said it was a Forestry operation, he cut the trees and if he hadn’t sold the land he would have re-planted them. This made it an exception. Within a month both properties were sold.

Leona Letourneau-On 119 she had a state driveway permit and she was dumping dirt on to her property just below the driveway. A letter was sent informing her that she was in violation

because she did not get a site plan. Upon conversation with Leona, she had a relative cut some trees down for personal firewood and she argued she did not need a site plan.

Bill Harper –Cut down trees and moved dirt on Hunt Hill at the junction of 202. A letter was sent. Mr Harper responded by saying he was well aware of the Site Plan Regulations. By obtaining an “Intent to Cut” he was in compliance and did not need a site plan because he is not planning on doing anything with the land at this time.

John Hill and Dana Olson-Both on 119 near Letourneu’s property. A couple of years ago he cut down trees . He did come to the Planning Board and stated he planned to put a building on that property. There is a trailer parked on that property now. We are also looking for a site plan review for the property he owns on 119 next to Walsh Realty.

Dave DuVernay,- as code enforcement officer is looking for direction in interpretation of the regulations. Each of these instances have different circumstances. By reading the regulations literally, each one should have a site plan because they are in a commercial district. Maybe there needs to be something in the regulations stating that the planning board should be notified that they are not planning to do anything with the property they are just cutting for fire wood etc.

Jo Anne Carr-Part of the confusion, is that the forestry law in the State of New Hampshire, provides a condition that if you are not intending to change or convert the use of the land when you do your forestry, then you are exempt from land use boards, and wetlands setbacks. Wetlands being the more immediate concern in this matter. Bona-fide forest practices should be encouraged. The question arises when you are a land use board, you know the land is zoned commercial and clear cuts are happening. There may be a use or a conversion happening at some time and Conservation and Planning would be interested in the sense of trying to have appropriate land development on those sites. It’s not antagonistic to commercial development or antagonistic to forestry necessarily but it’s a sense of trying to have compatible land uses and see how that site can be developed to the maximum extent practicable without impacting wetlands. I think that’s where the question comes up. It’s a confusing thing to bump up against the forestry regulation, state statutes, and what the town intends to do, and try to support commercial development as well. I think that’s what’s driving it.

Katie Duffy-I think over the years we have had so much cutting, or its been done and the development hasn’t been there. And its been maybe two years, three years, five years and then somebody has come for a site plan. So, I do believe the Planning Board ought to decide how they are going to interpret this so if we are going to set up a situation where, as Dave said, you notify the Planning Board prior to doing it so that they are aware of what you are going to be doing, if you are not going to be using your land, is there a situation where you would have a Mini Site Plan. Because how do you have a Site Plan without the buildings and the roads? What if you just need to get on your land to use it?

Cheves Walling-The suggestion makes sense as far as notifying the Planning Board, its what do we do with it when we are notified?

Charles Carroll-Basically we refer it over to Dave so he doesn't need to go out there and ask questions at the site.

Cheves Walling- We can do that, but we have to make some conclusion as to whether it is significant and calls for a site plan or not.

Dr. Parker-Why are we doing it? Why are we demanding in certain cases that a site plan review take place? What is it that we as a board want from all this? What's the intent?

Cheves Walling-How do we define improvements on a tract of land?

Dave Du Vernay-It does seem to me that you don't want to be burdened by people coming in with Site Plans who basically have no immediate interest in developing their property. I don't think its fair to anybody to require that they pay the cost of preparing a Site Plan for your approval when they don't really know what they want to do with their property. On the other hand, it does seem to me we don't want to set up a situation where someone indicates that they have no intentions of doing anything with their property but they are going to cut down all the trees and then a month later we get an application for a restaurant or an office building or something else. We have to be careful about that.

Cheves Walling- Well as Dave Tower has made the point in the past that when they come back with a Site Plan for a commercial development then the Planning Board has the opportunity at that point to say that we want re-planting. That makes sense to me, if it turns out to be different than what we thought, as the Site Plan develops we do that use our authority and act upon it that way. Maybe if we can define under development, "improvements" then we can have a sense that improvements are more than forestry cutting, we are talking about roads going in and what the next step would be.

Arthur Fiorelli-I think the question is , what is the intent of the Planning Board, and what are we intending to accomplish? I think the other question is, what is the intention of the property owner when he or she clear-cuts? I think that's really what we're talking about in almost, if not all of these cases. If the property owner intends to follow good forest management practices, is there ever a time that clear cutting makes sense? Or, is it better to follow the best forest management practices for that particular site. Those are the criteria I would use. If the owner's intent as stated to the Planning Board is to manage that lot using the best forest management practices, and they intend to clear cut, there may be a good reason why that's important to do on that site. But if there isn't, if the best forest management practices are not to clear cut and the stated intention is to follow the best forest management practices, then I think we would question that. On the other hand, if they really do intend to develop the site I think the reason I would guess that the site plan regs are written the way they are is that if the Site Plan is presented to the Planning Board before the cutting is done then the Planning Board has the opportunity to define things like buffer areas in their natural state rather than having to re-plant saplings which may take 25, 30 or 50 years to grow the original state of vegetation. So to me, it is not only an issue of what is the Planning Board wishing to accomplish, but what is the intent of the property owner. If his or her intent truly is best forest management practices, terrific the state encourages that we should encourage that. If the intent is to clear-cut with the purpose to later, develop the

parcel without having to go through the Site Plan Review process with the Planning Board to determine what is the best way to develop that site with input from the Planning Board then I guess I have a problem.

Tom Duffy-I have a piece of commercial land that was cut about six years ago. I have ten cord piled up over there. If I need to push over a few yards of fill to get to my cordwood do I need a Site Plan? You are paying taxes on that land you should be able to use it.

Jo Anne Carr -Wouldn't that be considered ancillary to forest use under your forest cutting process?

Tom Duffy-What I am worried about is as soon as I push a load of fill Dave's going to be there.

Dave DuVernay-Because I'm going to get a telephone call. I think that's the real issue. The Planning Board has no right to take from property owners their legitimate uses of their property. I don't think there is any question about it. But how do I tell if a property owner is using his property in a forest management practice or like Leona says, "all I want to do is get to the wood" like you want to get to the wood that has already been cut. I can't tell. It does seem to me it would be in the best interest of the property owner to notify the Planning Board what their intention is. That they are not developing the land that they are getting to wood etc. Maybe that's intrusive but it's a lot better than my going to district court and saying you are in violation of regulations.

Chris Asaff -I have a comment about this forestry thing. We aren't making bike paths and happy places in the woods. I have one lot I am concerned about. Art, when you say "best forestry practices" I want parking lots full of people. I am not going to say it shouldn't be done well and done tastefully but if you are going to tell us we have to pave around a forest and cull the land on a commercial site, it doesn't make any sense. I think a lot of the reason you are seeing some of the stuff you are doing, to defend Dave too, where he gets stuck in the position of writing these letters to stuff he's reading in here, I came in to pull eight building permits for the trailers behind our shop. Somewhere in there it says that trailers, and I know they are going after Walmart for what they're generally violating by I assume, by generally putting their stuff up on blocks, ours are on the road. So I go in to Rick and tell him I need eight building permits for my trailers that are all on the road. And then he gets stuck in the middle. As far as the Site Plan, I don't think anyone here wants RT 202 or 119 to look like Milford. But we're also very very nervous about if we go in there you would tell me you want this forest managed, its not a forest any more.

Arthur Fiorelli-That's not what we're saying. What I am saying is, when a lot is clear cut, and it is stated to our planning director that they really did that for forest management but that really wasn't the intent. What I am getting at is if the intent really is best forest management then if the best way to manage that lot is to clear cut it fine, but if it isn't then it shouldn't be clear cut.

Chris Asaff - I think that the problem that a lot of us have, if you tell me I have to leave ½ acre of trees and I have 2 acres and you are going to tell me where to leave them, it limits what I can do. All of a sudden, you have power to tell me where I can build.

Arthur Fiorelli-Would you rather have the Planning Board tell you where to re-plant them? That's the issue. It may be that what was there to begin with is easier for you and less expensive to work with.

Chris Asaff-There is no regs I have read anywhere that have said you have to put some finite amount of material back in.

Cheves Walling-If you approach the Planning Board, you wouldn't approach them in the sense you are doing a forestry operation.

Chris Asaff –If I had somebody who wanted that piece of land I would say I have somebody who wants to be on here. But if I have a piece of land I was looking to buy it is much more appealing to be already clear cut. Which is bad in one way because we are immediately fighting you. You want the woods to stay on 202 and we want to pave it. Somewhere in the middle is a buffer or some sort of formula that you can come up with that can let us know “they aren't going to do more than this to us, they may do less, but at least they won't do more”

Katie Duffy-I think that part of the difficulty is that you are clear cutting a piece of land and you don't have a Site Plan because you don't know what you are going to do with it yet. You want to see your land as a land owner. The person wants to clear, or partially clear their land and may want to sit on it for ten years before they do anything with it. But there needs to be a way where the land owners, the Planning Board and Dave knows.

Katie Duffy stated that this was the first work meeting dedicated to the Site Plan Regulations. There was discussion regarding the necessity of more clear definitions of Land Clearing and Improvements. It was agreed that it was in the best interest of land owners to contact the Planning Board or Code Enforcement when they were planning on doing any work on their land that was likely to attract attention to inform the Board and Code Enforcement of their to avoid any confusion and prevent problems. Dr. Parker said that the board had no desire to stand in anyone's way provided they were complying with state statues and local ordinances. Dave DuVernay said that he would like a phone call or very informal notification because he always receives phone calls as soon as work of any kind begins on most sites. Katie Duffy said that that was where the board needed to decide what to do. Maybe a small report would be sufficient just to inform the town that you were doing something. Chris Asaff suggested a worksheet or a report to be filed at the planning office and provide information to individuals so they could avoid mistakes in working their land. Katie Duffy asked those present to pass the word about calling the Planning Office with questions and to let them know when noticeable work was being done.

Site Plan Regulations

The Board discussed proposed changes to the site plan regulations.

Jo Anne Carr, the Town Planner was given the authority to determine if the application meets the minimum requirements to be brought before the planning board.

Arthur Fiorelli suggested that there be a requirement that any changes to a plan be submitted a number of days prior to a continued hearing. The board felt no change in procedure was necessary.

Addition of Minor Site Plan criteria.

Added to Submission Requirements A. General information Name of project or identifying title and tax map and lot number.

Proposed Development

Road standards need to be established. New roads should be constructed to minimum safety standards.

Construction drawings including in detail exterior facades and color samples.

Plans for snow removal and storage-location to be consistent with the Rindge Wetlands Zoning Ordinance

Erosion and Sedimentation Control Measures recommended to follow the "Best Management Practices to Control Non-Point Source Pollution" Citizen's Guide, NH DES January 2004

Storm Water Management Plan recommended to follow the "Best Management Practices Manual for Innovated Storm water Treatment Technologies" Jo Anne suggested the Board consider the threshold be consistent with Site Specific.

Section on "Developments Having Regional Impact" added. From the Subdivision Regulations.

Next work meeting for these regulations is September 28

Growth Management Ordinance

The Board needs to define what constitutes "Active and Substantial Development". If the Planning Board fails to identify what is meant by "Active and Substantial Development" then the approved development automatically gets the exemption. Jo Anne needs to know how much activity defines "Active and Substantial"

There are three types of subdivisions:

A large subdivision -putting in a road, = significant work.

A subdivision by a developer regardless of size at least 3 lots =significant work.

Third is the small land owner. It is not clear what is classified as "Active and Substantial"

Charles Carroll asked if it would be based on the amount of money invested in the property. JoAnne Carr said that it is economy of scale, how much does it cost a land owner with a one or two lot sub division in terms of septic approval state subdivision, surveys, possible wetland

delineation, is that work sufficient to be considered “Active and Substantial.” All subdivisions are different. Cheves Walling suggested the Board look to see how other towns have defined “Active and Substantial” that the Board is not prepared to make that definition presently.

James Hoard made a motion to Adjourn Charles Carroll 2nd

Meeting Adjourned 9:30pm

NEXT MEETING

Public Hearing

September 7, 2004

Respectfully submitted,

Robyn Payson