

**PLANNING BOARD
RINDGE, NEW HAMPSHIRE
August 16, 2005**

DATE: August 16, 2005 TYPE: Public Hearing DATE APPROVED: 09/20/05
TIME: 7:00-10:00 PM. James Hoard

CALL TO ORDER, at 7:00 PM

ROLL CALL: James Hoard, Arthur Fiorelli, Dick Isakson, Dr. Jerry Parker, Keith Halloran, Doug Gutteridge, Tom Coneys, Roberta Oeser, Robyn Payson, Kim McCummings (present, not sworn in) Jo Anne Carr

APPOINTMENT OF ALTERNATES: Dick Isakson for Dave Tower

MINUTES

August 2, Roberta Oeser made a motion to approve the minutes Art Fiorelli 2nd the minutes were approved unanimously.

FILLING PERMANENT PLANNING BOARD VACANCY

Roberta Oeser wanted to have on the record that she had read the minutes of Dec 16, 2004 at which Kim McCummings was appointed as a full Planning Board member. She said that since neither Paul O'Connor nor Dick Isakson were appointed, it demonstrated that it was not a tradition to appoint the longest serving alternate or the individual not successful in the election. Art Fiorelli said that Mr. O'Connor was not interested in the position and 2nd Kim's nomination. Furthermore it was not fair to make a judgement based one one data point. Art Fiorelli then made a motion to nominate Dick Isakson to replace Craig Cypret on the Planning Board, Dr. Parker 2nd.

Art Fiorelli said it was a logical choice as he had run for the same seat as Craig, and he only lost that seat by about 30 votes. Tom Coneys said that although he had no problem with Dick, he felt maybe new blood would be better for the Board and would not be in favor of that motion.

Roberta Oeser said that she thought it was interesting that there was a nomination without Dave Tower being present, as Art had been so vehemently opposed to the vote July 5th. Art Fiorelli stated that July 5, there were less than 5 regular Board members present. He suggested that it be added to the Rules of Procedure that there be a minimum of 5 regular members present for appointments. Dr. Parker called the question. The vote was as follows.

Dr. Parker-Yes Art Fiorelli-Yes Tom Coneys-No James Hoard-No Roberta Oeser-No Dick Isakson was not appointed to the Planning Board as a regular member. Roberta Oeser made a motion to table this discussion until the next regular meeting. Art Fiorelli 2nd and stated it was due to indecision, he stated that he did not know anything about the other candidates and would like to know more about them before having to make a decision.

Keith Halloran stated that the Board needed to move past this issue and focus on the people's business.

Voluntary Merger

Theodore and Beverly Covert voluntarily merged 7 lots on Woodbound Rd. into one lot that will be now known as Map 43 Lot 12 containing .985 acres. Chairman James Hoard signed the merger.

NEW BUSINESS

Major Subdivision Application – Final Plat Hearing

Map 7 Lot 96 Converseville Rd

Jeremiah Ketola

Mr. Ketola's only outstanding issue was obtaining approval for a wetland crossing from DES for one of the lots of the 4 lot Subdivision, approved in November 2, 2004. That issue has been resolved. None of the abutters present had any objection to the Subdivision. This Subdivision is not subject to Impact Fees. Tom Coneys made a motion to accept the plan, Roberta Oeser 2nd. The plan was accepted unanimously. Dick Isakson made a motion to approve the plan Roberta Oeser 2nd the plan was approved unanimously.

CONTINUANCE

Amended Site Plan

Map 6 Lot 99-6-1 Sonja Drive Office Park

Navian Development Co., LLC.

James announced that Navian Development was withdrawing the amended Site Plan of June 7th. Jo Anne explained that it was at this hearing that the easement was moved to across the front of the property and the building moved back to be in conformance with Zoning Regulations. She went on to say that it would be necessary to ascertain the legality of withdrawing a plan which was voted on by the Planning Board and legally recorded at the Registry of Deeds. Currently Site Plan of June 7th is in violation because the traffic study, which was a condition of that approval, has never been arranged and completed.

Roberta Oeser said that Navian was told that the June 7th hearing was void. Art Fiorelli disagreed. Jo Anne read into the record the letter from Town Counsel to Navian Development's attorney Jim Callahan that stated that the June 7th hearing was in fact not Void due to the lack of Abutter notification. The letter is on file at the Planning Office. Town Counsel stated that if "If Mr. Asaf now wants to go back to the plan approved May 3rd, he needs not only an amendment of this June 28th agreement with the Selectmen, he also needs to resubmit that plan to the Planning Board" The plan submitted May 9th was supposed to show minor drainage changes and the addition of a guard rail. The May 9th plan, which was recorded at the registry had the location of the easement coincident with the DES approved wetland crossing.

Roberta Oeser said that the Plan recorded May 9th was never approved by the Planning Board so it doesn't exist. Jo Anne said that the right of way was never discussed, and plans with changes due to conditions are not normally seen by the Planning Board. Art Fiorelli said it was true that specific Plan was not approved by the Planning Board, it does in fact exist. On May 11 at the Selectmen's meeting, the May 9th plan was the one presented at The Selectmen's meeting to address the setback violation of the building.

Jo Anne said that the history of the Subdivision showed that the wetland crossing was always represented to the Planning Board at the narrowest point, which is consistent with a condition added to the subdivision approval by the applicant to provide access to the next lot, and with DES approval. Keith Halloran stated he was concerned about the digging activity at the Dunkin Donuts site and noted that was equipment on the Phase 10 site as well.

June 7th Navian Development requested that the right of way be relocated to the front of the property. This Plan was approved, Jo Anne submitted notes for the re-hearing scheduled for July 26th, and asked Town Counsel's advice on how to proceed. Town Counsel recommended that the Planning Board has an obligation to see a reasonable access to Map 6 Lot 99-6-2 from a planning and legal aspect.

Carr summarized the review notes – July 26th:

The condition of the approval of the original Subdivision of Map 6 Lot 99-6-1 approved on April 6, 2004 was that the final location of the easement to benefit Lot 99-6-2 was to be “revised and determined upon site development”. On review of the minutes of the two Planning Board hearings and Site Walk on this matter and on an application approved by DES the access to Lot 99-6-2 was proposed to follow the roadway at the perimeter of the parking area in the interior of the site. The purpose of this design was to avoid excessive fill and grading along a steep slope along the eastern edge of the parcel, which at that time the Planning Board had been informed was an “impossible” crossing.

If the easement is re-located to run parallel to the property boundary then the Planning Board approval should be conditional on the withdrawal of the existing DES application and requiring a new wetlands crossing application and approval for this crossing across the front of the property so that the applicant can demonstrate that there is access to that lot.

Art Fiorelli said that Chris Asaff and Phillip Runyon stated outside of the Z.B.A. meeting in the hallway that showing the easement across the narrowest point was a mistake and was not ever intended to be used. It was on the basis on the June 7th plan that the Selectmen dismissed their appeal. Now Navian Development has gone to the ZBA to get a set back variance with the May 3rd plan.

Art Fiorelli said that at the Site walk it was clear where the road was intended to go. Roberta Oeser said that she agreed that their original intention was to put the wetlands crossing across the DES approved location, but when they realized that they were going to lose $\frac{3}{4}$ of an acre of land that they couldn't develop because of the location of the Right of Way, they moved it back to the front so the next person will have to bear the expense and not them.

Jo Anne said that it was deemed necessary to get an opinion from Town Counsel whether it was possible for Navian Development to withdraw the June 7th plan. Dick Isakson asked which plan they were working from at the site currently, as there are silt fences in place on the site. Keith Halloran said that Navian Development needs to come before the Board to explain what is going on at the site right now. Art Fiorelli said that since an agreement was based on the June 7th plan, destroying the plan destroys the agreement. Dr. Parker suggested that perhaps Navian thinks that gaining a variance from the ZBA on the May plan gives them the right to withdraw the June 7th plan without having to appear before the Planning Board again. He suggested there be a cease and desist order on this site until this is resolved.

Roberta said that the tapes of July 5th needed to be reviewed because she believed Navian was told that the hearing of June 7th was “void” and they were operating under the assumption that the Plan was not approved and that they had to re-appear before the Board with a set of plans for approval.

Jo Anne said that no one was prepared to make an opinion at that meeting (July5) as the Phase 10 project was not on the agenda, and Mr. Asaff was told that Town Counsel would have to be consulted as to how to proceed.

Dick Isakson made a motion to seek Town Counsel's advice on the ability of Navian development to withdraw the plan of June 7, and the resulting consequences of that action. Tom Coneys 2nd The motion was passed unanimously.

WORK SESSION

Discussion-Rules of Procedure

Issues covered is the discussion were:

Procedure for fair appointment of alternates.- James and Robyn will work on developing a fair rotation schedule for seating alternates. Robyn will provide a list of alternates who have already served on cases at the previous meeting to the chair.

Appointment of Board Members-Dick Isakson suggested that the verbiage from the RSA stating that only regular members can vote or discuss a vote for regular members.

Agenda Issues/Citizens Forum-Art Fiorelli said that no applicant's should be able to discuss issues before the Board without being properly noticed on the agenda. Tom Coneys did not want to see any limit on public access to the Board. Art Fiorelli agreed that the public should have access but decisions and motions regarding projects should not be made when an applicant is appearing before the Board and is not on the agenda.

Roberta Oeser made a motion to adopt a Citizen's Forum for 15 minutes at the end of the meeting. Dr. Parker 2nd Vote as follows: Roberta Oeser-Yes, James Hoard-No, Dr. Parker-Yes, Dick Isakson-No, Art Fiorelli-Yes, Tom Coneys-No

The Citizen's forum was not adopted.

Agenda Content-List of items on agenda should be clear so Board members can come prepared.

Engineering Reviews for Upcoming Projects-Jo Anne asked the Board if they wanted to authorize her to initiate engineering reviews while the applicant is going through the application process in hopes of expediting matters. Dick Isakson made a motion to authorize Jo Anne to initiate engineering reviews with applicants. Dr. Parker 2nd. Dick Isakson withdrew his motion because Jo Anne will be preparing a proposal to define a threshold for engineering reviews.

Preliminary Discussion of Driveway Regulations

Robyn Payson and Dick Isakson briefly presented to the board the beginning of their review of the Driveway Regulations and some of the issues needing to be addressed.

Roberta Oeser made a motion to adjourn, Art Fiorelli 2nd.

Meeting Adjourned 10:00pm

NEXT MEETING

September 6, 2005

Respectfully submitted,

Robyn Payson