

**PLANNING BOARD
RINDGE, NEW HAMPSHIRE
November 15, 2005**

DATE: November 15, 2005 TYPE: Public Hearing DATE APPROVED: 12/06/05
TIME: 6:00PM-12:00 AM. James Hoard

CALL TO ORDER, at 6:00 PM

ROLL CALL: James Hoard, Dick Isakson, Art Fiorelli, Dave Tower, Tom Coneys, Keith Halloran, Doug Gutteridge, Kim McCummings, Roberta Oeser, Jo Anne Carr, Robyn Payson

ALTERNATES

Doug Gutteridge for Dr. Parker Dick Isakson for Dave Tower (Monomonac Estates and Canterbury Square) Kim McCummings for Tom Coneys (TAC Commercial Properties LLC)

6:00PM PUBLIC HEARING

James Hoard called the Public Hearing on the proposed changes to the Driveway and Subdivision Regulations to Order.

Driveway Regulations

The Board reviewed the proposed updates to the driveway regulations for public comment. Ben Wayland of Redgate Lane said he was happy to see that the Planning Board was looking at issues that are affecting the people in town.

Tom Coneys suggested adding the "Forest Cut" check box to the Commercial Application. Previously, it was only on the Residential Application, and made a motion to do so. Art Fiorelli 2nd. The motion was carried unanimously.

Art Fiorelli made a motion to accept the new Residential and Commercial Driveway Application forms; Keith Halloran 2nd the new forms were accepted unanimously.

Keith Halloran made a motion to accept the updates to the Driveway Regulations, Roberta Oeser 2nd the updates to the Driveway Regulations were accepted unanimously.

Subdivision Regulations

The Board reviewed the proposed updates to the Subdivision Regulations recommended by Southwest Regional Planning for public comment.

Andre Aho stated that the proposed limitation on cul-de-sac length was unfair to builders. Tom Duffy stated that there should be a correlation between property size and allowed cul-de-sac size. After discussion, the board decided not to change the cul-de-sac parameters in the Subdivision Regulations at this time. Dave Tower made a motion to defer on the adoption of a change in the cul-de-sac parameters. Roberta Oeser 2nd The motion was carried.

Roberta Oeser made a motion to continue discussion of the Subdivision Regulations until consultant Randall Arendt's comments can be considered and included into the current regulations. Tom Coney's 2nd, Jo Anne pointed that currently there are no firm standards for road construction in the Subdivision Regulations. Keith Halloran said he didn't see anything in these changes more than standardizing specifications in congruence with state roads. The Board had done the due diligence on the roads and he did not see any reason to postpone the adoption of the changes. Jo Anne said that these changes were just one aspect of the regulation that needs attention. There is no reason not to re-visit these regulations again for further updates. Keith Halloran suggested that the board accept the work that has been done. Vote as follows-Tom Coneys-Yes Art Fiorelli-No Keith Halloran-No Roberta Oeser-Yes James Hoard-Yes Dave Tower-No The motion to table voting to on the updates to the Subdivision Regulations did not pass.

Keith Halloran made a motion to accept the updates to the Subdivision Regulations, with the exception of the cul-de-sac limitation. Art Fiorelli 2nd Vote as follows, Tom Coneys-No Art Fiorelli-Yes Keith Halloran-Yes Roberta Oeser-No James Hoard-Yes Dave Tower-Yes

Doug Gutteridge was appointed as alternate for Dr. Parker

ANNOUNCEMENTS

Attendees of the follow up meeting on November 2 of Randall Arendt's presentations were in favor of asking Mr. Arendt back to do a hands on design Charrette of the West Rindge Village and Rindge's commercial land. The board needed to authorize the expenditure of the funds necessary to pay for the Charrette. Roberta Oeser made a motion to authorize the expenditure, Tom Coneys 2nd the motion was passed unanimously.

MINUTES

Roberta Oeser made a motion to table the review of meeting minutes of October 18 and November 8 to the meeting of December 6th. Dave Tower 2nd the motion was passed unanimously.

NEW BUSINESS

Minor Subdivision, Shaw Hill Rd

Map 11 Lot 37-2

Kenton Stenerson

This application is for the proposed creation of one additional lot. Lot 37-2 has 12.31 acres before subdivision and will be 5.56 acres after subdivision. The new Lot 37-4 will have 6.75 acres after subdivision. Both lots meet minimum zoning criteria and do not need state subdivision approval. This lot was the subject of a prior subdivision in 2002. There is some conflicting information regarding the terms of the earlier subdivision and whether the property may be subject to a deeded restriction for further subdivision. There is no record of a deed restriction in the Planning Office, but the minutes refer to limiting future subdivision. There was no condition on the Planning Board approval stipulating that no further subdivision could be made.

Dick Isakson stated he was present at the Planning Board meeting at which the original Subdivision was approved. He stated that at the meeting of December 17, 2002 the Board decided that the lot was not to be further subdivided. Roberta Oeser stated that she remembered it was stated in the property's listing that there was to be no further subdivision of the property. Dave Tower said that it appeared to be a mistake that the restriction was not noted when the plan was registered.

Mary Anne Harper-Treasurer of the Cathedral of the Pines distributed a packet of information to the Board. She acknowledged that a clerical error had been made and said that Mr. Stenerson had been contacted by Mark Teiger on May 19, 2005 to make him aware of the fact that the deed restriction was inadvertently left off the deed. The lot was sold with the intention that there be no further subdivision. She went on to say that the Cathedral feels that they have an ethical obligation to ask the Board to deny the subdivision as the buyer was aware at the time of purchase that this land was not to be subdivided further. She said that the Cathedral acknowledges its responsibility in this error but the Planning Board is also at fault for incorrectly recording the plan.

Abutter Marcia Breckenridge who was present at the original Subdivision hearing, was assured that there would be no further subdivision of the property, otherwise they may have purchased it

themselves. She went on to say that the Planning Board has the moral obligation to uphold what is said at a Public Hearing.

Abutter Linda Kivela said that Shaw Hill Rd cannot support any additional traffic.

Abutter Nancy Knuuttila said that she bought Map 11 Lot 37-3, which is the other property from the original subdivision, and her deed has the deed restriction against further subdivision.

Keith Halloran asked Mr. Stenersen if he was aware of any restriction when he purchased the property.

Mr. Stenersen admitted that he had been told when he purchased the property that there was to be no further subdivision but found it was not legally restricted on the deed. He also said he received the May 19, 2005 informing him of the error and stating that the error will be rectified.

The date of the Subdivision Application is October 14, 2005.

Dave Tower said that although there was no constructive notice by the restriction not being recorded at the registry of deeds, Mr. Stenersen had actual notice by being told that the time of purchase that this property was not to be further subdivided.

Tom Coneys said that in the Planning Board should not continue to foster a mistake and that in his opinion Mr. Stenersen came forward with this application knowing that there was an error and is trying to capitalize on it. This should be resolved between the parties and if it is resolved in favor of Mr. Stenersen then the Board could look at this application.

Art Fiorelli stated that Mr. Stenersen was put on notice by the letter of May 19, 2005 that there was an error that was to be corrected, yet he went ahead with the Subdivision Plan which is dated October 14, 2005.

Mary Anne Harper said that the Cathedral and Mark Teiger will do what needs to be done to correct the deed.

Abutter Linda Kivela said If this decision to subdivide goes through, this will allow future buyers to subdivide further, and she strongly suggested that this application be denied.

Dave Tower said it is not clear from the minutes of the meeting on December 17, 2002, no future subdivision of the property was a condition of approval. Therefore, the correct course of action would be the registration of a corrective deed.

Keith Halloran said that the board should review the Purchase and Sale Agreement. Roberta Oeser said that the Purchase and Sale agreement will show that the buyer has accepted a copy of the Seller's Statement.

Tom Coneys made a motion to continue this matter pending additional information, Art Fiorelli 2nd the motion was passed unanimously.

This matter is continued to the meeting of December 6, 2005

Major Site Plan Amendment

Map 2 Lot 59-3-4 Sears on Sears Dr.

Don Dobeck

Mr. Dobeck came in to present architectural changes to the Sears Building. No Plan has been received by the Planning office for review before the hearing. Fire Chief/Building inspector submitted a letter to the Planning Board not approving the installation of the dormers as shown on the current plan.

Rather than make architectural changes now, the Board decided to allow Sears to be granted a conditional occupancy permit. Leaving the building as it is, without the dormers, with the stipulation that they return within 3 months with a conceptual plan for future improvements to the building and landscaping.

Roberta Oeser made a motion that the Sears building, as it now stands with the porch completed shall be acceptable for a conditional occupancy permit. The applicant must return by February 15, 2006 with conceptual plans for the final architectural and landscaping design. Art Fiorelli 2nd. The motion passed unanimously

CONTINUANCE

Dave Tower recuses himself-Dick Isakson is appointed in his place

Major Subdivision, East Monomonac Road

Map 3 Lot 75 Monomonac Estates

ATA Construction

An alternative yield plan was not received by the Planning Office for review prior to this hearing.

Craig Francisco described the revised yield plan, which had been reviewed by the Conservation Commission. The number of lots has been reduced from 17 to 14. The multi family unit has been removed from the plan.

Jo Anne shared the Engineering Review of the Yield Plan by Fay, Spofford & Thorndike.

Art Fiorelli said that there has been discussion of a possible Conservation Easement between the Conservation Commission and Mr. Aho. This would be possible with a PURD but not a conventional Subdivision. Mr. Aho said that the Conservation Commission preferred the PURD to the yield plan because of the conservation potential.

Jo Anne read a letter from Charles Phillips into the record. Mr. Phillips letter addressed concerns about standing water. The letter is on file at the Planning Office.

Dick Isakson said that he felt that the application was sufficiently complete to accept the plan.

Jim John wanted to point out the important of the back lots to the Bio-Diversity study and allowing a migration path for animals. He wanted to say that he appreciated the reduction in number of building lots. Asked that there be some motion including the possibility of putting the back lots into Conservation.

Roberta asked if the board can accept the plan before an updated plan is submitted. Mr. Francisco said that the amended plan had the same lot configuration the original plan submitted, the only difference being the removal 3 lots.

Dick Isakson made a motion to accept the application referencing the plan, dated August 1, 2005 amended November 11, 2005 Tom Coneys 2nd The application was accepted unanimously.

Roberta Oeser made a motion to accept the Concept Plan for a 14 Lot Subdivision, dated October 17, 2005 amended November 11th 2005. The motion was carried unanimously.

Jo Anne reviewed the estimate for the lake water quality assessment. She reviewed this with the Board to determine the scope of the project. She recommended that Tasks 1, 2, and 3 be required. The traffic study will include average daily counts and peak hour at the Massachusetts line and Swan Point Road. Septic system and engineering reviews have both been forwarded to the applicants' engineer.

Art Fiorelli made a motion to proceed with the Nutrient Loading Study Tasks 1, 2, and 3. Dick Isakson 2nd Vote as Follows Dick Isakson-Yes Art Fiorelli-Yes Keith Halloran- Yes Roberta Oeser-Yes Doug Gutteridge-Yes James Hoard-Yes Tom Coneys-Abstain

Tom Coneys recused himself-Kim McCummings is appointed alternate in his place.

Minor Site Plan

Map 10 Lot 29-1-1 US RT 202

TAC Commercial Properties LLC

No updated plan or additional information has been received by the Planning Office.

Jo Anne read to the board the two letters from Scott Schulman regarding this project asking that approval be deferred to the next meeting when he could attend. The letters are on file at the Planning Office.

Mr. Coneys said that he had addressed all of Mr. Shulman's concerns prior to the meeting, and felt that the issues had been resolved.

Mr.Coneys reviewed the updates to the plan, which included the addition of grades and drainage. He also submitted a brochure from the company he is purchasing the building from for an example. Mr. Coney's is not decided on what the final building will look like.

Roberta Oeser made a motion to approve the plan with one condition;

◆ Approval by DOT

Doug Gutteridge 2nd Vote as follows: Art Fiorelli-No Keith Halloran-Abstain Dick Isakson-Yes Kim McCummings-Yes Roberta Oeser-Yes James Hoard-Yes Doug Gutteridge-Yes. The motion to approve was passed.

Mr. Halloran asked that it be noted that his abstention was because the abutters concerns had not been addressed with the abutter present at the meeting.

Tom Coneys reassumes his seat.

Major Site Plan

Map 6 Lot 75, Canterbury Square

Robert Van Dyke

The applicant has requested and been granted a variance to the zoning ordinance for setbacks. The Plan was not received by the Planning Office prior to the hearing for review.

Frank DeMarinis reviewed the updated plan with the Board. Keith Halloran expressed concern about safe passage between the two building levels, and the driveway line of sight from the Handicapped parking in the lower parking lot. Currently there is no access between the first and second floor within the building. Keith suggested the addition of a walkway around the perimeter of the building at the lack of sidewalks around the perimeter.

Jo Anne read a memo from Police Chief Mike Sielicki expressing his concern about the safety issues regarding this project. He stated that the revised plan does not include reconstructing the intersection to provide adequate line of site on Route 119. He recommended that the Board reject the traffic proposal and require Mr. Van Dyke return with a plan to properly upgrade the intersection.

Jo Anne said that the Road Committee, which met earlier in the day recommended a third party traffic study be performed. Mr. Desmarinas said that the traffic study that the applicant had performed was currently being reviewed by DOT. Mr. Desmarinas said that the engineers from DOT said that the project just barely qualifies for a traffic study because the traffic counts are so low. DOT will make recommendations if they disagree with the traffic study they are submitting. Bob VanDyke said that the DOT did not want to add lanes, only slowing traffic down. Frank Desmarinas said that DOT's opinion was contrary to the Police Chief's concern.

Abutter Brent Aucoin said that he was very concerned about the traffic.

Art Fiorelli made a motion to approve the plan with the following conditions:

- ◆ DOT Approval
- ◆ All Town and State dimensional requirements being met.
- ◆ Addition of 1 Handicap parking Space
- ◆ Connecting sidewalk from the west to the east of the building.

Roberta Oeser 2nd

: Art Fiorelli-Yes Keith Halloran-Abstain Roberta Oeser-Yes Dick Isakson-Yes James Hoard-Yes Doug Gutteridge-Yes. The motion to approve was passed

Meeting Adjourned 12:00am

NEXT MEETING

December 6, 2005

Respectfully submitted,

Robyn Payson