

HOLLIS PLANNING BOARD MINUTES
August 20, 2019

PLANNING BOARD MEMBERS PRESENT: Bill Moseley – Chairman; Doug Cleveland – Vice Chairman, Chet Rogers, Cathy Hoffman, Jeff Peters, Ben Ming, Matt Hartnett.

ABSENT: David Petry, Ex-Officio for the Selectmen.

STAFF PRESENT: Mark Fougere, Town Planner; Evan Clements, Assistant Planner

1. CALL TO ORDER: 7:00 PM

The meeting began with the Pledge of Allegiance, led by Jeff Peters.

2. APPROVAL OF PLANNING BOARD MINUTES

Following one correction, D. Cleveland moved to approve the minutes of July 16, 2019. Motion seconded by J. Peters and unanimously approved.

3. DISCUSSION AND STAFF BRIEFING

- a. Agenda additions and deletions – None
- b. Committee Reports – None
- c. Staff Report –None
- d. Regional Impact - None

4. SIGNATURE OF PLANS –

Case 2019:007 Duymazlar Rev. Trust and Case 2019:008 Society for the Protection of NH Forests.

D. Cleveland moved to authorize the chairman to sign plans for the Files 2019:007 and 2019:008. Motion seconded by C, Rogers and unanimously approved.

5. HEARINGS –

- a. File PB2019:07 Minor Subdivision of an existing 25,75 acre lot into two lots, 5.7 ares and 19.9 acres. Map 32 Lot 45-5. Applicant: David O'Hara & Assoc., Owner: James & Judith Seager, 43 Howe Lane. Zoned R&A Residential and Agricultural. **Application Acceptance & Public Hearing. Tabled from July 16th.**

Planner Mark Fougere noted that the primary reason for the site walk held earlier this evening was to look at the site, specifically the matter of the private way. The applicant has requested a waiver of designing and building the private way at this time, and have it as a stipulation that it be done at the time of building on the rear lot.

Dave O'Hara, LLS, noted that the lot lines have been revised slightly so the front lot is 7+ acres and the rear lot is 18+ acres. Contour lines have been changed to 5' to provide a less cluttered view, as well as a better view of the tower lot. Mr. O'Hara has received a letter from the tower company to the property relative to what they want to see in the agreement. The Seagers have obtained a quote for the work to design the private way.

Property owner Jim Seager, 465 High St., Hampton, NH, discussed the existing access road, which can be extremely muddy during wet weather. Mr. Seager feels it will be very expensive to upgrade the access road. Mr. Seager has just received correspondence from the attorneys for American Tower that requires the owner to pave the road. This is very expensive and is a concern. The cell tower lot is self sufficient, but the only reason he is considering the subdivision is to provide a lot for his daughter. He must consider the cost and whether it is worth going forward with this plan. M. Fougere responded that Mr. Seager could build on the lot today without any approval from the planning board; he could have one house lot. The only reason he is before the planning board is because he is subdividing. Mr. Seager responded that he was unaware that this was possible, and thanked the board and staff for this information. He will discuss the situation with his wife and daughters. Staff suggested that the plan be tabled for a month or two until Mr. Seager can discuss various options with his family. B. Ming noted that the matter of paving or not paving the private way can be worked out with the cell tower company. M. Fougere noted that the private way only has to go to the point where the ownership splits, not all the way back onto the rear lot; as soon as you get to the new house the "common" ends. The common driveway does not have to go over the bridge.

Mr. Seager requested that his file be tabled to give him the opportunity to consult with family members. C. Rogers noted that if Mr. Seager decides to proceed with the subdivision and put one of the lots in conservation, he would qualify for a tax deduction. N. Fougere added that one of the things the applicant would like to have feedback on is approval of the plan with a condition that the driveway not be designed or built at this time; if and when the rear lot is developed it would be done at that time. Sense of the board is that this would be an appropriate stipulation, consistent with past practice.

C. Hoffman moved to table File PB2019:09 until Sept.17, 2019. Motion seconded by J. Peters and unanimously approved.

6. OTHER BUSINESS

- a.** Sky Orchard Estates (Woodmont Drive): Presentation by applicant relative to Planning Board stipulations on lot contamination disclosure (arsenic) to future buyers.

Staff noted that this project was approved in 2012 in a former apple orchard. The road is in and there is one house built with 2 or 3 others under construction. The first four lots as one enters Woodmont Drive had the highest concentrations of arsenic. The board has a concern about future homeowners and imposed a stipulation that for these four lots, for an area of 20,000 sq. ft. each, the soil would be moved and tested until they got below recording levels, at which point

84 replacement fresh loam would be installed. This appears as a plan note and the
85 board also imposed a stipulation that it be noted in the deeds. This is the issue at
86 hand.

87 Atty. Gerald Prunier, representing Sky Orchard Estates, stated that he is before the
88 board to request that the stipulation that the language be put on the deed be
89 eliminated. There is a lot of land in Hollis that was once used as an orchard and
90 there is nothing for any other subdivision requiring this on the deed. This restriction
91 is a problem for the sale of these four lots, and has not been done in any other
92 orchard lots in the Town of Hollis. Chairman Moseley confirmed that the request is
93 only to remove the stipulation from the deed; however, it would stay on the plan.

94 Frank Destito, Realtor with Better Homes and Gardens in Hollis, testified that all
95 lots in the subdivision except these four have been sold. Potential buyers fully
96 understand the mitigation process involved with these lots, similar to the
97 requirements for the nearby property that was sold to the Montessori School.
98 Putting the arsenic mitigation requirement on the deed is a “shadow” that can never
99 be removed, and it is hindering sale of the properties. No one has any problem with
100 full disclosure of the presence of arsenic and the need for the remediation; the only
101 issue is having it on the deed. Mr. Destito advises any potential buyers to review all
102 plans and conditions with town hall staff, and also immediately advises them of the
103 arsenic situation. M. Fougere noted that the soil from the Montessori School
104 property was actually moved to this subdivision site; the same property owner
105 owned both sites. The State allowed this because it was originally the same farm.
106 He noted that the levels of arsenic decrease as you go up the hill in the subdivision.
107 C. Rogers asked what it would cost to do the corrective action on a lot. Mr. Destito
108 responded that it would cost between \$10K and \$20K. Since the area of mitigation
109 dictates the location of the house, it does not make sense for the developer to do it
110 and further restrict the lot. B. Ming asked if this stipulation appears on the recorded
111 plan (yes) and is identical to what is in the letters submitted to the board (yes). J.
112 Peters asked if the board could have a stipulation that once the work is done, the
113 condition could be removed from the deed. B. Ming noted that having it on the
114 recorded plan is key. M. Fougere noted that everyone who has purchased lots in this
115 subdivision has spoken to town hall staff. Mr. Destito noted that any Realtor is
116 required to disclose this to buyers. Staff noted that because this was a stipulation of
117 the original approval, the only way to change it is to have a formal hearing before
118 the board. Atty. Prunier added that all conditions remain; the only request is to not
119 require this provision in the deed for the lot. B. Ming noted that this means that plan
120 note #17 will have to be amended.

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122 **b.** Interview: Planning Board review engineer: KV Partners: Mike Vignale
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Due to Dennis LaBombard's pending retirement at the end of the year, it is necessary for the board to find a new consulting engineer. M. Fougere has asked Mike Vignale, KV Partners, to appear before the board as a possible replacement for Dennis. Mark has worked with Mr. Vignale in other communities, and they work very well together. This is a consulting engineer position, paid for by applicants.

Mr. Vignale introduced himself, noting that he works for a number of communities as an "on-call" engineer, some with a formal contract and some not. He and his firm do not do any private development work. Mr. Vignale's qualifications and company profile are outlined in his letter to the board dated August 13, 2019. He has extensive experience and thoroughly enjoys this type of work. He and his partner and several other people make up his company, but he would be the one that would be interacting with the planning board. He also does his own construction inspections. C. Rogers asked if there is any conflict when the developer is paying the fee but the work is for the planning board. M. Fougere explained that as part of the application there is a review fee; bills come in to the planning office and the check is cut from the Town of Hollis. The review engineer is working for the planning board. Escrow accounts are established for each project and bills are paid accordingly. The cost is determined by the size and scope of the project. Mr. Vignale noted that he is usually able to estimate an appropriate amount for how much an escrow account should be for a project. He will also be clear to developers and/or contractors that his contractual agreement is with the Town of Hollis. He is currently working with eight communities, some are currently active and some not. D. Cleveland asked if Mr. Vignale would be transitioning in while Dennis is still available until the end of the year. Mark responded that this is the plan. He would like to start work on updating the drainage requirements and would like to have both of them involved. Mr. Vignale suggested having an "on-call" contract, to be used or not as appropriate. On behalf of a planning board member not present, assistant planner E. Clements asked what the expected turnaround time is for a general review. Mr. Vignale responded that his goal is to get his review back in time to be included in the planning board packets. He likes to have a week or 10 days, but realizes this is not always possible.

J. Peters moved to formalize the relationship with Michael Vignale, P.E., KV Partners. Motion seconded by C. Hoffman and unanimously approved.

- c. Staff: Pending EPA MS4 drainage requirements: update.

Planner Mark Fougere reviewed a map showing where the MS4 areas apply in Hollis. These areas may change based on the upcoming census.

Assistant Planner Evan Clements explained that we are into the first year of the EPA general permit for stormwater. Hollis is part of the Nashua-Manchester (now

renamed to NH Merrimack Valley) Stormwater Coalition. This is basically a group of surrounding communities all attempting to achieve compliance with the general permit and update their stormwater regulations to comply. A part of that is standardizing the stormwater regulations of all the communities. Generally speaking, the MS4 requirements are stricter than what is currently on the books, and as things are updated it makes sense to make them consistent across town. Once a population gets to a certain level, it is deemed “urbanized”, and then the MS4 requirements apply. The requirements will probably be updated a year or two after the 2020 census. Hollis does not have municipal sewer, which makes things easier. The handouts MCM 4 and MCM 5 addresses pre and post construction runoff, and six control measures, including outreach to the public. These are examples of language that the coalition provided, but not a final draft. B. Ming asked about the cost to the landowner of some of these requirements. M. Fougere responded that most drainage is the town’s responsibility and the DPW director has been working on a maintenance program to deal with this. Moving forward, all the drainage is in swales and detention ponds and will have to be built to the standards required by MS4. M. Hartnett noted that this means added cost for landowners, and asked about grants or funding sources. E. Clements offered to look into possible sources of assistance. The ultimate goal is to show improvement. Staff noted that this is a timely update with Mike Vignale coming on as the town engineer and the pending drainage update.

- d.** Staff: Small business resources: potential outreach efforts.

E. Clements asked the board’s opinion on using staff time to create some materials to support small business in the community. He noted that Hollis is a rural community with a lot of people who work here who also work the land. He was surprised that, while residents are very proud of that, there is no help offered by the town to these business owners to expand their outreach, encourage agri-tourism, etc. E. Clements has drafted a Small Business Resources Fact Sheet for the board’s review. If the board feels this is something worth pursuing, the first step would be a survey of surrounding communities and communities similar to Hollis to see what they do relative to small business assistance. The board agreed that E. Clements should continue on with this project.

- e.** Hollis Middle School request for permit to put up a solar panel.

The Hollis Middle School would like to install a solar panel at the school behind the existing greenhouse. It is about 700’ off Love Lane and also in the Historic District. The planning board can request that the school come before it if they believe it is

necessary. D. Cleveland noted that the northern end of the school is not on school property, but on town property. This has been an ongoing boundary problem for 20 years, which would be solved by a simple lot line relocation. The site where this proposal is located is on land that was at one time proposed to be part of the land swap that would go to the town. In return the school district would get the land where the northern part of the building is, as well as some land behind the Farley building. The proposal that was worked out years ago by members of the Co-op school board, members of the Hollis school board, the Selectmen, and involved an on-site meeting with members of the afore-mentioned boards as well as representatives of the fire and police departments and various town boards. Everyone was in agreement to proceed with the lot line relocation, but nothing ever happened. D. Cleveland noted that he was chairman of the Hollis school board at the time and brought this matter up numerous times, but nothing ever happened. Most recently, he has informed the new town administrator of the situation. This issue needs to be resolved before anything else goes forward on this property. At one time the school district and town were one entity, and this building was the Hollis High School. D. Cleveland and several others worked out a solution to this problem 15 years ago. While not a requirement, M. Fougere noted that if the planning board requests that the school district come before them, they (the school board) are supposed to do it, as they did with the high school field. Consensus of the board is to have staff inform the school district that the planning board would like them to come in for a site plan review for both the solar panels and the lot line relocation. D. Cleveland concluded by stating that one of his primary concerns with correcting the lot line is liability.

7. ADJOURN

There being no further business, J. Peters moved to adjourn. Motion seconded by C. Hoffman and unanimously approved. Meeting adjourned at 8:45 PM.

Respectfully submitted,

Virginia Mills
Secretary *pro tem*