



TOWN OF
BROOKLINE, NEW HAMPSHIRE

PLANNING BOARD

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PLANNING BOARD MEETING

Minutes

August 2nd, 2007

Present: Alan Rosenberg, Chair, Voting
Michele Hakala, Co-Chair, Voting
Clarence Farwell, Selectmen's Representative, Voting
Richard Randlett, Member, Voting
Laura Libby, Voting (arrived at 7:40)
Ron Pelletier, Alternate (Voting for Laura until 7:40)
Webb Scales, Alternate
Valérie Maurer, Town Planner

Absent: Mike Papadimatos, Alternate

Also Present: Randy Haight (Meridian Land Services), Dennis LaBombard (LaBombard Engineering), Debra Lefebvre (Big Bear Lodge), Peter Bennett (Attorney for Big Bear Lodge), Jim Rafferty (President of NHCG), Donna Marsh (Lot D-52-10), Robert Napior (Lot D-52-56), Jack Flanagan (4 Sawtelle Rd), Mike Dreyer (5 Sawtelle Rd), Phil Jackson (11 Sawtelle Rd), Tony Kotarski (7 Sawtelle Rd), Keith Adamyk (Adamyk Homes).

7:00PM Alan asked everyone to review the minutes. Richard motioned to approve the minutes from the July 19^h 2007 meeting. Seconded by Michele. Vote yes 4-0.

CIP Review

Alan said the CIC met on Tuesday July 31st with the Fire Department, Emergency Management, and the Police Department. The Fire Department wants to replace the utility van with a utility truck. Emergency Services spoke about the Capital Reserve Fund for a new Ambulance. The Police Department had a possible replacement of vehicle and vehicle repair.

7:15 PM Case Review

Big Bear Lodge possible Texas Poker Hold'em Charitable Gaming.

Peter Bennett introduced himself as the attorney for Big Bear Lodge. Peter said in 1999 Big Bear underwent a new site plan, approved for charitable gaming. Peter said they were here tonight to update licensed gaming activities. There is a letter of intent stating they would like to hold charitable Texas Hold'em Poker games so the use of the facility will not change. Michele asked if this would be in addition to Bingo. Peter said yes. Jim Rafferty with New Hampshire Charitable Gaming LLC (NHCG LLC) stated the laws have changed in New

Hampshire. They allow charitable poker under the same statute as Bingo. **Jim** said he is licensed in New Hampshire and other states. **Jim** went over the presentation he handed to the board. **Jim** said the games being played in NH are on the Tournament side, which is a \$250 max bet. These are going to be player banked games. **Jim** said 35% of the take would be going to the charities. Each charity is allowed 10 gaming days each year. **Randy Haight** said the only change would be the gaming hours. The state dictates what times the poker charitable gaming can be held. For instance, you cannot start until noon on Sunday but the Big Bear Lodge can open at 9:00am, on the weekdays. You can play from 11:00am to 1:00 am. The site plan states that the hours of operation for Big Bear Lodge are 9:00am to 11:00pm. **Randy** said the hours of operation would be the only difference. **Randy** asked if the Planning Board thought that would be a problem. **Clarence** said so there are two sets of rules the hours of operation for Big Bear Lodge and what hours you can hold charitable gaming. **Valérie** said the Planning Board should have a public hearing and notify the abutter of what their intentions are. **Randy** said that is fine we just need to know when. **Michele** asked if this will be replacing Bingo or if they would be holding both games. **Jim** said bingo is fading out and poker is becoming more popular. When the no smoking law takes affect he thinks that will eliminate a lot of the bingo crowd. **Clarence** asked what the time line would be to get this started. **Jim** said about 8 to 9 weeks. **Jim** also stated that most poker games do not run until 1:00 am, the players would not start a game they could not finish. **Jim** said most of the games would be over by 12:00 midnight to 12:30am. All money sitting on the table at 1:00 am goes to the charity. **Michele** asked about the parking lot capacity. **Debby** said there are 117 parking spaces. They are playing Bingo right now, there are about 150 people in the building and they are only taking up about 80 parking spaces. **Clarence** said the fire department has the occupancy capacity at no more than 605 people in the building. **Michele** said the use will be the same but the clientele will be different from the bingo players. **Clarence** asked if the Planning Board wants them to come back with a proposal for a public hearing. **Michele** and **Alan** agreed they should hold a public hearing and notify the abutters and the Police Department. **Valérie** said they could come in for the first meeting in September. **Michele** suggested when they come back to have the new hours of operation on the plan.

Laura arrived at 7:40. Ron no longer voting for her.

7:40pm 2007-7: D-52-10,D-52-56, Lot Line Adjustment

Randy stated this is a simple lot line adjustment between neighbors Robert Napior of 2 Wadsworth Drive, Lot D-56-52 and Michael and Donna Marsh of 13 Kodiak Road, lot D-52-10. **Randy** said he had left the small plans at his office but had a large plan to show the Board. **Randy** said this would transfer a 236 square foot parcel from lot D-52-10 to lot D-52-56 and a 236 square foot parcel to from lot D-52-56 to lot D-52-10. A simple swap of 2 triangles of land. **Valérie** said she had no comments. This is a pretty straight forward lot line adjustment. **Laura moved to accept case # 2007-7:D-51-10,D-52-56, Lot line adjustment. Seconded by Clarence. Vote yes 5-0.** **Randy** said all the bounds are already set. The Board had no other comments. **Laura moved to approve Planning Board Case # 2007-7:D-51-10,D-52-56, Lot line adjustment with the following conditions:**

All Fees associated with the case review shall be paid.

The applicant shall submit 8 paper copies of the final plan and a permanent, reproducible Mylar. Seconded by Clarence. Vote yes 5-0.

7:50pm 2006-2:H-75, HOP, Continued

Ron recused himself from this case.

Randy said there is nothing different since the last meeting. Keith is trying to work on agreement with Mr. Jackson (lot H-41-3) about the easements. They have not reached one yet but they are talking. We will move Waterville Way. **Valérie** said they will move the driveway but the cistern easement will stay. **Randy** said yes it's already in place. **Richard** said Waterville Way will be continued to lot H-75-1 and not go through Lot H-41-3. **Alan** stated at the last meeting Randy submitted a letter with the applicants position regarding ordinances and regulations for the HOP. For this development, you have to mesh open space and housing for older persons'

regulations together. **Alan** read from the list of letters received by the Planning Board (see list attached) Detention Basins in Site Perimeter. **Alan** said we had discussed detention basin 2 (DB-2) at length being within site perimeter. **Alan** reads Section 2203.02.b.3 of the ordinance: Site Perimeter Buffer: Each development must be situated within a permanently protected undeveloped site perimeter buffer, identified on the site plan, not less than 50 feet wide, which, unless it is already wooded and satisfactory to the Planning Board, must be planted and landscaped so as to provide a visual barrier between the development and adjacent properties. The Planning Board may require additional buffer width where unique circumstances of an abutting use or property warrant. The site perimeter buffer shall count towards the required minimum protected open space.”

Randy said you have to be able to get to the site; the buffer goes around the whole development. **Michele** said this ordinance needs to be corrected. Except for entry to the site it’s unclear. We cannot change the ordinance tonight but it clearly states the buffer can count as open space but isn’t considered open space. Looking at it two different ways the buffer was put in there to protect the surrounding homes from seeing the development, buffer was intended to be undisturbed. **Randy** said you are allowed to landscape to create a screen if the buffer doesn’t already do this. **Clarence** said when planting you have to dig a hole; isn’t that disturbing the buffer? **Randy** said there would be a very small disturbance. **Randy** said maybe the detention basin-2 could be taken out. **Alan** asked the Board if they agreed that in the context of this plan given and that fact that in five years everything will grow back that the Detention Basin #2 is ok there. **Michele** said with the way it is written today she doesn’t have a problem with it, but the whole issue needs to be reviewed and clarified. **Clarence** said he is ok with the plan and agreed with Michele. **Richard** agreed and recommended a review of the ordinance. **Laura** agreed and also thought a review of the regulation was needed. **Alan** agreed to allow the detention basin.

Alan read Well Pipe Installation within the Open Space (see attached). **Michele** asked what happens in a number of years from now when the pipes need maintenance? **Randy** said they would install a sleeve for repairs. **Michele** said the Town would not be liable for a well in the open space. **Randy** said it is in the condominium documents that it will not be the Town’s responsibility. **Webb** asked if the issue is with the easement and not the open space regulations. **Randy** said yes. **Michele** asked Randy what they are proposing. **Randy** said to use a ditch witch to insert pipe. A ditch witch spreads the ground, lays the pipe, and buries it all at the same time. **Alan** asked the Board if they agree to allow the pipe to be set by the ditch witch. **Michele** said she didn’t see a problem with allowing this. **Clarence** said allow. **Richard** said he would allow. **Laura** said she would allow. **Alan** also said he would allow.

Alan said he and Michele have compiled the letters received from abutters and concerned citizens. **Michele** said we are going to address issues in the letters, discuss with the board, take a position, and then have comments from the audience. **Alan** said the letters from the Police Department, Emergency Management and the Fire Department have been resolved. **Michele** said except the outstanding issue of single access and length of the road. **Laura** said they have talked about that issue a lot. **Alan** read off list of letters:

3/14/2005 – Letter from Sawtelle Road residents petition to not accept the plan.

6/15/2005 – letter from Mike Dreyer initial letter regarding HOP on Sawtelle Road

2/2/2006 – Letter from Mike and Jean Dreyer concerns over single access road.

8/3/2006 – Letter from Mike Dreyer and Jack Flanagan traffic study.

Alan said the chair recognizes that the conclusions are correct in that any development will increase traffic from what it is now. **Michele** said the issues from the residents of Sawtelle Road are safety, traffic increase, bus not being able to turn around down Sawtelle Road, and length of road. **Alan** asked for comments from the public. **Mike Dreyer** (5 Sawtelle Road) stated it was not the first time he has been to the Planning Board in regards to the single access. **Mike** said he was also here for the Clover Hill plan. **Mike** stated there were 23 children on Sawtelle Road of which 18 children are at the school bus stop at the bottom of the hill. **Mike** said lot H-75 has an easement that would allow the road to run through to Route 130 for a second entrance and the Planning Board said no to this. **Mike** said this plan is a great idea for the Town but poor placement. If you could access it from Route 130, it would be the perfect location. **Mike** said it should be accessible from Route 130 and not through a residential neighborhood. This will be a 41-unit development and that will average about 82 extra cars that will be traveling Sawtelle Road. You were not planning for the safety of our children. **Jack Flanagan** (4

Sawtelle Road) said he mirrors Mike's concerns. **Jack** asked why a replication process has not even been discussed to access Route 130. You seem to be more concerned with the environment and the builder's pockets. Sawtelle Road is a blind hill. There are safety concerns. I can't believe the Board has ignored all the Departments that they should be working with when they stated the road is too long. **Jack** said the email from the Conservation Commission stated they didn't want the road to go through. **Laura** said the email sent by the BCC didn't have an issue with the road going through. **Laura** read the email (see attached). **Laura** said the intent of this comment was it would be in everyone's best interest. The Conservation Commission is not looking to save the contractor money. **Michele** said she takes exception to the fact that you don't think the Board has taken your children into consideration. **Michele** said there would be less traffic with the HOP than with 14 houses on the street. We had professionals do two traffic studies and utilized the information. **Jack** stated dual access would be safer. **Jack** said 62 year old people tend to work. That is a potential 82 cars, I don't understand how that would be less traffic than 14 houses. **Michele** said they did their survey for high traffic times. **Laura** said this study showed the Hop traffic impact would be less. **Mike** asked who paid for the survey. **Alan** said the developer did. **Alan** read the survey, 16 family homes, peak hours 7-8 am, 12 trips, senior adults, peak hours 7-8am, 8 trips. **Tony Kotarski** (7 Sawtelle Road) asked what the rational basis was that they found there would only be eight trips from 7:00-8:00am. **Alan** said they estimated the quantity of vehicles. **Frank Lukovits** said they also pulled information from a study done in Litchfield that had the same results with the same circumstances and the developer did not pay for that study. **Jack** said he respectfully disagrees with the information in the study.

Alan said there was a letter from Frank Lukovits dated 5-9-2007. This was regarding buffer zones, which was already addressed tonight. Frank's letter also mentioned building setbacks. This will require clear staking and marking during construction, **Alan** said he thought the Building Inspector should monitor this. **Alan** said Frank's letter mentions the lighting. **Michele** said the lighting need to be full cut off. **Randy** said 1500 lumens don't require a cut off. **Alan** read Zoning Ordinance Section 2203.02.g "Lighting: All roads, primary walkways and access to buildings shall be adequately lighted. The use of "full cut-off" lighting is required. Every effort shall be made to prevent light trespass, nuisance glare and over illumination due to excess wattage or inappropriate light fixtures. A lighting plan shall be submitted for the Planning Board's review, which shall be consistent with the standards found in the current lighting ordinance and site plan regulations. Lighting of common and public areas shall be independently controlled from that for the residential units."

Section 2304.00, "Lighting Standards: a. Any luminaries or lamp of 4,000 or more lumens shall be full cutoff as installed. b. Flood or spot luminaries shall be full cutoff if they are 1,500 lumens or more. The center beam from flood or spot lights shall not be angled any greater than 45 degrees from a downward pointing direction."

Michele said anything under 1500 lumens doesn't need to be full cut off. **Webb** read the last sentence under Section 2200 "Whenever a conflict occurs between this ordinance and the site plan regulations, the more restrictive requirements shall apply." **Alan** said so they will use the more restrictive regulation and go with full cut off. **Randy** said we would agree with whatever the Board decides on. **Randy** said the fire department would also like us to install strobe lights on the front of the building that are attached to the smoke detector. **Michele** said as the ordinance states the lights should be full cut off. The Board agreed to the full cut off lighting.

Alan said the letter mentions landscape plans, which are now attached to the plan, and walkways are on the landscape plan. **Mike** asked if the sidewalks were just a wider road with white lines. **Mike** said he had concerns with this because a white line does not do much to separate an area. His second concern is that there will be confusion as to whether it's a bike lane or walk way. He thought you would want to separate this a little more. **Mike** also asked about the landscape plans and some things are going to be left to vegetate on its own. **Randy** said yes all slopes will be loamed and seeded but we do not want it manicured or mowed we want it to vegetate back to its natural state.

Frank said you have allowed the audience to speak except when it came to Detention Basin 2. He was just wondering why. **Michele** said she thought it was clearly addressed in the ordinance. **Alan** said he should have opened it up for the audience. **Frank** asked if this decision conflicted with town counsel. **Michele** said yes it does.

Alan went on to the next letter dated 4/24/2007 from Jack Flanagan asking if the original subdivision (Clover Hill) is null and void due to no activity for over a year after the approval and applicability to well head easement in the open space. **Alan** said the null and void references in RSA 674:39 "I. Every subdivision plat approved by the planning board and properly recorded in the registry of deeds and every site plan approved by the planning board and properly recorded at the registry of deeds, if recording of site plans is required by the planning board or by local regulations, shall be exempt from all subsequent changes in the subdivision regulations, site plan review regulations, impact fees, and zoning ordinances adopted by any city, town, or county in which there are located unincorporated town or unorganized places, except those regulations and ordinances which expressly protect public health standards, such as water quality and sewage treatment requirements, for a period of 4 years after the date of approval." **Laura** said the issue was with the conservation easement. This runs with the land until it is released. **Alan** read the next letter dated 5/3/2007 from Mike Dreyer asking about the viability of the well head and pump house in the open space in the context of the Conservation Easement. **Alan** said the pump house has been moved and is no longer in open space. **Mike** asked if there was a requirement of an easement if you are to put a well on public property. **Randy** said that was addressed by town counsel and it is not town owned land. **Jack** handed out a copy of the regulations from the Well Water Board. **Jack** said under passive recreation, it can't include an easement in open space. The original plan is from another developer. Legally you have to have 45 % designated recreation activities. **Jack** asked the board if town counsel recommended the DB-2 not to be placed in the buffer and the well should be pipe jacked in. Is this Board going against Town counsel? **Michele** said in those two instances yes.

Alan went on to the last letter dated 6/4/2007 from Mike Dreyer for a request for sidewalk access from the current end of Sawtelle Road down to Route 130. **Mike** asked if this can be part of the off site improvement. **Michele** said this road is still private. **Michele** said she did not think you could use off site improvement money for a private road, but we can look into it. **Frank** said the RSA's spell out what you can do with that money. **Laura** read Section 2102.02 "Off-site Improvement / Exaction. Those improvements that are necessitated by a development but which are located outside the boundaries of the property that is subject to a subdivision plat or site plan approval by the planning board. Such off-site improvements shall be limited to any necessary highway, drainage and sewer and water upgrades pertinent to that development." **Alan** read Section 2103.01 "The Planning Board may, as a condition of approval of any subdivision or non-residential site plan, and when consistent with applicable Board regulations, require an applicant to pay an impact fee for the applicant's fair share of off-site improvements to public facilities affected by the development." **Mike** asked how long it will take before Sawtelle Road is a public road. **Laura** said the road has to go through two seasons after the final coat goes on. **Richard** said then it has to be accepted at town meeting.

Richard said wouldn't you like sidewalks that are raised and separated from the road and not just white lines. **Michele** asked Randy if they have talked about sidewalks at all. **Randy** said no they are not part of the development. **Clarence** asked how many feet it was from the end of Sawtelle Road to Proctor Hill Road. **Jack** said 1200 feet. **Michele** asked Valérie if she could do some research to see if they can use off site improvement money. **Valérie** said yes.

Jack asked if there is anything in the ordinance about signs. Does the sign for the Older Persons Housing Development have to go at the beginning of the road? **Frank** said the Planning Board has to approve the sign and maintenance. **Michele** said the signs will be placed before the subdivision and after Maplewood Estates.

Mike said he has spoken with the Well Water Board and they said that there should be a sanitary protective area around the well. **Mike** asked if granted conditional approval and the well is not approved and all conditions are not met, does that stop everything? **Michele** said if conditional approval is granted and the well is not approved it is at the sole risk of KKM Investments. **Randy** said they would like conditional approval; we have to drill the well and do the test and then get approval from the State. It's the only thing we have left to do. **Mike** said if KKM needs to put an atmospheric storage tank and the well radius was increased to 175 ft would they have to come back to the Planning Board? **Michele** said yes, for any changes. **Jack** asked how he would appeal a conditional approval. Would it be the same as an approval. **Michele** and **Laura** both said yes.

Mike asked if it was true that you are not allowed to sell a property while it has a conditional approval. **Alan** read subdivision regulations section 4.1.01 “No subdivision of land shall be made, and no land in any subdivision shall be sold or offered for sale or lease, and no street or utility construction shall be started until a final plat, prepared in accordance with the requirements of these regulations, had been approved by the Board, and other required permits have been issued.”

Richard said this means you can't sell a lot. **Mike** said my concern is that the same person who has made all the promises should be the one to develop and hold to those promises and not be able to sell to someone who will not follow through.

Alan said the new questions we have after this meeting are, if we can use off site improvement money for sidewalks and the issue with the Well Water Board. **Valérie** said she will go through and look into off site improvements and there should be something about the well issue in the regulations.

Randy said Attorney Drescher did a review of the condominium documents. Maybe we should write him a letter and have the two lawyers discuss it together. **Michele** asked Dennis if he was all set with the plans.

Dennis said he was all set with this plan except for Waterville Way if that is being moved. **Laura** asked Dennis to look into getting rid of Detention Basins in the 50' perimeter buffer – 2. **Phil Jackson** said he had been communicating with Mr. Adamyk about the existing easements and moving Waterville Way; we have been in email contact but haven't reached an agreement. What happens with the easement if the original purpose is not longer there? **Webb** said you should be able to get that easement removed.

Laura moved to continue case 2006-2:H-75,HOP to the August 16th 2007 Planning Board meeting. **Seconded by Clarence. Vote yes 5-0.**

10:25 PM Richard Motioned to adjourn the meeting. Seconded by Clarence. Vote Yes 5-0.

The next Planning Board meeting will be on Thursday, August 16th, 2007.

Minutes were submitted by Kristen Austin.