

City of Rochester Planning Board
Monday December 5, 2022
City Hall Council Chambers
31 Wakefield Street, Rochester, NH 03867
(These minutes were approved on January 9, 2023)

Members Present

Mark Collopy, *Chair*
Robert May, *Vice Chair*
Peter Bruckner
Don Hamann
Dave Walker

Members Absent

Mark Sullivan, excused
Keith Fitts, excused
Alexander de Geofroy, excused

Alternate Members Present

James Hayden
Michael McQuade
Matthew Richardson

Staff: Shanna B. Saunders, *Director of Planning & Development*
Ashley Greene, Admin Assistant II

(These are the legal minutes of the meeting and are in the format of an overview of the meeting. A recording of the meeting will be on file in the City Clerk's office for reference purposes. It may be copied for a fee.)

I. Call to Order

Mark Collopy called the meeting to order at 6:30 p.m.

II. Roll Call

The recording secretary, Ashley Greene, conducted roll call.

III. Seating of Alternates

Mr. Collopy asked James Hayden to vote for Keith Fitts, Michael McQuade and Matthew Richardson to vote in the two vacant positions.

IV. Communications from the Chair

There were no communications from the chair.

V. Approval of minutes for November 21, 2022

Dave Walker made a motion to approve the minutes from November 21, 2022. Don Hamann seconded the motion. The motion carried by a unanimous voice vote.

VI. Opening Discussion/Comments (up to 30 minutes)

A. Public comment

There was no public comment.

B. Discussion of general planning issues

Peter Bruckner discussed the river located behind his property and the excessive amount of trash that is piling up. Mr. Bruckner explained that he is currently working with Renee McIsaac, Planner I, and the Cocheco Society to discuss options for clean up. Mr. Bruckner expressed his concern for the river not seeming to be anybody's problem and wanted the board to be aware as it seems as though the City may have to get involved somehow.

VII. Continued Applications

A. [Myhre Family Revocable Trust, 15 Piper Lane](#) (by Norway Plains) 4-lot Major Subdivision. Case # 250 – 28 – A – 22 **Public Hearing ACCEPTANCE/FINAL HEARING***

Joel Runnals, Norway Plains, representing the Myhre Family Revocable Trust. Mr. Runnals explained that the application was continued in order to get more information regarding any covenants within the subdivision. Mr. Runnals explained the covenants that were associated with the original Blue Hills Subdivision did not carry with the deed for the property associated with the current application. Mr. Runnals explained that the deed restrictions that do carry with the parcel are one residence built on each parcel together with a garage of not more than two vehicles, no trailer, tent or structure of temporary nature should be used on any lot, no building should be within 15 feet of any side lot line or within 25 feet of the front line, no horse, cow, hog, goat, or similar animal shall be kept or maintained on any lot, and no nuisance or offensive noise. Mr. Runnals explained that these are deed restrictions that are associated with the proposed application and the lot lines have been adjusted to reflect the set backs within the restrictions.

Mr. Collopy requested that Mr. Runnals do an overview of the subdivision.

Mr. Runnals explained that this is a 5-lot subdivision and the original parcel is just over 7 acres. Lot 28 and 28-1 have a two family duplex. The other two lots will have single family homes once approval from DES is received. Mr. Runnals explained the DES application has not been submitted as the applicant is waiting for subdivision approval from the Planning Board.

Mr. Collopy opened the public hearing.

Frank Maliski, 19 Blue Hills Drive, discussed that he has been living at Blue Hills Drive for 28 years. Mr. Maliski discussed his concern with the layout of the subdivision and how it does not match the lots within Blue Hills Drive, which are irregular and not one is the same. Mr. Maliski expressed his concern with the new lots not being held to the original Blue Hills covenants and requests the lots be held to the covenants and to match the rest of the neighborhood.

Mark Lahey, 45 & 43 Blue Hills Drive, said that he supports Mr. Maliski's comments. Mr. Lahey expressed his concern with the nature and lot size of the new lots and that the setbacks won't match the rest of the neighborhood. Mr. Lahey explained that he does not support this subdivision. Mr. Lahey asked if the policy of a subdivision is to have underground utilities and if the fire department has made any record of inspecting the turn around areas. Mr. Lahey expressed his concern with how homes will be kept up due to how Piper Lane currently looks.

Mike Cheslock, 31 Blue Hills Drive, discussed the covenants and how it helped make the decision to move to Rochester. Mr. Cheslock explained that he is concerned with the type of subdivision that is occurring in the neighborhood and that it will take away from what Blue Hills Drive is supposed to be.

Ralph Jolie, 10 Blue Hills Drive, resident in Blue Hills Drive for 24 years. Mr. Jolie explained that he is directly across the street from the proposed subdivision. Mr. Jolie said that he feels the same as all the other abutters and does not support the subdivision.

Anne Carter, 6 Blue Hills Drive, discussed the covenants and how they are not in the deed for the parcel being subdivided. Ms. Carter explained that the land comes with restrictions that go with each owner. Ms. Carter discussed the land restrictions that are in the deed of the land to be subdivided. Ms. Carter discussed two subdivisions that occurred after the original Blue Hills subdivision and how they follow the covenants and have the same look as the Blue Hills neighborhood even though the properties are outside of the BHPC requirements. Ms. Carter discussed the types of homes located within the Blue Hills neighborhood and how each lot is different. Ms. Carter discussed the current homes located on Piper Lane. Ms. Carter explained that the neighborhood put together a petition against the subdivision and it was signed by 40+ individuals. Ms. Carter expressed her concern with the new subdivision following the Blue Hills covenants.

Mr. Collopy closed the public hearing.

Ms. Saunders discussed the staff recommendations. Ms. Saunders explained that the lot being subdivided was the parent lot to the original subdivision and was not held to the covenants that are in place for the rest of the lots. Ms. Saunders explained that staff worked with abutters to show that the only restrictions are the ones that are in the deed. Ms. Saunders explained that as these lots

are developed they must meet the deed restrictions. Ms. Saunders discussed the conditions of approval including acreage being rounded to two decimals, road name added to the plan set, one of the buildings need to be demoed in order for the lot to come into compliance, and the applicant needs to work on easement documents. Ms. Saunders discussed the standard conditions of approval. Ms. Saunders explained that the application went to multiple TRGs and the fire department did review the Piper Lane turnaround and the new lots need to meet the underground utilities requirements. Ms. Saunders explained that localities cannot make a determination if the residences are owner occupied or rentals.

Mr. Hayden asked for an explanation on the covenants and how it does not follow that parcel. Ms. Saunders explained that the developers who did the subdivision excluded themselves from the covenants. Mr. Hayden asked if this would set a precedent within Blue Hills to allow other subdivisions. Ms. Saunders explained that as long as it meets our subdivision regulations a subdivision could occur. Mr. Hayden asked if they are in the original Blue Hills subdivision if they would be held to the covenants. Ms. Saunders said yes, but she was not sure what exactly is said within the covenant.

Mr. Walker asked about the covenant that deals with a single home on one lot. Ms. Saunders clarified that Mr. Walker was referring to the deed restrictions. Mr. Walker asked about the duplexes that already exist. Ms. Saunders explained that they are grandfathered and it preexisted the deed restrictions. Mr. Walker asked about the single family home and if that was the only residence going on the property. Ms. Saunders said that is the only residence on that property.

Michael McQuade asked if the land restrictions will be met when they subdivide the lot. Ms. Saunders said yes the deed restrictions will be met.

Mr. Collopy asked about the driveway south of Blue Hills and if it gets used? Mr. Runnals explained that access road currently gets used by the current residents.

Bob May asked if covenants and deed restrictions affect the boards decision. Ms. Saunders explained that they are taken into consideration, however it is a private agreement between property owners and the board does not get into disputes, disagreements, or enforcement of the covenants. Ms. Saunders explained that they don't want to make an approval that goes against the covenants. Mr. May asked if there was a justifiable reason to deny an application in order to prevent tension within the neighborhood. Ms. Saunders discussed the issue being for legal counsel. Mr. May expressed his concern with the board adjudicating a covenants.

Mr. McQuade asked if there are any legal challenges to this interpretation. Ms. Saunders explained that she is not aware of one but once the board makes a decision it can be appealed and a civil suit could be filed. Mr. McQuade asked about any civil suits that are current with land use restrictions.

Council Hamann discussed an article that he read that is similar to the current subdivision and a neighborhood attempted to get a property to participate with a covenants and they weren't able to get the property owner to comply.

Mr. Walker made a motion to approve the application with the conditions presented. Mr. Hamann seconded the motion. The motion carried, Mr. McQuade opposed.

B. CEM3 Holdings II, LLC, 146 Old Dover Road (by Berry Surveying) 2-lot subdivision
Case# 140 – 72 – R1 – 22 **CONTINUED TO 1/9/2023**

Mr. Walker made a motion to continue the application until January 9, 2023. Mr. Hamann seconded the motion. The motion carried by a unanimous voice vote.

VIII. Other Business

A. Planning Update

Ms. Saunders gave an update on Tara Estates. Ms. Saunders explained that similar to Briar Ridge, Tara Estates was sought after by the same group of investors that bought Briar Ridge. Ms. Saunders explained that per state statute the residents within the mobile home community have to be given the opportunity to buy the park. Ms. Saunders explained that Tara Estates residents met with Community Loan Fund and wanted to create an association to look into meeting the developers offer. After the second meeting the residents determined they did not want to move forward which will result in the sale to the investors going through. Ms. Saunders explained that within the first year of Briar Ridge the lot rents went up nearly \$100. Ms. Saunders discussed that between the two parks it is roughly 1/3 of the manufactured units in parks that will now be owned by out of state investors.

Mr. May asked if there is a number of manufactured houses that are not in parks. Ms. Saunders agreed that there are some within the agricultural zone.

Ms. Saunders discussed a couple subdivisions that are $\frac{3}{4}$ of the way complete and developers pulling out of providing trash services. Ms. Saunders discussed creating stronger conditions of approval or different surety language in the future.

Mr. May asked if staff could look into what other communities are doing and if it is something different regarding projects being left incomplete.

Mr. Collopy asked if the City went into the development and removed snow if the developer would be billed. Ms. Saunders explained that is something the City is currently looking into and the NFPA has requirements in order to make sure the fire department can get into a development. Mr. Collopy asked if Ms. Saunders experienced anything different in the other communities that she worked in. Ms. Saunders discussed neighborhoods that have been on a private roads.

Mr. Collopy asked if the signs still get posted at the end of the street to indicate that it is under construction and currently not a City accepted street. Ms. Saunders explained that the City does not do those signs anymore, but they are looking into starting it as a condition of approval. Mr. Walker discussed the sign and explained that it was done as early as 6 years ago.

B. Other

Mr. Collopy discussed the expired dates for board members that are about to expire and asked Ms. Saunders about the process. Ms. Saunders explained that if a board member is set to expire a board member needs to go to the City Clerk's page on the City website and go to the tab "How to Volunteer" and fill out the statement of interest form and get reappointed. Mr. Walker explained that the statement of interest will go to the Appointments Committee but you do not need to go to the Appointments Committee unless you are contested.

Mr. Collopy reminded the board that the retreat will be in January. There is no date set. Mr. Collopy explained that we will be getting some training for the retreat and NHMA will be attending.

Ms. Saunders explained that she will have a date for the retreat in the next couple of weeks.

Mr. Collopy discussed the webinars that are available on the NHMA website. Ms. Saunders discussed training that is also available on the Office of Planning and Development.

Mr. Hayden asked if there were a preference for types of trainings, webinar or in person. Ms. Saunders explained that there are several opportunities that staff will email and if board members wanted to go the City would pay. Ms. Saunders explained that she does email webinar trainings that are available to the board whenever she gets them.

IX. Adjournment

Mr. Walker made a motion to adjourn the meeting at 7:28 p.m. Mr. Hayden seconded the motion. The motion carried by a unanimous voice vote.

Respectfully submitted,

Ashley Greene,
Administrative Assistant II

and

Shanna B. Saunders,
Director of Planning & Development