

City of Rochester Planning Board
Monday June 5, 2017
City Council Chambers
31 Wakefield Street, Rochester, NH 03867
(These minutes were approved on June 19, 2017)

Members Present

Nel Sylvain, *Chair*
Dave Walker, *Vice Chair*
Matthew Kozinski, *Secretary*
Tim Fontneau
Robert Jaffin
Mark Sullivan
Tom Willis

Members Absent

Rick Healey, excused
Robert May, excused

Alternate Members Present

James Gray
Jeremy Hutchinson
Kyle Starkweather

Staff: James B. Campbell, *Director of Planning & Development*
Crystal Galloway, *Planning Secretary*

(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.)

Mr. Sylvain called the meeting to order at 7:00 p.m.

The Planning Secretary conducted the roll call.

III. Seating of Alternates

Mr. Starkweather voted in place of Mr. May and Mr. Hutchinson voted in place of Mr. Healey.

IV. Communications from the Chair

There were no communications from the Chair.

V. Approval of Minutes

A motion was made by Mr. Walker and seconded by Mr. Kozinski to approve the May 15, 2017 workshop meeting minutes and the May 22, 2017 site walk meeting minutes. The motion carried unanimously.

VI. Extension/Continued Applications:

A. D.R. Lemieux Builders, 114 Rochester Hill Road

Mr. Lemieux asked the Board for a six month extension. He said they have been waiting on NHDOT for the driveway permit and narrowly missed funding for the project because of it.

A motion was made by Mr. Walker and seconded by Mr. Willis to approve an extension to December 6, 2017. The motion carried unanimously.

B. Real Estate Advisors, Inc., 24 Jeremiah Lane - Subdivision

Christopher Berry of Berry Surveying & Engineering said they were before the Board about a month ago with an update and to explain the direction of the project. He said they have found access to allow for a full loop road to the open space subdivision. Mr. Berry explained the minor changes to the plan including the change to two units adjacent to Brenda Lane from duplex units to single family; they have changed some of the other lots within the subdivision to keep the overall density approximately the same; the only fourplex lots for the project will now only be located in the center of the development. Mr. Berry said they have worked hard to limit the encroachments on the existing right-of-way but reminded the Board it is not an exclusive right-of-way, other people within the development will have the right to utilize it but cannot be blocked.

Mr. Berry went on to discuss the addition test pits that the Board had requested be done. He said staff had questions whether there were seasonably high water tables within 18-24 inches of the surface. He said they through each test pit log to determine which lots those might be on and discussed the implications that it has on the subdivision.

Mr. Berry said they are requesting a few waivers from the Subdivision Regulations for sidewalks requirements, drainage requirements, and steep slope requirements.

Mr. Berry informed the Board they have had a third party wetland review completed by Stony Ridge Environmental as well as Gove Environmental and said the Board will receive a copy of the report once it is complete.

Mr. Berry went on to explain phasing for the project; he said the first phase will include off-site improvements which include the realignment of Franklin Street and Portland Street and the off-site storm water drainage culvert; phase two will be entering the project site from Portland Street to the 1,200 foot minimum; phase three would be entering the site from Franklin Street to the 1,200 foot minimum while looping the water line.

Mr. Berry said they would like the Board to approve the Conditional Use Permit for the use of the actual open space so they can move forward with State permits.

Mr. Sylvain opened the public hearing.

Paul Martin of 35 Brenda Lane said at the April meeting he had made the case that the wetlands at the north end of the development had not been professionally done and the reasons for trying to make the vernal pool disappear were not credible. He said he urged the Board to have the wetlands re-delineated and had also suggested that test pits be done with the same concentration as was done on the south end of the development. He asked why he had to be the one that noticed there were problems with these delineations. He asked if the flags from the first delineation were removed before the second delineation was done as it could pose a problem. He asked if the test pits were related to the delineation process.

Mr. Martin asked if the soils were hydric soils, which is one of the determining factors for a wetland.

He went on to say in February Mr. Dillow and himself looked at the wetlands on his property; he said he went back again last week to take another look at the area; he said there was a lot of fill that was brought in when the culvert was put in because the fill is to the very top of the culvert and there is a three foot drop between the top of the stone wall and the bottom of the culvert. Mr. Martin said as you go toward the top of the proposed road there is about 40-45 feet of wetland, adding before the fill was brought in the entire area was probably wetland. He said if a new road is put in there would be more wetland lost and a culvert would have to be put in to accommodate the flow.

Mr. Martin suggested that the Board do a site visit to the area of the proposed road.

Al Benton of 585 Portland Street also suggested the Board do a site visit to the area of the new proposed road because there are a lot of wetlands, not only on this parcel but on the neighboring parcel as well and all the new activity will have an impact on the old culvert.

Mr. Benton asked if the Board will have any authority over the phasing of the project and time of completion. He spoke about the construction sign that will need to be placed and is concerned that his home will be valued less if he goes to sell it.

Mr. Benton went on to talk about the TRG memo; saying it showed they recommended eliminating some of the lots because of the wetland buffer.

Next he spoke about the right-of-way; he said it will be part of some of the house lots and would like to know how those owners will know it's there and that they have to respect it. He said he is concerned there will be problems unless it's very specifically stated in the deeds.

Mr. Benton said he finally received a copy of the home owner's association agreement, saying it sounds good on paper but doesn't believe it will work. He said no one knows how many houses there will be, or how big the organization will be and said the Board should look at it closely. Mr. Benton asked if the home owner's association will have an office, a bulletin board, or something within the project that his family and heirs will be able to go to if there's a problem with the right-of-way.

Jim Benton of 579 Portland Street asked if the conditional use permit application is accurate because one of the wetlands crossings is parallel and not perpendicular. He went on to say there is a lot of water in the north section of the parcel and extends beyond the property line.

Mr. Benton asked how many raingardens are too many for a project, saying this project will have nine. He then asked if the Board has looked through the entire application; and asked how a decision could be made if the whole application hasn't been reviewed.

Troy Dillow of 597 Portland Street said his home is located approximately fifteen feet from the proposed road. He said the plans show there are to be six foot trees for buffering but isn't sure what that will do for noise control or shining lights from vehicles at night.

Mr. Dillow said there is a depression of about eight feet between the two homes where the road will go and there was feet of standing water over the winter. He said he had to dig a new hole and install a sump pump for his basement to mitigate the standing water and is concerned what will happen when there is development. He went on to say this project is not something the city needs and is not something the residents want and it doesn't meet the criteria for a conditional use permit for a conservation subdivision and the Board does not have to approve the project.

Jim Schulte an attorney from Dover said Mr. Benton asked him to speak to address a couple points in regards to the Huppe's right-of-way. He said the right-of-way goes through the project and is abutted or incorporated with six lots and almost ten houses next to it; there is always a risk when there is a right-of-way with a lane that is narrower than the width of the right-of-way. He said one of the issues is what will be required of the applicant for demarcation so there isn't inadvertent encroachment down the road; second, whatever demarcation is required the home owner's association should be responsible for maintain it because they will be responsible for maintaining all of the open areas. Mr. Schulte said the bylaws that were submitted are very general and don't specifically address when control is transferred from the developer to the property owners. He said there should be specific provisions in the document for demarcation and protecting the right-of-way. Mr. Schulte added the HOA should be responsible since HOA members will have access to the right-of-way and there should be a provision that only HOA members have access and use of the right-of-way and the HOA should be responsible for maintaining and repairing it. Mr. Schulte said they would request that a provision be added to the documents that residents not be allowed to use any mechanized vehicles on the right-of-way, particularly dirt bikes and atv's.

Mr. Schulte said the original purpose for the right-of-way was to allow the Huppes' to get out to their field and says that in their deed.

He went on to say several people had commented on the number of raingardens, and one of his concerns is that four of those are located immediately adjacent to the right-of-way and at the intersection of Evelyn Drive. He asked that when the third party review is done that they focus on the potential impact of adding that much surface water being artificially diverted to that area to make sure it doesn't compromise the integrity of the right-of-way on either side of Evelyn Drive.

Mr. Schulte asked when the independent wetland scientist does his review they take into account not just the wetlands on site but the fact that the property is surrounded by wetlands and also is bordered by hundreds of acres of wetlands. He also requested that the Board conduct another site walk. Lastly, he pointed out that the land has been clear cut and that needs to be reflected in the drainage analysis.

There was no one further from the public present to speak; Mr. Sylvain brought the discussion back to the Board.

Mr. Campbell suggested that the Board have Mr. Berry speak to the concerns that were raised by the abutters. Mr. Berry said there was a comment that the wetlands were not professionally done; he said they were professionally done by Gove Environmental Services originally and they were re-reviewed on the ground by Stony Ridge Environmental and the report is pending. He said Gove Environmental went back out to evaluate the Erickson property and no wetlands were found. He said test pit concentrations have nothing to do with wetlands analysis; they use an auger, plants, and hydric indicators for determining what wetlands are. Mr. Berry said he disagrees with Mr. Benton that the abutters have the right to dictate the timing of construction; saying that is why they have a phasing plan in place.

He went on to talk about the number of raingardens; the UNH stormwater center has done an extensive study and found that by taking smaller amounts of water and grouping them throughout the site will do far better at larger environmental impacts than taking all that stormwater in one or two areas and discharging heavy flows in key locations. Mr. Berry added that many communities are doing multiple raingardens in their new developments. He said this is the way of the future, the way treatment requirements for alteration of terrain for the State of New Hampshire.

Mr. Berry said he will take another look at Mr. Dillow's concern of noise and lights. He went on to talk about the right-of-way; he said there are four lots that the right-of-way goes through and they have specifically designed footprints and building areas to be outside of the right-of-way.

Mr. Campbell said staff is looking to get a clear determination from the Board on requirements for a third party review for drainage and traffic analysis.

Mr. Campbell also said staff would like the Board to discuss the three waiver requests.

A motion was made by Mr. Fontneau and seconded by Mr. Willis to require a third party review for a traffic study and drainage analysis. The motion carried unanimously.

Mr. Campbell explained the sidewalk waiver request. Mr. Fontneau asked how far this development is from Anderson Lane. Mr. Berry said he believes it's approximately a half mile. Mr. Fontneau said when Anderson Lane was constructed they paid to have the sidewalk put in from that development down to Chamberlain Street. Mr. Campbell said looking at the subdivision regulations; this is a suburban area not an urban area so it would be up to the Board if they want to require off-site sidewalks. Mr. Campbell added Chamberlain Street school is within a mile of the subdivision and if this were in an urban area they would be required to construct sidewalks.

There was discussion about how wide the road and shoulders would be and if they were to construct sidewalks within the development if they would be able to require the homeowners to clear the sidewalks from snow.

Mr. Sylvain suggested seeking advice from the City's Attorney.

Mr. Starkweather said from a safety perspective he agrees that wider roads cause increased speeds; he said it's a very large subdivision and Rochester is a very pedestrian town with a lot of walkers. Mr. Starkweather added design rules are in place for a reason and if this subdivision is advanced without sidewalks it would set a bad precedent for future subdivisions.

Mr. Willis said it was a priority of the master plan to make Rochester pedestrian friendly as possible.

A motion was made by Mr. Sullivan and seconded by Mr. Jaffin to approve the waiver requiring internal sidewalks. The motion carried. Mr. Fontneau, Mr. Hutchinson, and Mr. Starkweather opposed.

Mr. Willis asked what the length of some of the slopes they are proposing. Mr. Berry said it would be about five vertical feet in most places. Mr. Sylvain asked if there would be metal guardrails. Mr. Berry said there would be guardrails but they have worked with Public Works to come up with a safety rail design and they came up with post and beam with steel plating on the back.

A motion was made by Mr. Walker and seconded by Mr. Fontneau to approve the waiver to allow steeper slopes. The motion carried unanimously.

Lastly the Board discussed whether or not there will be an easement for the two lots that will have raingardens on them and also Mr. Sylvain asked that the applicant come up with a plan for marking the right-of-way.

Mr. Fontneau asked that the proposed street be marked with stakes so that Board members can go out to get a sense of how close it will be to the abutting property.

A motion was made by Mr. Willis and seconded by Mr. Fontneau to continue the application to the July 10, 2017 meeting. The motion carried unanimously.

C. Harold & Dorothy Caler & Real Estate Advisors, Inc., 151 Franklin St. & 24 Jeremiah Ln. - LLR

A motion was made by Mr. Walker and seconded by Mr. Willis to continue the application to the July 10, 2017 meeting. The motion carried unanimously.

VII. New Applications:

A. Robert & Judith Gustafson, 136 & 140 Ten Rod Road

Joel Runnals of Norway Plains Associates explained the proposed lot line revision. He said the applicants are doing some estate planning but also want to preserve the fields.

Mr. Runnals added that there are some wetlands in the area they had a Wetlands Scientist confirm there are no wetlands on that parcel.

A motion was made by Mr. Walker and seconded by Mr. Jaffin to accept the application as complete. The motion carried unanimously.

Mr. Campbell told the Board the applicant requested waivers from Subdivision Regulations 3.5 for complete boundary survey, 3.8 for wetland and topography, and 3.12 that require utilities be shown for the entire parcel; and said staff supports all the waiver requests.

Mr. Willis asked if the applicant owned both parcels and if there are any plans for future sale of the land. Mr. Runnals said the applicant doesn't want any development on the land; she would like to preserve the field. Mr. Willis asked if they will put the land into Conservation Easement. Mr. Runnals said the applicant doesn't have any plans for that; however she wants to add easement language to the deed.

A motion was made by Mr. Walker and seconded by Mr. Willis to approve the waiver requests. The motion carried unanimously.

A motion was made by Mr. Walker and seconded by Mr. Jaffin to approve the application. The motion carried unanimously.

B. Lois Erikson & Real Estate Advisors, Inc., 603 Portland St. & 24 Jeremiah Ln. - LLR

Mr. Berry explained the lot line revision, saying they will be moving the rear lot line down to the side in order to allow connectivity from Portland Street to the new development.

Mr. Sylvain opened the public hearing.

Troy Dillow of 597 Portland Street came forward again saying he understands this will be developed but is concerned with the amount of traffic it will produce fifteen feet from his home.

There was no one further from the public present to speak; Mr. Sylvain brought the discussion back to the Board.

Mr. Campbell suggested the Board accept the application as complete and continue to the July 10th meeting.

A motion was made by Mr. Willis and seconded by Mr. Walker to accept the application as complete. The motion carried unanimously.

A motion was made by Mr. Walker and seconded by Mr. Will to continue the application to the July 10, 2017 meeting. The motion carried unanimously.

VIII. Other Business

Mr. Sylvain asked the Board to review the table of uses for zoning of the fairgrounds and be ready to discuss them at the next meeting.

Mr. Campbell clarified that there will not be an entertainment overlay district.

IX. Adjournment

A motion was made by Mr. Walker and seconded by Mr. Willis to adjourn at 9:48 p.m. The motion carried unanimously.

Respectfully submitted,

Crystal Galloway,
Planning Secretary