

LITCHFIELD PLANNING BOARD

July 6, 2010

Minutes approved 7/20/2010

Members present:

Edward Almeida, Chairman
Jayson Brennen, Clerk
Leon Barry
Frank Byron, Selectmen's Representative
Joel Kapelson, Alternate

Members not present:

Carlos Fuertes
John Miller, Alternate

Also present:

Steve Wagner, Nashua Regional Planning Board, Circuit Rider

AGENDA:

1. Bernice & Harry Cahill, 72 Pinecrest Road, Map 13 Lot 26 Subdivide one lot into two lots.

Any Other Business:

- Correspondence

Chairman Edward Almeida called the meeting to order at 7:17 p.m. Chairman appointed Joel Kapelson as a voting member.

1. Bernice and Harry Cahill, 72 Pinecrest Road, Map 13 Lot 26 subdividing one lot (6.44 acres) into two lots.

Application acceptance

Applicants have submitted an application for acceptance and approval for a proposed subdivision of lot 13-26. The existing two family-dwelling will remain on lot 13-26. A 25' easement for the Town (HRCO Plan 18051) will need to be updated due to lot number change. Abutters were notified and fees paid. Mr. Michael Grainger, Grainger Engineering, Hudson, N.H. came forward to speak for the applicants. Harry Cahill was present and some abutters. The proposal is to subdivide an acre and a half, 200-foot frontage for existing dwelling and to build a single-family residence on 4.9 acres behind

the existing two family residence. The location of the driveway was reviewed. There will be a well and septic system separate from the existing house. There would not be a lot of trees removed; only an area where the house would be built. The driveway permit is pending and the driveway meets the site distance.

Abutter Dave Dominici mentioned the access road that was created for the school and said there is a 25-foot PSNH easement on the property and he was told when he purchased the house that the easement would stay. Chairman Almeida explained the Board is acting on the approval right now. The first thing the Board does is to accept the application to make sure all of the information is provided.

Waivers - The Board is in receipt of a letter requesting waivers: Section 530.00 k & m (drainage and erosion control) and Section 415 (irregular shaped lots). The irregular lot is needed to secure legal frontage, to provide driveway access to the buildable portion of the lot and to avoid a 200 ft buffer from a vernal pool.

Section 530 k - location of existing and proposed water, sewer and drainage system accompanied by plans for the proposed system indicating interconnections, profiles and elevations; drainage plans will be based on a 25 year storm. 530.00 m - erosion and sediment control plans on a 25 year storm event in accordance with the standards in Appendix D. Lou Caron, LC Engineering, the Planning Board's engineer, has not made any recommendations on the waivers but he was provided with a set of plans. Mr. Grainger said that erosion control and sedimentation mostly has to do with a road and subdivision plans for single family lots on a large lot.

Driveway Application - Mr. Grainger: The building inspector said to give it to Joan (McKibben) because he cannot accept it until the subdivision is approved which is contradictory to what is indicated in Appendix J and because of Appendix J the location of the driveway was changed to meet the requirements. During the driveway permit process that is when Kevin and I will go out there to determine what erosion controls are needed.

The easement was created for the Middle School before it was built to access the land in the back but now it is the Grassy Pond area. The easement runs with the land. This will have to be verified with Town Counsel. Mr. Wagner will verify if there is a recorded easement document. It was said that the easement is on 72 Pinecrest Road and even though the lot is being subdivided, Mr. Grainger said that the easement would remain on one lot.

Mr. Joel Kapelson **MOTIONED** to accept application of subdivision Map 13 Lot 26 into two lots 13-26 and 13-26-1. Mr. Barry seconded. Motion carried 5-0-0.

Subdivision approval process

Waivers - Mr. Almeida said that he would like to hear from Lou Caron on the waivers Section 530.00 k & m. As to Section 415, Mr. Leon Barry spoke about how the Board had worked so hard against odd shaped lots in making sure they did not happen. “My concern is are you saying the driveway is not along the easement - for what reason?”

Mr. Grainger: If we hold that 200-foot buffer to the pond, you can't get the driveway in ...we want to stay far away from that.

Mr. Barry asked if it is indeed a vernal pool. Mr. Grainger responded that the soil scientist did not check whether it was a vernal pool because they are staying away from it anyways. Talk ensued. Mr. Barry: On the 50, if we accept that 50 feet to get to the back lot could then, to make it a more regular lot not as bad as it is, is that whole front part over here becomes part of this other lot and then we would give the right-of-way in this back lot here and this becomes part of this lot? Mr. Wagner: He would not have enough frontage. Mr. Barry: That would be a variance. Mr. Wagner: The Board has the option to go that way. Mr. Barry: We went through a lot not having irregular lots.

Talk continued. Mr. Jayson Brennen asked how the section on irregular lots reads. This was reviewed. Mr. Grainger interpreted the ordinance to mean irregular shaped lots was to prevent minimum lots - this is not a minimum lot. Mr. Wagner: I think you look at it on a case by case basis...there are two hardships in the land in a sense that you have a less conducive location for a driveway to the south because of the topography of the bump there and then you have the 200-foot buffer that is restricting the driveway from going in on that side.

Chairman Almeida opened the meeting to public comment.

Mr. Dominici asked if there is a potential for another lot later on and putting in another driveway. The buildable area on the plan was reviewed. Mr. Brennen: He cannot resubdivide that lot and put another house on the other side without going through the process again. Even if he did, he loses the frontage on the other lot and we do not allow anything under 150 feet. It was pointed out it is not impossible if it is approved by the Zoning Board but the easement is there forever.

Mrs. Marion Cason, 5 Gibson Drive, expressed concern that the trees would be cut down on other properties because, “when you take trees down water comes in and it takes over. All I have as a shield are the big trees that about the pool; otherwise I can sit at my house and watch them swimming, or whatever...I want to know if they are going to be taking down the trees”. She was told that they are not taking any trees down except where the house and septic are going to go and it is noted on the drawings, Sheet 1, Note 15. The owners have agreed to it. Mrs. Cason further said she had a question regarding taxes - is she being taxed for the vernal pool on her land. It was pointed out that it is not certain

that it is a vernal pool. Mrs. McKibben is going to take a look at the vernal pool. Talk ensued. Mr. Wagner said that they could ask the landowners if they would be willing to identify a permanent buffer...50 feet is a possibility. As to the tax situation it should be taken up with assessing (an abatement).

Mr. Dominici: Because we have an access road there and there are trees, is there anything in the plan as to a tree buffer? Mr. Wagner: It is a non-building buffer but there is nothing that says someone can't take a tree down.

Mr. Brennen: You can't tell someone you can't take a tree down.

Talk ensued. It was said that the applicant cannot cut within the 200-foot buffer provided it is vernal pool. Mr. Byron: The easement was created for the school and that was laid out but the school won't be built because the property was sold to the State and I would assume that the access goes to the State.

Mr. Cahill: I have no intention to cut those trees...we hope to retire there and build a small one-floor house.

It was further stated that they have no intentions to put in another house in the future and even if it is not a vernal pool and the 200-foot buffer does not apply, the 50-foot wetlands setback does.

Waiver - Section 415 - Chairman Almeida said he would like to walk the site before granting the waiver. It was agreed to walk the site on July 14, 2010, at 7:00 p.m.

Chairman Almeida read a hand written letter dated July 2, 2010, from Robert & Karen Corcoran, 7 Gibson Drive, and then their typed letter. Their concern is drainage to wetlands on lots 11, 15, 17. Their concern is with additional drainage causing more flooding...and said that the 25-foot easement must be respected and untouched. The letter also states that the survey markers in and around his property are inaccurate. There is a typed letter which is an amendment, states the survey is inaccurate and the landscaping and tree cutting will be up against his property line and the vernal pool would be disturbed affecting runoff drainage.

Mrs. Cason believes some markers have been moved. Talk went on as to the surveying of property bounds; some of the bounds were not found. Mrs. Cason was told that the markers she is referring to are control markers not boundary markers. They are reference points only. All in all, Mr. Grainger said that he did go by the Gibson Subdivision plans as a standard. He was told that the one corner bound would have to be set for this subdivision. This was discussed.

Mr. Wagner: Since the footnotes are going to be changed on those two sheets anyways make sure it says stone bounds to be set and where you are showing an existing stone

bound on Sheet 1, stone bound to be set on the plan. Mr. Grainger: Exactly.

Mr. Grainger explained that originally when he applied to the State, he gave them Sheet 2 which showed the existing two family house and a single family out back...when he got the approval back it said two family. He called DES and the plan was amended.

Fire Department - Chairman Almeida would like to hear from the Fire Chief as to the 300-foot long driveway. Mr. Grainger told the Board that the Fire Chief was approached and that he had said he would have the letter for today.

It was said that according to the ordinance, utilities are supposed to be underground. Mr. Grainger said that the applicant is fine with underground which would follow the side of the driveway and PSNH would decide if they need another transformer.

Fire Hydrant - there are two in the area. The regulation does require a letter from the Fire Department regarding fire protection.

Mr. Wagner asked about No. 9 on the plan where it says slab elevation. Mr. Grainger said it means basement floor. Mr. Wagner pointed out that they would have to bring in a fair amount of material for the foundation.

The house that is going to be built in the rear is a single family and it was pointed out to make sure it is on the plans.

Items to be completed: Lou Caron look at waivers Section 530.00 k & m; Notation on corner bound (NW) to be set; Note underground utilities to single family dwelling on lot 13-26-1; Correction - floodplain; Note listing the waivers; Mr. Wagner to check on the plan to see if there is any documentation on the 25-foot easement; Appendix J – driveway comply with Appendix J Driveway maximum curve and Fire department letter

Mr. Byron **MOTIONED** that the Planning Board will continue the hearing on CASE1007-LIT SD M13-L26 Cahill Subdivision to August 3, 2010 at 7:00 p.m. at Litchfield Town Hall. Mr. Brennen seconded. Abutters were told there would not be any other notification of the meeting. Motion carried 5-0-0.

Any Other Business

Routing Sheet - The Board discussed a routing sheet. Mr. Wagner said that he had created one and he would check on it.

Appendix J - It was asked what the primary purpose was for the regulation. Mr. Brennen indicated that he thought the driveway permit was to be issued with the building permit and not Planning Board process. Mr. Barry indicated that the Chief wants to be able to drive the fire truck over a paved driveway in a safe manner.

Cell Towers - Mr. Barry told the members that he had spoken with people in Concord as to how cell towers affect property values and he was told cell towers do not affect values. Some people do not mind them; some people do. Also he said that when a tower falls, it falls straight down; it falls within itself.

NRPC Appointments - Selectmen Byron asked about reappointments to NRPC Council. Mr. Brennen said he does not want to be reconsidered because of his traveling. Mr. Joel Kapelson said he would be interested serving as an alternate.

Chairman Almeida **MOTIONED** to nominate Mr. Leon Barry as an NRPC representative and Mr. Joel Kapelson as an alternate NRPC representative. Mr. Byron seconded. Motion carried 3-0-2.

There being no further business, Mr. Barry **MOTIONED** to adjourn the meeting. Mr. Brennen seconded. Motion carried 5-0-0. The meeting adjourned at 9:10 p.m.

Edward Almeida, Chairman

Jayson Brennen, Clerk

Leon Barry

Frank Byron, Selectmen's Rep

Joel Kapelson, Alternate

Lorraine Dogopoulos
Recording Secretary
(transcribed from tape)