

## **APPROVED MINUTES**

### **Town of Auburn Planning Board PUBLIC HEARING February 18, 2015**

**Present:** Ron Poltak, Chairman; Alan Côté, Vice-Chairman, Karen Woods and Paula Marzloff, Members. Steve Grillo, Alternate. Russell Sullivan, Selectmen's Representative; Minutes recorded by Denise Royce.

**Also Present:** Carrie Rouleau-Côté, Building Inspector. Dan Tatem, Stantec.

**Absent:** Jim Tillery, Alternate.

Mr. Poltak called the meeting to order at 7:03 p.m. Mr. Poltak explained the procedure for tonight's meeting and noted the emergency exists.

### **MINUTES**

**Mrs. Marzloff moved to accept the minutes of January 21, 2015 as written, Mr. Côté seconded the motion. A vote was taken; all were in favor, the motion passed.**

### **ANNOUNCEMENTS/CORRESPONDENCE**

➤ None were reviewed at this time.

### **GENERAL BUSINESS**

Mr. Poltak pointed out to the Board members that they had a bunch of old escrows to go through but that he would put it off until the end of the meeting. Mr. Poltak also believed that the Board members received an e-mail list of old escrow accounts for review of which the Board indicated that they did receive. At this time, Mr. Poltak passed the list around for the Board members to review.

### **PUBLIC HEARING**

**JMJ Properties, LLC  
Jean Gagnon  
Lovers Lane, Tax Map 8, Lot 25  
Major Subdivision – Final Review  
26 Lot Cluster Subdivision & 3 Conventional Lots  
Conditional Use Permit**

While waiting for Mr. Mitchell to set up, Mr. Poltak explained that Stantec had done a review of the proposal and that Mr. Mitchell wanted to discuss a few waiver requests. Mr. Mitchell began by saying that the proposal was off of Lovers Lane and that they have been before the Board members previously but that this was the first formal hearing for this application. Mr. Mitchell stated that he did receive Stantec's review letter and have gone through the comments and

have addressed them. Mr. Mitchell further stated that they will be going before the ZBA Tuesday night for a variance and would then go back to Stantec. Mr. Poltak asked Mr. Mitchell to clarify what the variances were related to. Mr. Mitchell stated that they were for wetland setbacks of which there were three (3) variance requests. Mr. Mitchell stated that the proposal was for three (3) frontage lots off of Lovers Lane and a proposed road that goes in which will have 26 cluster lots. Mr. Mitchell also stated that they were before the Board previously to discuss a waiver for length of cul de sac and the Board said that if there was a way to connect for future development that it would be a way to help support the waiver. Mr. Mitchell also stated that they have a wetland crossing in one area of which they would be seeking a Conditional Use Permit. Mr. Mitchell asked Mr. Poltak if he would like him to go through the waivers tonight or would the Board prefer to hold off until the next hearing. Mr. Poltak indicated that it would be a good time to go through the waivers tonight.

Mr. Mitchell began with the first waiver which would be to request a waiver from Section 0.04.4 - cul de sac length which is approximately 2,100 feet where 1,200 is required. Mr. Mitchell talked about the connectivity from this development to the development done on Donald Drive. Mr. Mitchell went on to the next waiver which is a waiver from Section 9.15.2 – driveways shall slope up at 2% for 20 feet in curbed section only and in non-curbed areas the driveways shall slope down 2% as required. The third waiver is from Section 9.15.13 – for driveways no closer than 50 feet to allow driveways to be constructed closer than 50 feet on the cul de sac. Waiver Section 9.15.18 – driveway profiles shall be shown for each lot. They do not plan to show all the driveways on the plan to be designed and graded out. The reason is because they have some slope and whether or not there would be a garage under or an attached garage. A brief discussion ensued with regard to driveways. Mr. Côté pointed out a driveway that was on Pasture Drive that was greater than 20% which was absurd and did not want to end up with one of these again. Mr. Mitchell will show the lots with steeper slopes graded out. Mr. Côté asked Mr. Mitchell that if they were to grant the waiver that they place a stipulation that if a driveway cannot meet the town standard that absolutely no waiver will be given and the lot will be eliminated from the subdivision. Mr. Mitchell indicated that he would rather say that with the approval of the proposal that every driveway would have to meet the 10% requirement. Mr. Côté wanted to add that no further waiver to the grades would be entertained by the town. Mr. Tatem commented that with regard to the curbing item, the concern they would have with not showing the driveway locations now is with the driveways being closer than 50 feet which would be a safety concern. Mr. Tatem talked about the driveway locations and the curbing which is usually in place at the beginning along with drainage and this did not make much sense. Mr. Sullivan asked Mr. Mitchell about the site distance if he does not have the driveways shown. Mr. Mitchell stated that typically on these roads if the vertical and horizontal alignments are to town standards then they would meet the site distance. They just don't want to put everything down and then make driveway changes later. Discussion ensued with regard to driveway profiles and possibly dealing with the Code Enforcement Officer with driveway profiles.

Mr. Mitchell moved on to Waiver request from Section 9.18 – Exterior Buffer. They have spoken with Mr. Friscella to put a restriction that no houses would be put within a 100 feet and they are in agreement with that. Mr. Poltak stated that the Frisella's have been in contact with him and that they are in agreement.

Mr. Mitchell did not know if the Board would be acting on the waivers now or deal with them later. Mr. Mitchell further indicated that they are also looking for a Conditional Use Permit for grading within 75 feet of a Level 2 wetland which is going before the ZBA Board next Tuesday.

Mr. Côté believed that they could act on these waivers tonight. Ms. Woods was under the understanding that they would deal with the waivers at a later date and wait for the applicant to go before the Zoning Board of Adjustment first and then come back before the Planning Board next month. Ms. Woods did not feel comfortable dealing with these at this time. Mr. Mitchell stated that they are going before the ZBA and if they don't get the variance then they would be coming back before the Planning Board with a different buffer.

Mr. Poltak asked Mr. Mitchell if he had any variances going before the ZBA this month. Mr. Mitchell said yes. Mr. Tatem also believed that they would be going before the ZBA for a variance from a detention pond as well. Mr. Mitchell said yes. Mr. Mitchell talked about the detention treatment area for wetland mitigation. Mr. Tatem pointed out that to mitigate is to lessen the intensity and whether the ZBA issues the variance or not is immaterial to this discussion and believed that their recommendation when reading the ordinance is to get a variance. Mr. Mitchell stated that they are collecting stormwater and believed that the purpose of the ordinance is to not stop development but if you are going to develop that certain things are protected. What they are doing with the detention pond is mitigating so that all the water from the road is going into the detention pond to be treated. It is taking all the sediment and stuff from the streets and putting it into the detention pond for infiltration to mitigate the development impact on the wetlands. Mr. Poltak did not think it was necessary tonight as the Board's position is that, in accordance with our ordinance is that any request for relief within the 125 foot setback from a Level 1 wetland and Watershed Protection Area shall require a request for a variance from the Auburn Zoning Board of Adjustment. The Zoning Board shall review and consider the Conservation Committee's comments prior to granting any such variance. Mr. Poltak pointed out to Mr. Mitchell that the Planning Board would be engaging in any discussion relative to the ZBA's responsibility to rule in their request for a variance. Mr. Mitchell understood and said that they would wait until after next Tuesday when they go before the ZBA.

Mrs. Marzloff pointed out a few issues that Mr. Mitchell would need to deal with which is the name of the plan "Calef Estates" because they already have an approved plan using that name. Mrs. Marzloff also stated that they have already denied the use of Longmeadow Lane previously. Discussion ensued with regard to using another name not on the list available. Mrs. Rouleau-Côté stated that it would have to go through the Fire Chief and herself and then could be brought before the Planning Board for approval.

Mr. Poltak did not want to act on anything tonight until he has heard from abutters. Mr. Burnham of Chester Road stated that he was not a fan of cluster development and asked if it had been approved. Mr. Poltak said no. Mr. Côté explained the definition of cluster development and pointed out that it was permitted in the zone so the Board cannot just say we don't want cluster anymore. Mrs. Rouleau-Côté added that this process was started about six (6) months ago and that both concepts were presented back then and the Board did carefully look at conventional as opposed to cluster and this is now to the final phase. Mr. Lewis also agreed with Mr. Burnham that he was against cluster development. Mrs. Marzloff added that if this was a nice dry flat piece of land that it would not qualify for cluster. It has to be a difficult challenging piece of land. Mrs. Marzloff also wanted to point out that the development would be quite a distance from the Lovers Lane road. Mr. Côté and Mrs. Marzloff suggested that they put something on the ballot to not allow cluster development if they did not like cluster developments within the Town of Auburn.

Discussion ensued with regard to asphalt curbing and the difference between waivers and variances. Mr. Côté also stated that the property owner has a right to develop their land and if

someone wants to limit development then the way to do that would be to own the property.

Mrs. Marzloff asked Mr. Mitchell about a cistern. Mr. Mitchell stated that they have had discussion with the fire department and there is a cistern located on Lovers Lane and the regulations specifically state that a cistern needs to be within a half mile of the subdivision. Mr. Mitchell stated that they were not proposing a cistern but if the fire department says that something needs to be done then they will comply with the fire department recommendation. Mr. Tatem stated that he has spoken with the Fire Chief and that the Fire Chief stated that they would need a cistern and that you need a cistern within a half of mile of every house and not the subdivision.

Mrs. Marzloff asked about item #38 of Stantec's review letter. Mr. Tatem pointed out that the italicized part is the same as the previous letter and that their comments are below.

Mr. Côté asked if they could deal with a few of the waivers. Mr. Sullivan believed that they should accept the application before they vote on the waivers. The Board believed that they already accepted the application. Mr. Mitchell stated that the previous application was for design review and did not need acceptance but that this application is a final application and would require acceptance.

**Mr. Côté made a motion to accept jurisdiction for subdivision for Tax Map 8, Lot 25. Mrs. Marzloff seconded the motion. All were in favor, the motion passed unanimously.**

Mrs. Marzloff wanted to clarify acceptance of jurisdiction was not approving the plan but only accepting that the application was complete.

**Mr. Côté made a motion to grant a waiver from Section 9.04 (4) cul de sac length from the required 1,200 foot cul de sac length to a total of 2,100 feet to the center of the cul de sac for subdivision for Tax Map 8, Lot 25. Ms. Woods seconded the motion. All were in favor, the motion passed unanimously.**

**Mr. Côté made a motion to grant a waiver from Section 9.15 (2) driveways shall slope up at 2% for 20 feet in curbed sections only and in non-curbed areas the driveways shall slope down 2% as required for subdivision for Tax Map 8, Lot 25. Mrs. Marzloff seconded the motion. All were in favor, the motion passed unanimously.**

With the next waiver regarding driveways, Mrs. Marzloff was concerned with having two driveways 10 feet apart about 200 feet long. Mr. Côté pointed out that there would be seven (7) driveways on the cul de sac. The Board agreed. Mr. Tatem talked about item #64 comment that they don't have a concern with it with the condition that a grading plan is provided around the entire cul de sac as there will be a need for cross easements. Mr. Mitchell was agreeable. Mrs. Rouleau-Côté wanted to point out that the lots around the cul de sac have only 50 to 79 feet of frontage.

**Mr. Côté made a motion to grant a waiver from Section 9.15 (13) driveways no closer than 50 feet to allow driveways to be constructed closer than 50 feet on the cul de sac only for subdivision for Tax Map 8, Lot 25. Mrs. Marzloff seconded the motion. All were in favor, the motion passed unanimously.**

Mr. Côté suggested that they hold off on granting a waiver to Section 9.15 (18) driveway

profiles. The Board all agreed.

The next request for a waiver regarding the exterior buffer, Mr. Poltak reiterated that the Frisella's did not have an issue with this request as there would be a no build easement.

**Mr. Côté made a motion to grant a waiver from Section 9.11 (2)(b) Exterior Buffer where there is a no build easement seeking a reduction in the buffer down to 100 feet for subdivision for Tax Map 8, Lot 25. Mrs. Marzloff seconded the motion. All were in favor, the motion passed unanimously.**

Mr. Tatem indicated that they did not need a waiver from adjusting driveways later as they are already allowed to do this.

Mr. Côté suggested holding off on the Conditional Use Permit until they find out what happens with the ZBA next Tuesday. The Board agreed.

Mr. Poltak asked Mr. Mitchell if he wanted to request a continuance until March 18<sup>th</sup>. Mr. Mitchell said yes.

**Mr. Côté made a motion to Continue the Public Hearing until the next Public Hearing which will be held on March 18, 2015. Mrs. Marzloff seconded the motion. All were in favor, the motion passed unanimously.**

Mr. Côté informed everyone present at tonight's meeting that this would be their only notice and that no further notices would be mailed out.

**Strategic Consulting Company, LLC  
77 Pingree Hill Road, Tax map 5, Lot 19  
Major Subdivision – Final Review  
9 Conventional Lot Subdivision  
Conditional Use Permit**

Mr. Mitchell gave a quick history by saying that they were before the Board the last several months and that this is before the Board with a final application review. Mr. Mitchell pointed out that they were in for a cluster subdivision previously and that they have been before the Conservation Commission as well. Mr. Mitchell stated that the waivers that they would be seeking were similar to the last application. Mr. Mitchell also stated that they were going before the ZBA for a reduction in the wetland buffers. Mr. Mitchell indicated that they were before the Conservation Commission to seek their approval with the request for reductions within the wetland buffer and they were not in favor of reducing the wetland buffer to 75 feet. A brief discussion ensued with regard to the wetland buffer reduction request.

Mr. Mitchell also indicated that they would be seeking a waiver reduction to cul de sac length where 1,200 feet is required. The length of cul de sac would be 1,300 feet to the center from Pingree Hill Road. Mr. Mitchell also pointed out that they have left an access into the adjacent property.

Mr. Mitchell also stated that there would be closed drainage and that the lots would be 2 acres or bigger. Mr. Mitchell submitted a review check to Ms. Royce for review by Stantec. Mr. Mitchell talked about cape cod berm. The project has been submitted to the State for Alteration of Terrain as well as for subdivision approval and they will be before the Zoning Board of

Adjustment next Tuesday for wetland reductions. Mr. Mitchell also indicated that they are also seeking a Conditional Use Permit as they did in the last project for a road being close to a Level 2 wetland.

Mr. Mitchell talked about Lot #3 where they have identified the wetland as a Level 2 wetland of which the Conservation Commission is not in favor of reducing the buffer to 75 feet from a Level 2 wetland. Mr. Tatem explained to the Board members that one of the Conservation Commission members asked him to evaluate this but that the only problem is that there is about 3 feet of snow out there. A brief discussion ensued with regard to the wetlands.

Mr. Mitchell informed the Board that Mr. Tom Sokoloski was present tonight to speak with the Board regarding the wetlands on the property. Mr. Sokoloski stated that they had flagged the wetlands back in June 2014. Mr. Sokoloski talked about the vernal pool which was probably used as a farm pond which is very common of which is now fully vegetated. Mr. Sokoloski stated that they would be maintaining a 125 foot buffer from the vernal pool. Mr. Sokoloski went on to talk about an old farm road crossing with a culverted drainage that runs into the wetland below that. They consider these to be a Level 2 wetland as they do not connect down directly as a contiguous wetland to the larger wetlands below. Mr. Sokoloski went on to further talk about the other wetlands on the property and the different levels of wetlands. Mr. Mitchell passed out copies of an evaluation letter signed by Peter Schauer for the Board's review. Mr. Sokoloski also explained the different habitat in the proposed area. Mr. Sokoloski explained that Conservation Commission views the area in question as a Level 1 wetland.

Mr. Sokoloski asked if there were any questions or comments. Mr. Grillo asked about the area designated as a level 2 on a plan of which was designated as a level 1 on an earlier plan. Mr. Grillo read the letter that was submitted to the Board and asked why the Levels have changed. Mr. Sokoloski stated that they have had input on the level designation right from the beginning and it has been the source of ongoing discussion with the Conservation Commission for some time. Further discussion ensued with regard to the levels of wetlands. Mr. Sokoloski pointed out that the Conservation Commission has a different philosophy so if there is any part of a wetland system that is designated as a Level 1 progressing further away from that core wetland that they feel it should be still designated as a Level 1. Whereas, their view is that there are changes that do not have the same characteristics going up into the headwaters as you have down in the lower wetter swamps where water sits for long periods of time. There are different wildlife habitats in those areas and there are different values in terms of flood storage and the ability to retain nutrients to retain sediments and to have wetland dependent wildlife such as ducks. They look at it and recognize that there are differences in wetlands. Mrs. Marzloff agreed with Conservation Commission.

Ms. Cornett brought up that on the very first plan it showed the area in question as a Level 1 running stream and that on the next plan it was shown as a Level 2. Ms. Cornett stated that the stream runs through her property onto the next property and all the way to Wilsons Crossing Road. Ms. Cornett believes it is a continuous wetland and agrees with the Conservation Commission.

Mrs. Rouleau-Côté added that she has been out there to witness test pits and that it was unfortunate that the Board did not do a site walk because it would have been a huge benefit to the Board to see firsthand. Mrs. Rouleau-Côté was out there back in November before the snow flew and stated that there was enough topography and vegetation that ample treatment of any kind of disturbance is being taken care of before it gets to the larger significant water

bodies. The Board thought they should do a site walk.

Mr. Mitchell explained that, while reading the ordinance that the ordinance talks about different tiers and that was how the study was done. Just as there is a main wetland with a number on and it has wetlands draining into it from all over, doesn't mean that the wetland goes all the way upstream. The purpose of the ordinance is to protect the wetlands a lot of what the wetlands do located further upstream is to help take out sediment and to help prevent flooding and other things. A brief discussion ensued with regard to the wetlands. Mr. Côté agreed that there were different levels of wetlands and that all wetlands were not the same. Mr. Côté also pointed out that he had complete confidence in the consultant that did this work and do believe that these consultants know what they are talking about and did not believe that they needed to have a peer review of it in order to determine if it goes from a Level 1 to a Level 2. Mr. Côté believed that they made a reasonable argument in this case. Ms. Cornett pointed out that the Conservation Commission voted no on every one of Mr. Mitchell's request for waivers to reduce the buffer. Mr. Côté also pointed out that the Conservation Commission was an advisory board and that they were not wetland scientists. Mr. Sullivan agreed with Mr. Côté with most of what he was saying and was inclined to trust the professionals but was also inclined to let our professional to do a review because it seemed contentious. Mr. Sullivan also believed that just because they are contiguous doesn't mean they are the same.

Mr. Starace, the owner of the property wanted to point out that Mr. Porter did say that he agreed Schauer's (Tom Sokoloski's) hydrology (which is in the Conservation Commission minutes). Mr. Starace said that he wouldn't say that he did not run but that it did not run all year. Mr. Sullivan said that the physical evidence will tell a wetland scientist that. Mr. Starace also suggested that they would be happy to swale an area in question to keep the water flowing down to the treatment area.

Mr. Poltak believed that with regard to tonight's discussion that they've gone as far as possible and thought the next step would be to get the review done. Mr. Poltak had a question to the waiver request for distance to wetlands did not affect the fact that these would still be buildable lots. Mr. Mitchell said yes, and wanted to clarify that two of the lots would still be buildable lots but the third lot was questionable with the difference of opinion what level wetland it was.

Mrs. Marzloff had a few questions beginning with sheet one and sheet two were not consistent in terms of abutters. Mrs. Marzloff further pointed out that on sheet two that Snowdale Trust as owning Map 5, Lot 20 and on sheet one it doesn't exists. A brief discussion ensued with regard to abutters. Mr. Mitchell said that he would check on that.

Mr. Tatem asked if there was a cistern anywhere near this subdivision. Mr. Mitchell said that it was less than 9 lots so one was not needed. Mr. Mitchell and Mr. Côté discussed getting any pictures and discussing it with Stantec for a peer review.

**Mrs. Marzloff made a motion to Continue the Public Hearing until the next Public Hearing which will be held on March 18, 2015. Mr. Côté seconded the motion. All were in favor, the motion passed unanimously.**

Mr. Poltak informed everyone that this would be the only notice as there would be no further notices sent out and did not believe anyone was present at tonight's hearing.

## **OTHER**

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**Planning Board to  
Discuss Old Escrows**

Mr. Poltak wanted to discuss dispensing of old escrows with the Board members. Mr. Poltak pointed out that everyone should have received the list in an e-mail for review. Mr. Poltak and the Board members all agreed to release the list of old escrows except the one for Heiberg which they suggested that town counsel take a look at before releasing it.

Mr. Poltak asked for a motion to release the list of old escrows shown in a memo dated January 13, 2015 to Ms. Royce as recommended with the exception of Heiberg.

**Mr. Côté made a motion to dispense with old escrows referenced in a memo from Kate Skoglund to Denise Royce dated January 13, 2015 and to follow the recommendation of Kate Skoglund on all of the escrows with the exception of 05-2027-0-055-0 & 05-2027-0-000-3 Kathleen Heiberg property. Ms. Woods seconded the motion. All were in favor, the motion passed unanimously.**

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**Master Plan**

Mr. Poltak also wanted to discuss with the Board that he has had two meetings relative to updating the Master Plan. Mr. Poltak briefly talked about the proposed updates being made and informed the Board members that they would be receiving an e-mail with the proposed changes of which he wanted the Board members to review them and to be prepared to discuss them at the next Board meeting.

**ADJOURN**

**Mrs. Marzloff moved to adjourn the Hearing. Ms. Woods seconded the motion. All were in favor, the motion passed unanimously and the meeting stood adjourned at 8:56 p.m.**

***The Planning Board will not be meeting next week. The next Planning Board meeting will take place on Wednesday, March 4, 2015 and will be held at the Town Hall, 47 Chester Road.***