

Planning Board

Meeting Schedule

December 06, 2007

Select Board Agenda

Select Board Pending

Town of Acton

Business Directory

Planning Board Meeting Minutes

Elections and Town Meetings

December 06, 2007

Public Hearings

Members Present: Chip Venell, Yoli Gallagher, Jim Fiske, Tom Cashin, Keith Davis and Randy Goodwin

Ordinances

Policies

Members Absent: Brian Bellanger

Forms

Tax Information

Guests: Shelly Blaisdell (secretary), Ken Paul (CEO), Peter Beck, Elaine Beck, Michael Peverett, Carl Beal, Ron Auger, Lenny Tibbetts (Civil Consultants), M. Johann Buisman (Northeast Civil Solutions), Warren Seavey, Larissa Crickett, Jared Valiouet, Rob Meyer, Joseph Ruma, Robin Frost, Barbara Seckar, Robert Sossdin, James Montour, Dick Neal, Mark Rix, Debi Rix, Pam McAlinden, Irene Kerrigan, R. Ham, Roy Traftino, Janet Steffens, Pat Hannon, Jamie Saltmarsh, John Moore, Mike Conway, Joe Fluid (Wakefield Planning Board Chairman)

Town History

Public Notices

Mary Grant

Cemetery

Photo Galleries


Meeting called to order at 7:00 p.m. by Chairman Chip Venell

Direct Links


















Elementary School

Library

Channel 26 APAT

 [Find more about Weather in Acton, ME](#)

Meetings

| |
|--|
|  2023- 7 |
|  2022- 29 |
|  2021- 22 |
|  2020- 22 |
|  2019- 22 |
|  2018- 20 |
|  2017- 23 |
|  2016- 23 |
|  2015- 24 |
|  2014- 23 |
|  2013- 18 |
|  2012- 24 |
|  2011- 25 |
|  2010- 20 |
|  2009- 21 |
|  2008- 24 |
|  2007- 21 |
|  2006- 13 |

1. Chip opens the meeting with the Public Hearing for AS&A Developments. Mr. Carl Beal gives brief presentation stating the plans they have for a subdivision project that wishes to split two existing lots on Foxes Ridge Road into two lots, and they have a purchase and sale agreement to buy additional lots. Part of the project involves creating a new private way, and because of the number of the lots, that includes making it wider. It will be called Saunders Lane upon approval by the road naming committee. A site walk was held two weeks ago with the board to look at where the lot is proposed, as well as an existing wetland. Each lot has a private septic and well, with HHE200 tests performed by a private, licensed soil evaluator. A plan and profile was allotted. The profile won't change, and the grade will remain the same, but it will be widened from an existing 12 foot gravel "driveway" to 18 feet of travel way with 3 foot gravel shoulders on either side making a total width of 24 feet.

Chip asks for public comments or discussion regarding this development.

Larissa Crockett asks, "is there anything in Acton's ordinances that state whether a certain percentage of land would be required to not be wetlands?" Mr. Beal answers that the requirement is two acres, and this project is within those guidelines, especially where the back lot referred to is approximately 2 1/2 acres alone.

Mr. Dick Neal questions whether the proposed new road is going to be held the town's standards and requirements for private roads. Chip answers yes.

Debi Rix asks if this private road was going to be maintained by the people living on the road themselves, and if so, what would they have to do to keep up the maintenance? Chip answers that a private road association could be formed or whatever process they choose.

Larissa Crockett asks if the public's questions are going to be answered, and if not, will the public be allowed to ask additional questions later in the meeting? Chip tells her no, and that the public part of the meeting will be over, with no additional public comments. Tom disagrees with this statement from Chip and says that he feels the public should be allowed to ask more questions later, if the need arises. Chip tells Tom that this is not how it works. Questions are limited to public question time.

Tom makes a motion that the public be allowed to have a second round of questioning after the public comment time of this public hearing has ended. Yoli seconds. All in favor - passed 3-0

Chip asks for additional questions or comments from the board for AS&A? Keith brings up the wetlands issue that was previously discussed. Mr. Beal reads from a letter dated June 7, 2007 that states, "the town definition of such water wetlands specifically excludes forested wetlands." Chip sums up the conversation by stating that Woodlot Alternatives results say that this project was not resource protection and points out that they give two reasons. Mr. Beal says that what they are saying is that as a forested wetlands, it doesn't meet the town's criteria for fresh water wetland.

Ken points out that on page 15 of the new zoning book (page 13 of the old book) there is a definition. Chip reads the definition as, "horizontal area within the lot line minus land below the normal high water line of a waterbody or upland edge of a wetland, and areas beneath road service including two lots." Chip says, "so the lot area is the total horizontal area within the lot lines minus land below the normal high water line or waterbody, or upland edge of a wetland and areas serving more than two blocks." Mr. Beal says he believes that their forested wetlands is excluded under the definition of a wetland. Chip says that Mr. Beal is right and Ken Paul agrees that, yes it is excluded under fresh water. Mr. Beal says that is correct and that is how we got this far in the process. Keith reminds the board that this issue came up early on in the process and that there was some confusion then as well. Chip questions whether the old zoning ordinances were to be used, or is the board correct in using the new zoning ordinance book. Chip says that Woodlot Alternatives was operating under the old zoning book and the old definition of a forested wetland in areas of more than 10 acres. Chip says he thought this issue had been previously solved. Chip reads from a letter that was submitted by Woodlot Alternatives dated July 5, 2007 stating what their findings were. Tom says he would feel more comfortable researching this issue further before making a final decision. Mr. Beal states that they have been operating since June under the old ordinance, as directed by the board. He said he thought they were going to be heard under the old ordinance since they came in April with their initial application. Chips asks if there is a motion from the board to proceed. Tom says he thinks that the board should ask for a substantive review. Lenny Tibbits of Civil Consultants says that they have been coming to the board meetings now for 7 months, and they have been operating under the old ordinances all along, and now to change it and not tell them is unfair. It is costing him more money every month. Keith says he feels that it is unfair to change the board's intent on this application because the issue came up early on in the process. Chip says we need a

motion to be able to move forward at this point. Yoli says she was out for two months when this issue was being addressed, so she doesn't feel comfortable making a motion on this issue.

Keith makes a motion that the substantive review was in place when the board had discussions as to whether this qualifies as a buildable lot. The board asked them to get information regarding that and they hired a consultant based on the board's request. They came back with the consultant's findings, therefore the board's intent was that they were operating under the old zoning ordinance. Randy seconds. All in favor - pass 5-1

Chip says the answer to the question is that these lots are considered buildable lots with the forced wetlands on them as per the old ordinance regulations. Yoli says that Ken has requested an apron coming off the road for emergency vehicles to turn around, etc. Chip asks Mr. Beal if he has a letter from DOT stating their requirements for sanding and maintenance. Mr. Beal says he does not have that. Ken says that if they can apply for the permits to upgrade the entrance with the paved apron, he doesn't think DOT will have an issue with it, but that can be a condition on the review. Chip asks for additional comments or questions. Mr. Beal says they can do that and he doesn't think DOT will have a problem with it. Chip also tells AS&A that they will have to have the proposed name go before the Road Naming Committee and he asks if the road is going to be right up to specs for the length of the property that you own. Mr. Beal says it will go all the way back to the wetland area at the previously mentioned dimensions. Chip asks them to provide envelopes for the homes that have setbacks and asks if there is already a road association in place. Mr. Beal says no there isn't one yet.

The board requests that AS&A get copies so that everything can be sent to Southern Maine Regional Development in Sanford for final review. Mr. Beal asks when this would be taken up again? Chip says they will be put on second on the agenda for the December 20, 2007 meeting. Ken Paul mentions that the last plan didn't call for residential sprinkler systems on the two new lots, and he wanted to mention it so they wouldn't be caught off guard. Mr. Beal says he doesn't recall that being discussed. Chip says that there just needs to be something on the plans showing that. Chip asks for further questions or discussion. A citizen questions where the turn will be for emergency vehicles? Chip says that the road goes further back and continues past the wetlands and that if they put in a hammer head somewhere on the road, not necessarily at the end of the road, but maybe at the end of the existing driveway that would be good and Southern Maine will just have to take it at good faith that that is what is going to happen. Debi Rix asks how much work can be done to the road that close to the wetlands? Chip says that wetlands doesn't necessarily mean environmentally protected property. Ken says that there isn't any regulations with regards to an existing road.

2. Mr. Warren Seavey came before the board for review of a prior application to put in an auto repair and restoration business. He was told he needs to have 7 copies of all documents for each board member, including all maps. Also, Mr. Seavey was told he needs a list of abutters within 500 feet of the property, and the board will need a description of the type of business it is and how fluids will be handled. Chip tells him he will need to pay the application fee also. Chip asks Mr. Seavey to describe the type of business it is for the board members, and he reads from the application a description of what is being applied for. Chip explains the entire process to Mr. Seavey from start to finish. Ken asks what is he missing? Chip says he is missing the abutters list of everyone that lives within 500 feet of the property line. Ken asks if he can bring

in that list tomorrow? Chip also says that there needs to be a public hearing held before a permit can be granted. Tom asks what exactly the nature of his business is? Mr. Seavey explains that he takes antique cars and restores them back to their original condition. He said he also sells a few parts for the vehicles. Tom says they need to know about fluid disposal and what fluids are used on the premises as well. He said the board will also need to know what percentage the residence will be of the building. The board requested to see the site plan for the proposed building with the residence included. Chip summarizes for Mr. Seavey what he needs and tells him, "the board will need sufficient copies of everything, an abutters list, payment of the application, fluids disposal plan and any contracts that you get if an outside company is going to handle that for you. If you are storing oil on site, we need to know how that is being done with a description of the type of building it is stored in. Chip recommends that Mr. Seavey come in to the code enforcement office tomorrow and look at some other applications and conditional use permits that were given to other like businesses and that would speed up the process and help him to know what he needs. Chip mentions that a moratorium will be voted on in January and he isn't sure if that will affect this application or not. He will have to wait and see how far this application gets before the January vote of that moratorium.

3. Keith comments on Durward Parkinson's finding letter regarding the Hannon project, and explains that this finding was requested because after discussions with Tom, the board felt unsure if mistakes were made up to this point. Keith says that the letter basically reiterates what he said here at the meeting two weeks ago, that nothing that has been done to this point should be undone and he feels we should proceed with a workshop with Mr. Hannon and move forward.

Tom makes comments regarding Randy voting on any issues regarding this matter because he feels that he has missed most of the meetings regarding this issue. Randy corrects Tom by saying that he was at the last meeting in October and has only missed the two November meetings. Chip says we are dealing with this issue now and will worry about who is voting when the time comes.

Tom asks Keith what he thinks about the part of Durward's letter that states there were some irregularities? Keith says that Durward does acknowledge the irregularities, but does not feel they are significant to warrant a change in the vote, and that the board should still move forward. Tom states several concerns that he has with the Hannon application, including a map that has missing data, that was resubmitted previously, and says that it is unfortunate that the board and Durward Parkinson doesn't get it, and is allowing this to move forward and short circuit the town's right of due process? Keith says that he understands that he and Tom will disagree and says he feels that Durward is correct. Keith points out that there is nothing in the ordinance that says a stamp is required on anything other than the perimeter survey and that there may be several changes between now and the completion of the process. Tom reiterates his displeasure with Durward's findings and says he feels that Durward had a preconceived notion on this matter and wasn't impartial and had an agenda.

Jamie Saltmarsh said that Durward's letter does seem to be a reiteration of the meeting and he did stick to his same opinion even after reviewing what materials he had. She thinks it is up to

the board to take a vote on this issue and move on one way or another. Jamie said she doesn't have an opinion on the drawings, etc. and said she feels that Durward wrote a very clear letter stating his opinions, and can't say what materials he had or how thoroughly he went over them, but it is what it is.

Randy comments that he doesn't like the fact that we are spending taxpayers money to get legal opinions because Tom doesn't like something. Ken agrees with Randy that the applicant pays

for consultations, but not lawyers. Tom looks at the 11/01/07 minutes to see if the applicant agreed to pay for the legal opinion. Ken says that the applicant agreed to have Durward review it, but it says in ordinance 6.6.3.3 that the applicant pays for consultants, but not lawyers, and Ken also points out that he made it clear that the towns lawyer is not a consultant. Keith reads from the ordinance book and tells Tom that the board asked Durward for his opinion on whether they had followed the correct procedure in accepting this application and whether we followed this ordinance correctly. The board wasn't judging the land use activity, but was the board correct in what they have done to this point. Keith again points out to Tom that the board didn't ask for land use activity and that he would like nothing more than for the applicant to pay for the lawyers costs on this findings, but it doesn't fit the ordinance. Chip comments and says he agrees with Keith. Jamie Saltmarsh points out that this is one lawyers opinion and the board has the final say.

Keith makes a motion that the board accept the recommendation from Durward Parkinson, in that the procedure was correct and that the board followed the ordinance, not necessarily to the letter, but to satisfy the criteria, and also accept his finding and the recommendation to set up a workshop and proceed with the process. Jim seconds. All in favor. Passes 4 to 2

Tom makes a motion that the legal fee for Durward Parkinson's legal device be born by the applicant because his understanding was that the applicant was willing to accept all costs. Yoli seconds

Yoli questions does this include the submissions given by Mr. Hannon already that again went to Durward's office. Ken quotes from ordinance 6.6.3.5-E regarding asking the applicant if he is willing to pay for it to save a vote. Pat Hannon asks how much the bill is? Chip says he doesn't have the bill yet.

All in favor, vote 3 -1 passes (Randy votes for Keith on this topic)

4. Keith asks if the board members received a hard copy letter from Pete Maher? Tom requests that the board consider other consultants instead of just using Peter Maher automatically. Keith suggests using more than one person to get people on both sides of the issue, and hear opposing sides. Keith said he thinks it is valid that we get an independent consultant regardless, to help with this process, and says to Tom that he felt his comment regarding using someone that is not connected to waste management a little odd because the original reason the board wanted to get an independent consultant was for that very reason. The board decided to contact a few more independent consultants and see who the board wants to choose. Chip recommends that a

workshop be set up. Pat Hannon and Keith point out that the consultant needs to be hired first before a workshop is scheduled so that they can be a part of the workshop because the whole reason for the consultant is to help the board through the process. Tom asks if the board would like him to make copies of the manuals he has regarding this subject. Pat Hannon asks who submitted the manuals and why is it that Tom is the only one with them? Tom said he was the only one interested in reading them, and that they were submitted to the board at the last meeting. Pat Hannon asked the board to make a decision quickly on who they are going to hire for a consultant because if the town doesn't hire Pete Maher, he plans to, and doesn't want to cause problems by doing this. Chip said that he would have Michelle contact other consultants and all the proposals would be reviewed at the next meeting for consideration. Chip tells the board that 12/20/07 is the next time that the Hannon application will be discussed and that a workshop will be set up then to see where the application is at. Debi Rix asked if the public would be invited to attend those workshop meetings? Chip said the public is invited to them.

Mr. Joe Fluid, Chairman of the Wakefield Planning Board, thanks the board for the invitation to come to the meetings to stay informed about the Hannon application because it does affect the Town of Wakefield, and requests a copy of all meeting minutes. Chip tells him that the minutes are posted on the Town's website and he can get them there. Joe also said that he is an independent P.E. and suggests that the Town hire someone who is independent and not a lawyer. He said there are a lot of good ones in the State, and the board shouldn't have any trouble finding a good one because there are plenty of them out there.

Debi Rix asks the board to establish a citizens advisory group to help in the process of the Hannon application, and invite them to all workshop sessions.

Larissa Crockett asks Chip which towns were invited to the meeting tonight? Chip said he didn't know. Shelly Blaisdell asked Larissa if she provided Michelle with the list that was discussed at the last meeting of who she would like to see invited to the planning board meetings? Larissa said she forgot to do that and she would speak with Michelle regarding this.

Motion made by Jim to accept the meeting minutes of 10/18/07. Randy seconds.
All in favor Passed 3 - 0

Jim makes motion to adjourn the meeting; Yoli seconds

Meeting adjourned at 9:30 p.m.