

Town of Acton, Maine

Planning Board Meeting Minutes

Date: September 5, 2024

Members Present:

Christopher Whitman (Chairman), Gavin Maloney (Vice-Chairman), John Qua, Adam Brock, Andrew Johnson (Alternate), Roger Perreault (Alternate)

Also Present:

Jason Sevigny (Code Enforcement Officer), David Riley (Land Use Assistant), Ben Smith (NorthStar Planning), Bradford Jones (Jones & Beech Engineers), Charles Crespi (G.E.L.I.A.)

Absent:

Patricia Pearson

Pledge of Allegiance

Designate Alternates:

Chairman Christopher Whitman designates Andrew Johnson as a voting member for this meeting.

Approval of Minutes:

John Qua – “I move we accept the minutes as written for August 15th, 2024.”

Andrew Johnson – “Second.” Motion Passed 3 – 0. (Gavin Maloney and Adam Brock abstaining as they were not at the August 15th meeting.)

Old Business:

- **Martel Estates, LLC. Martel Estates Subdivision. Preliminary Subdivision application. 760 Young’s Ridge Road. Tax Map 217; Lot 029.**

Brad Jones introduced himself to the Board and those in attendance at the meeting. He thanked the Board for meeting the applicant at the site walk that was held August 8th and he felt it was important for the Board to see the care Mr. Martel takes in upkeeping his properties. To begin the preliminary application process, Mr. Jones asked if the waiver

requests should be submitted at the beginning or as the Board progresses through the application. Ben Smith from NorthStar Planning stated that as this is a preliminary application he would recommend the Board make a determination of the completeness of the application first as it relates to submission requirements and then consider each waiver request. Ben continued to state that he has provided the Planning Board with a memo after his review of the application, and he sees the application as being complete, but it is at the discretion of the Board to make that final determination. Planning Board member John Qua stated that there may be questions the Board would like to ask but as far as submission requirements the application seems to be complete.

Planning Board member Gavin Maloney asked the Board to draw their attention to page 30 of the zoning ordinance. Gavin proceeded with reading the definition of a Planned Unit Development. Mr. Maloney stated he feels like this application meets the definition of Planned Unit Development and as such according to page 14 of the Land Use Chart, Planned Unit Developments are not permitted in the Shoreland Zone. Code Enforcement Officer Jason Sevigny stated he felt that Planned Unit Developments were more inline with commercial applications, not residential subdivisions. Ben Smith from NorthStar Planning stated that in his possibly broader experiences, Planned Unit Developments are generally more commercial in nature and that would be his additional guidance. Planning Board member John Qua commented that he tends to agree with the more open definition articulated by Jason. The Planning Board continued with round table discussions about Planned Unit Development and the applicability to this application. Board member Adam Brock stated that he doesn't see this as a Planned Unit Development either. Board member Andrew Johnson stated that he also sees this as not being a Planned Unit Development. The Chairman Christopher Whitman inquired if there should be a vote taken to document this step. Ben Smith stated that this was a good discussion and as part of completeness it would be worthy of noting this discussion but ultimately it is the Code Officers job to interpret the ordinance and to decide if this is a permitted use in this zone.

The Planning Board continued with the review of the application by cross-reference with section 6.2 - C. of the Acton Subdivision Regulations. The review was as follows:

C. Preliminary Plan. The preliminary plan may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch, provided all necessary detail can easily be read. The application materials for preliminary plan approval shall include the following information.

1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers. **Yes**
2. Verification of right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest. **Yes**
3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and

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marked by monuments. The entire parcel or tract shall be shown, including all contiguous land in common ownership within the last five years, as required by Title 30-A M.R.S.A. section 4401. **(Waiver Approved)**

4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property. **Yes**
5. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision. **Yes (A proposed layout has been submitted, the restrictions to be included have not yet been determined.)**
6. An indication of the type of sewage disposal to be used in the subdivision. **Yes**
 - a. When sewage disposal is to be accomplished by connection to the public sewer, a letter from the appropriate sewer district stating the district has the capacity to collect and treat the waste water shall be provided.
7. An indication of the type of water supply system(s) to be used in the subdivision. **Yes**
When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision.
8. The date the plan was prepared, north point, and graphic map scale. **Yes**
9. The names and addresses of the record owner, applicant, and individual or company who prepared the plan and adjoining property owners. **Yes**
10. Wetland areas shall be delineated on the survey, regardless of size. **Yes**
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, unusually large specimen trees, if present, and other essential existing physical features. **Yes**
12. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond. **Yes**
13. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision. **Yes**
14. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided. **Yes**
15. The location, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision. **Yes**
16. The width and location of any streets, public improvements or open space shown upon the official map and the Comprehensive Plan, if any, within the subdivision. **Yes**
17. The proposed lot lines with approximate dimensions and lot areas. **Yes**
18. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. **N/A**

19. The location of any open space to be preserved or common areas to be created, and a general description of proposed ownership, improvement and management. **Yes**
20. The area on each lot where existing forest cover will be permitted to be removed and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation. **Yes**
21. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan. **Yes**
22. Areas within or adjacent to the proposed subdivision which have been identified by the Maine Department of Inland Fisheries and Wildlife Beginning with Habitat Project or within the Comprehensive Plan. If any portion of the subdivision is located within an area designated as a unique natural area by the Comprehensive Plan or the Maine Natural Areas Program or Maine Department of Inland Fisheries & Wildlife Beginning With Habitat Project the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation. **Yes**
23. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the Comprehensive Plan or by the Maine Historic Preservation Commission as sensitive or likely to contain such sites. **Yes**

After the review of section 6.2 of the subdivision regulations, the Planning Board moved to find the application complete.

Adam Brock – “I’d like to make a Motion that we vote on that the application is complete.”

Andrew Johnson – “Second.” Motion Passed 4 – 1. (Gavin Maloney opposed, stating he feels this is a Planned Unit Development and is not permitted in the Shoreland Zone.)

After the application was found to be complete, Brad Jones discussed with the Board three waivers that the applicant wished to propose. The first waiver proposed was to substitute the granite boundary markers with 5/8” rebar.

Adam Brock – “I make a Motion that we accept the waiver request for replacing the granite monuments or concrete monuments with 5/8” rebar with the plastic caps on the rebar that show the licensing surveyor, as submitted.”

Andrew Johnson – “Second.” Motion Passed 5 – 0.

Gavin Maloney asked Mr. Jones if when setting the rebar, it could be agreed that the rebar would not be higher than 4 inches above the ground. Mr. Jones agreed to this stipulation.

The second waiver request was to waive the hydrogeological assessment. Mr. Jones stated that he does not believe it is required because the subdivision is not located in the aquifer protection area and the subdivision regulations require it when the lots are 100,000 sq. ft. of area. The lots being proposed are averaging 380,000 sq. ft. of area. Mr. Jones continued by stating again that he does not feel this assessment is applicable to the project. Gavin Maloney

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stated that he feels this assessment may be necessary in relation to the amount of water that will be available for each dwelling via the proposed wells. He is afraid the water available may not be adequate to support ten lots. Gavin also stated he would rather wait to grant this waiver until after the public hearing because he thinks this subject may come up at the hearing. Ben Smith of NorthStar Planning commented that the hydrogeological assessment deals with nitrate levels from septic systems. He continued to state that this assessment is required when a project is located over an aquifer protection district or in projects of higher density. Ben also stated that Gavin is correct that there is a performance standard that deals with water supply, but this assessment is not that. Ben agrees with Mr. Jones that the hydrogeological assessment does not apply in this situation, but it is the Planning Board's decision as to whether they waive the requirement. Board member John Qua agreed that the assessment does not apply but Gavin does bring up a legitimate issue that can be discussed when addressing the performance standards. It was determined that this waiver was not necessary as the assessment didn't apply to this application.

Brad Jones moved on to the third waiver request which is in relation to the grade of the proposed road. The Town's road standard is an 8% grade, and the applicant is proposing a 10% grade. The 10% grade would reduce the amount of disturbance to the land during construction. Mr. Jones illustrated that on the way to this project site the existing town roads range between 12% and 17%. The 10% would be closer to Town standards than the existing town roads but also provide less impact during construction. Mr. Jones then utilized a level to show the Planning Board the differences in road grades on the way to the project site. The CEO mentioned to the Board that there are letters from the Town Fire Chief and Road Commissioner supporting the applicant's proposal.

Adam Brock – "I'll make a Motion that we accept the applicant's request for the Scenic Overlook Road to be constructed at 10% versus the 8% that the town has required. Noting that the Road Commissioner and also the Fire Chief have looked at this and are also in agreement that this is acceptable."

Andrew Johnson – "Second." (Motion Passed 5 – 0 following the discussion below.)

Gavin Maloney stated that he has a couple of questions before the vote is completed. Gavin inquired what the proposed tarred width of the road was. Mr. Jones stated that it is proposed at 22 feet wide. Gavin Maloney asked Mr. Jones if the applicant would be willing to reduce the size of the road to 20 feet if the Board agreed to grant the waiver. Mr. Jones mentioned that this would not be a town road, it would be a private road. Gavin also asked if the Department of Environmental Protection had any input on the grade of the road being 10%. Mr. Jones informed the Board that the D.E.P. has approved the road for an 8% grade and the applicant will reapply for the D.E.P. approval of 10% if the Board allows that change. Gavin inquired again if they would be willing to shrink the road size for less impact on the environment. Ben Smith informed that the width of the road is also considered part of a performance standard which can be addressed later, but Ben's recommendation would be to continue the review of the application for completeness. Ben continued by stating a waiver request isn't something to be used as tool for negotiating. Mr. Jones stated that the applicant is fine with making the road 20

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feet wide, but they will resubmit the application to D.E.P. for a road 20 feet wide at a 10% grade and will bring the results back to the Planning Board.

Chairman Christopher Whitman asked for all those in favor of Adam Brock's Motion that was Seconded by Andrew Johnson. Motion Passed 5 – 0.

Mr. Jones continued the discussions by informing the Board that in the packet was a letter from a financial institution documenting that Mr. Martel has the financial capacity to complete the project. The remainder of the meeting consisted of miscellaneous round table discussions around the meadow buffers and potential building and septic envelopes on the subdivision plan.

Gavin Maloney – “I make a Motion to set a Public Hearing for this project for as soon as possible.” Public Hearing was set for October 3, 2024 at 6:00pm.

Adam Brock – Second. Motion Passed 5 – 0.

New Business:

- None

Pending Projects:

- None

Adam Brock – “I make a Motion to adjourn.”

John Qua – “Second.” Motion Passed 5 – 0.