

1
2 MINUTES OF THE MEETING
3 OF THE
4 CANTERBURY PLANNING BOARD
5

6 September 11, 2018
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8 BOARD MEMBERS PRESENT: Jim Snyder, Chairman, Art Rose, Tyson Miller, Kent
9 Ruesswick, Lucy Nichols (Alternate), Cheryl Gordon (BOS Representative)

10
11 ABSENT: Joshua Gordon, Hillary Nelson
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13 OTHERS PRESENT: Mandy Irving, Doug Thomson, Matt McKerley, Ken Stern,
14 Charles Bassett, James Blombach, Ann Blomback, Eric Grace, Brandon Hiltz, Frank
15 Yerkes
16

17 Kent Ruesswick and Cheryl Gordon appeared later in the meeting as a result of voting
18 day. In order to have a quorum until their arrival, Jim appointed Lucy Nichols to stand in
19 for Hillary Nelson.
20

21 **Draft Minutes of August 28, 2018:** Tyson Miller made a motion to approve the
22 Minutes. Lucy Nichols seconded. Discussion: None. Vote: Unanimous, 8/28/18
23 Minutes were approved.
24

25 Prior to starting the public hearings, Jim Snyder informed the Board, applicants, and
26 others in attendance that there was an issue with the public notices in the Concord
27 Monitor and asked the secretary to explain. Lori explained that she emailed the
28 Concord Monitor on Friday, August 31, 2018 to publish the Thomson and Hiltz
29 applications. After not receiving a confirmation, she emailed a second time. By the end
30 of the day, no confirmation was received, but this is not uncommon. She purchased the
31 Concord Monitor Saturday morning, September 1, 2018, but found no ads appeared.
32 She called the Monitor early Tuesday morning, September 4th due to the long holiday
33 weekend and left a voicemail and also sent an email. The response received was an
34 apology stating the woman was out on Friday and the person covering for her never
35 checked the emails. Lori requested the ads be posted in the following day, Wednesday,
36 September 5, 2018 in the Concord Monitor, which provided a 7 day. All other notices
37 were mailed by certified mail to abutters, and posted at the Canterbury Country Store
38 and the Town Office by August 30, 2018.
39

40 Jim explained that both applicants have the option to go ahead and hold their hearing,
41 and if someone appeals based on notification, we would address it further. He
42 explained it would not likely change the result of anything, it would just delay things. He
43 would leave it up to the applicants to decide what they'd like to do. Jim also said
44 anyone can appeal the Board's decision within 30 days to the Superior Court regardless

of notice. If they were to appeal based on notification, we would not go to court to fight the appeal, we would simply hold another hearing if required.

Public hearing on Thomson Amended Site Plan Review Application, 8 Oxbow Pond Road, Tax Map 267, Lot 47:

Jim asked the applicant if he wanted to move forward with the hearing in light of the Concord Monitor posting issue. The applicant confirmed he did.

Jim asked what abutters were in attendance for this hearing. Matt McKerley and Charles Basset were present.

Doug Thomson presented his application. They have an existing building they want to put a 42x96 addition on to. He talked to Scott Lacroix, the Town Building Inspector and learned there was a misunderstanding. Doug thought he could dig the foundation and footing, and put up his walls. He was only supposed to do the digging. He has all the lumber on site for the addition. Doug stated that the neighbor, Charles Bassett, was upset with a few things on his property and spoke with him. Specifically, there were a number of items behind the building on the side of Charles' land that Charles wanted moved. Doug cleaned it and brought before and after photos for the Board to review to confirm he cleaned it up.

Doug stated they have an overflow of vehicles and equipment on the property, which is the main objective of the addition. The building permit is applied and paid for, but it has not yet been approved.

The Board discussed the threshold requirement for having to come before the Board, This addition is about 4,000 square feet and therefore meets the requirement to file this amended application. Doug provided a request for waivers for #2-13 of Site Plan Regulations document requirements due to the Board having a 2000 Site Plan as reference. Art made a motion to grant the waivers. Tyson seconded motion. Jim read the list of documents required and requested. Only item #'s 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, and 13 needed to be waived.

Discussion on waivers: Jim asked about the percentage of impermeable surface area. The lot is 3.4 acres and there is very little asphalt there. The building is 62x96 and the new addition is 42x96. They did some calculations to determine the area and determined he's at approximately 8%. No further discussions on waivers. Vote to grant waivers: Unanimous.

Discussion on application: Doug confirmed the hours of operation and that there is no change of use. He provided a hand drawn landscaping plan and read the project narrative aloud for all to hear.

For procedural purposes, Jim asked if the proposal is of regional impact. Art Rose made a motion that this project does not meet regional impact criteria. Kent seconded.

91 Discussion: Tyson Miller asked if this requires more employees or traffic, to which Doug
92 replied it does not. Vote on regional impact: Unanimous. The project is not regional
93 impact.

94
95 Continued discussion: Jim asked for abutter input. Matt McKerley is in support of the
96 project and felt the inside storage would be nice. He was in favor of the project.

97
98 Charles Bassett is an abutter who stated his property has become more and more
99 unusable by all the things that have happened in this area of town. He's prevented from
100 selling his property as a commercial lot. When he had an interested buyer, the ZBA
101 turned down the request to sell it as residential. The Selectmen have talked about
102 moving the zoning line. Charles asked if there has been discussion among this Board
103 about his property. Jim stated this Board does not have anything in front of us to
104 discuss relating to his issues about his property.

105
106 Charles is concerned because he had a plan that was recorded at the Registry of
107 Deeds back at the time of the original Site Plan in 2000, and it shows the building in a
108 different place as the 2000 Site Plan in the Board's file. There's Minutes of a meeting
109 that looks like the plan was revised and a new one was approved. He showed the Board
110 the recorded plan. The Board did not have a copy of the recorded plan in the file and
111 was unaware how that came to be. Jim reminded Charles that his property is not the
112 subject at issue here tonight, he is here as an abutter about Doug's application. There
113 was discussion about the houses and businesses that originally came before the Board
114 in that area, and how the zone came to be. Jim told Charles that the Board struggled
115 with the definition of business in that zone at that time. The applications approved in
116 that area met the threshold under the regulations and ordinance when they were
117 approved.

118
119 Jim asked Doug what the setback was. Doug said it's 28 feet. Jim confirmed he is within
120 the structure setback. Charles is upset that there aren't any trees or anything as a buffer
121 to his property. Doug has told Charles if it would make him happy, he'll put trees in.
122 Charles wants an 8 foot stockade fence. Art discussed the benefit of evergreens over a
123 fence. Charles said his lot has been devalued by the things that have gone on in that
124 neighborhood. Maybe it's not Doug's fault, but all these things keep happening in the
125 neighborhood. Doug said if Charles thinks what he did devalued his land, let him put
126 some plant material in to make it look better, and Charles can sell his land. Charles did
127 not respond.

128
129 Charles talked about the building not being where it shows it is on the site plan. Jim
130 said it sounds like it's possible that mistakes were made in the past but he's not sure
131 where. We have an existing business that is asking for an addition. One path is to
132 approve the addition and add conditions, such as creating a new site plan that shows
133 the condition as they will be after the addition is built to avoid potential confusion in the
134 future. Another could be to buffer between the building and the neighboring property.
135 Or, we could go into a prolonged battle in court trying to determine what happened and
136 forcing the business owner to tear his building down and move it, but this doesn't seem

to warrant that course of action. Charles stated he's not looking to have the building torn down. Jim again stated we're not talking about the other use problems, they are just not the topic of tonight's hearing. To try and help the situation, Jim asked Charles if he would be satisfied if there was landscape buffering. Charles still wanted an 8 foot stockade fence so he could have a reasonable house lot. Doug said he could put Emerald Green Arborvitae that would take care of it.

Art agreed with Jim. He reviewed the 2000 recorded site plan compared with what is there today, and it looks like it was not done correctly. It looks like there was a buffer set up of existing white pines which were to remain, but are now gone. Setting up the vegetative buffer now takes care of that problem and is a good solution.

Art made a motion to place a condition on this approval that the vegetative buffer zone shown on the plan is reestablished. Kent seconded. Vote on condition: Unanimous.

Art made a second motion to place a condition on the application for the applicant to provide an as-built of existing conditions. Kent seconded the motion. Discussion: Lucy asked if we need a full as-built or if it can be amended. Art said Doug can use what he has and amend it. Jim pointed out that going forward this will be his site plan. Vote: Unanimous.

Lucy wanted to be on the record to say she lives right there in this neighborhood and goes by his business day by day, and it is a well ordered, well run, good business.

Art made a motion that we approve the application for the addition with the two conditions previously approved. Kent seconded. Discussion: Doug requested that he be able to continue working and get the as-built to us within a couple days. He'll put White Pines where they can grow and where they aren't the best choice, he'd put arborvitae. Jim said he should show that on the plan. Charles asked if Doug provided a new Site Plan showing the existing conditions. Art said what he's presented to us is an amended site plan showing his addition going on, based on this plan. Charles asked if this new plan would be approved based on their conditions. Jim said yes. The only alternative is to go in a long legal battle to clear it up. Charles said that's not the only resolution. He could put up an 8 foot stockade fence. Charles would like to see a fence along the entire property line. Art said the problem he has with fencing is that it needs to be maintained and they rot. A vegetative buffer will serve better than a fence. It's his opinion. Lucy said there is a massive problem with Asian Bittersweet in that area which grows around fences. That is not a good solution.

The Board took a vote to approve the amended Site Plan with the conditions noted above. It was unanimous. Doug will provide the as-built.

Public hearing on Excavation Application of Brandon Hiltz for property at 381 Intervale Road, Map/Lot 219-17

Jim opened the hearing with the question of regional impact. Tyson made a motion that this is not regional impact. Kent seconded.

Discussion: None. Vote: Unanimous. The project is not regional impact.

Jim reminded the applicant about the notification issue. They wished to go ahead.

Jim asked Brandon Hiltz to provide an overview of what material has come in and gone out of the property on Intervale Road, and what's happening while it's there. Brandon explained. Jim reiterated the explanation to be sure all understood. Jim said gravel is coming from elsewhere, being dumped on the Intervale Road lot, and then they're taking it to their road project in Northfield. Brandon confirmed saying they're mixing sand and gravel and the Intervale Road lot is more of a stockyard. They're bringing in more material than they're taking it out. When they're done, they'll make a field and hopefully be building a house. It's more of a staging area.

An Alteration of Terrain (AOT) permit was discussed. Mandy Irving, Town Assessor, asked Brandon if DES will allow him to continue to excavate without the AOT permit. Brandon met with the State on the AOT permit and they're ok with an after the fact permit and stated they do this all the time.

Tyson stated he met with abutter Anne Blombach. He explained that Brandon currently has a cease and desist from the Canterbury Select Board preventing excavation or reclamation. Excavation can't be closer than 10 feet from property line, or 50 feet of an objecting abutter. Tyson asked Ann if she was objecting, she said no, so the requirement is 10 feet. He measured the distance and it was within the limit. There was also activity of excavation near wetlands. It comes up to the edge but Tyson was not willing to make a statement on that because he's not an expert on conservation land. He felt the property looked good. He saw a pile of loam and another product. Tyson read a draft agreement he created in the hope it would satisfy the Selectmen as well as this Board on the work stoppage. Tyson passed out the proposed agreement.

Frank Yerkes, the surveyor, said he has a reclamation cost estimate from a professional engineer and provided it to the Board. Brandon also brought a bond to cover the reclamation cost in the amount of \$18,000. Art read the estimate and the bond wording and felt the amount was light based on the work to be done.

There was discussion related to the proposed agreement, material to finish the job, machine time, and the amount of the Bond. Jim asked if the bond is our responsibility or the Selectmen's. It's the Selectmen's and they meet Thursday. Art felt if the Selectmen have a bond in hand, they'd lift the cease and desist. Cheryl Gordon, the BOS representative, said it's possible but she can't speak for the Selectmen.

Jim and Art didn't feel an agreement was necessary. Jim confirmed the purpose of the cease and desist was because there was no permit. If we grant a permit, he's not sure what grounds they'd have to keep a cease and desist in place. Mandy Irving agreed

with Jim. After some discussion, Jim suggested we place a condition on the permit that he enter into an agreement with Selectmen satisfying both parties relating to bonding.

Art stated he doesn't have a problem with the plan but asked Brandon to provide the new plan he had prepared. Brandon agreed to drop it off.

Eric Grace was in the audience. He sees Brandon's work on Sandogarty Pond. It's impressive and he assumes he'll continue the same level of work.

James Blombach let Brandon know that he may not be aware, but in severe wet weather the back left corner of the Intervale Road lot will flood. Brandon appreciated his input.

Art made a motion that we approve the application for excavation at 381 Intervale Road Map 219 Lot 17 with the following conditions:

- The applicant applies for AOT permit and sends us confirmation of having done so;
- The applicant provides a bond for reclamation purposes on the area being disturbed; and
- The applicant makes sure there's an understanding between he and the Board of Selectmen regarding taxes on material.

Kent seconded. Discussion: Brandon asked if there is a form he can get for the taxes. Mandy said when he applied for the intent to excavate the Selectmen signed it, and Mandy mailed it. They should be sending her a report for Brandon to use, which would be submitted to the Selectmen's office.

Lucy asked how long we're making the permit for. Brandon needs until 5/30/2019. That will date will go on the permit.

Tyson wanted to feel confident that any issues regarding wetlands or RSA 155:E.4 or E.5 are going to be met. Art said it's the responsibility of the property owner, which is Brandon. Brandon said he has to go to DES for the AOT permit and they'll oversee it.

Art wanted to amend his motion to add a condition to provide an as-built of the project at the end of it. It should show the grades and show that he did what he said he was going to do. Brandon asked if a septic design counted as an as-built. Art said yes. Kent seconded the amended motion. Discussion: None. Vote: Unanimous

No further discussion on motion. Jim called for a vote on approving the Excavation Application. Vote: Board yes, Cheryl Gordon no. Application was approved by majority vote.

The bond and estimate were given to Cheryl for the Selectmen's meeting on Thursday. Lori kept a copy for the Planning Board file.

Other Business:

- Mandy requested in the future when we receive an application that includes a plan, that a copy is left at the Town Office for the public to view should they have any questions. The Board agreed.
- Kent received an email from John Snyder about Church in the Woods. They're having fires out there and camping. Kent was asked if the Board could look into it. Jim said there is a site plan for it, but enforcement is by the Selectmen and code enforcement. Lori found the Minutes to the approval of the Church in the Woods application and provided them to Kent.

Art made a motion to adjourn, seconded by Kent. Vote: Unanimous. Meeting adjourned at 9:15 pm.

Lori Gabriella, Secretary

Next meeting: September 25, 2018