

**TOWN OF KITTERY
PLANNING BOARD MEETING
Council Chambers**

APPROVED
Thursday, February 12, 2009

Meeting called to order at 6:05 p.m.

Members Present: D. Scott Mangiafico, Vice-Chairman, Ernest Evancic, Michael Luekens, Joseph Carleton

Members absent: Russell White, Megan Kline, Douglas Muir

Staff: Sandra Mowery, Town Planner

Mr. Mangiafico announced that Item 4 was withdrawn by the applicant, and will be scheduled for the March 12, 2009 meeting.

Minutes: January 22, 2008

Because of the absence of Board members present at the January 22, 2009 meeting, review of the minutes was postponed.

PUBLIC COMMENT – There was no public comment.

ITEM 1 - Amendment to an Approved Subdivision – *Determination of Completeness /Preliminary Review*

– Beth and John Roylos, Owners, propose to construct a 3-lot subdivision at 32 Haley Road, located on Map 47 Lot 18-4, in the Rural Residential (**RR**) Zoning District, parcel area is ±9.6 acres. The Owner's agent is Jim Nadeau and Associates.

Jim Nadeau provided a summary of the requested amendment. The cul-de-sac design was replaced with a hammerhead that avoids wetland disruption. **Earldean Wells** asked about the plans still showing the cul-de-sac. **Mr. Nadeau** noted that the current plans are recorded and this design must remain until a new plan is approved. Mr. Nadeau addressed the planning department and peer review issues presented in the staff notes, including:

Street classification: The applicant requests classification as a private lane, requiring higher street construction standards, because of possible future development and will request waivers as needed.

Soil suitability: A high intensity soil survey was completed and included in the application.

Stone wall: The wall will not be removed completely, but a 12 foot opening will be made for a driveway.

Mr. Evancic asked what will happen with the stones that are removed. Mr. Nadeau stated that the stones would be used in other areas of the wall where needed.

Street width design: The applicant is applying for waivers to the road width, cul-de-sac and intersection designs, and street construction materials.

The Town Planner noted that substantial material had been submitted and the application could be considered substantially complete. **Earldean Wells** requested that another site walk be scheduled as the first site walk showed the landscaping had not been installed and piles of slash made it difficult to view the parcel clearly.

Mr. Nadeau noted that the Code Enforcement Officer issued a letter stating that the plantings had been completed (8/20/07), and he had advised the owners not to change anything on the site. Following discussion, Board members agreed to hold a second site walk on Thursday, March 12 at 4:30 p.m.

Mr. Luekens asked about input from the Fire Chief, specifically regarding the width of the proposed road.

The concern was that fire trucks need a 20' wide road to pass one another, and that fire turnouts may be needed. The applicant is proposing a 16' road with 2' shoulders on either side, totaling 20'. The Town Planner will request that the Fire Chief review the plans and provide a letter for the Board. There was discussion regarding storm drainage and the requested waiver. Because the existing road is well packed, peer review indicated there would be no difference in runoff following paving.

Mr. Luekens moved to find the application to construct a 3-lot subdivision at 32 Haley Road, Map 47 Lot 18-4, in the Rural Residential (**R**) Zoning District substantially complete, and to grant the following waivers of submission requirements:

1. to section 16.36.060.B.2.b., requesting a scale of 1"=50' from the required 1"=30', and

2. to section 16.32.390.A.B.G., requesting a waiver of review by the York County Soil and Water Conservation District.

Mr. Carleton seconded

Motion carried unanimously by all members present

Mr. Luekens moved to schedule a public hearing on this item for March 12, 2009.

Mr. Carleton seconded

Motion carried unanimously by all members present

ITEM 2 - Plenary Site Plan Review – Public Hearing and Preliminary Review– Stephen Pelletier, Owner, proposes to construct a 28,571 square foot building for York Hospital consisting of 8 medical offices and 4 dwellings units at 35 Walker Street, located on Map 4 Lot 168, situated in the Local Business 1 (**LB1**) Zoning District, parcel area is ±2.5 acres. The owner’s agent is Joseph Cheever, EIT, of Attar Engineering, Inc.

The Town Planner noted that a letter had been presented to the Board by John Ockerbloom, abutter, requesting that the letter be included in the public hearing’s proceedings.

Mr. Carleton noted that he works with Attar Engineering through his job. Board members had no concern or objection.

Stephen Pelletier introduced the project’s consultants. **Joe Cheever**, Attar Engineering, provided an overview of the project and recent reports submitted. The applicant requests a decision by the Board regarding the location of the proposed building, where Public Works requested it be moved 10’ back to allow for snow plowing. This move would eliminate one handicapped parking space. A traffic engineer has recommended that, due to the high crash record at the intersection, the light sequences be adjusted. The plan to include four apartments on the second floor does make this application a subdivision by state standards and requests the Board’s input regarding the level of review needed. **Wendy Anderson**, Woodburn & Co., summarized the landscape plan. Plantings have been included on the plan to delineate the edge of mowing at the wetlands boundary. **Mr. Carleton** reminded the applicant of the request by Mr. Ockerbloom for a visual barrier at the rear of the lot. **Mr. Pelletier** noted that they would be willing to meet with the abutter to address his concerns. **Andy English**, Lassell Architects, reviewed the architectural design.

The Public Hearing opened at 7:14 pm.

Jim Driscoll, abutter, is generally in support of the project, but remarked that a vegetative buffer to shield the abutting residential properties would be welcomed, agreeing with Mr. Ockerbloom’s request. He also stated concerns regarding:

1. Lighting - Mike Lassell, Lassell Architects, noted that the lights are high cut-offs and the recessed light fixtures would not be visible. Mr. Pelletier also stated that the fixtures are shielded to keep the light down, preventing spill over to abutting properties.
2. Foot traffic - Pedestrian use of the property as a short cut, cutting onto the abutting residential properties. Mr. Pelletier suggested landscaping to deter foot traffic through the property, such as blue spruce.
3. Existing detention pond – New drainage will be installed in the parking area and a retention pond will slowly discharge water. Additionally, the area between the wetland and parking will be restored.

There being no further public comment, **Mr. Mangiafico** read the February 12, 2009 letter from John Ockerbloom into the record, as follows:

2009 FEB 9 3:35

John N. Ockerbloom
One Grants Court
Kittery, ME 03904
ph. 207.439.1359

12 February 2009

Town of Kittery
Ms. Sandra Mowery – Town Planner
Planning Board Members
200 Rogers Road
Kittery, Maine 03904

Public Comments:

Preliminary Site Review and Discussion for York Hospital Medical Office Building to be located at 35 Walker Street, Kittery, Maine – Town of Kittery Tax Map 4 Lot 168

Comments submitted by property abutter John N. Ockerbloom (Map 4 Lots 183 & 183A)

These comments and observations are being submitted to the Town Planner to be introduced as public feedback and suggestions when the town and planning board is reviewing the preliminary plans. Some comments are in direct reference to issues, while others are only background information. I will continue to track this project and the public town planning meetings, but for the meeting of 12 Feb. 2009 I cannot be present. I reviewed the preliminary site plans and written submissions prior to writing this letter.

Dear Sirs and Madam,

I would first like to state that it is encouraging to see York Hospital finally move forward with developing the business lot formerly known as "Sparkle Spot." I have always felt that York Hospital has proven to be good neighbors in past projects in outlying towns. We welcome their positive development of the site.

I would also like to state that we have owned our home (with abutting property and view of the rear of the proposed lot) for approximately 23 years. My comments on the property, prior projects located at the site and comments with respect to the "wetlands" located on and adjacent to the site are based on both my professional opinion (BS in Forest Resources UNH and prior work experience for a Engineering and Land Survey Company) and my many years of observing the property, local roads and the surrounding area.

While not included here, it is worth recognizing that in an earlier time (1860s) original area maps show that Walker Street did not exist. Most of Walker Street, and I would suspect the site inclusive of that under review, is old fill. You should be aware that the existing site under review was I believe drilled and cored for soils and ground testing at a prior date.

While I may not be properly educated on the exact laws and regulations governing the various applicable situations, I hope you still find my input of value. The applicants may also be seeking waivers that I am not aware of and I trust the planning board to review these waivers carefully.

My concerns are with reference to the Wetland Area, additional water drainage entering the system, locating exactly the current spot and elevation of the outlet pipe to the wetlands and the addition of potential winter vegetation sight barrier plantings at the rear of the lot.

Comments and Observations

As is typical, the site plan is inclusive of the property that is under review and does not directly show the surrounding properties. The engineering company (ATTAR Engineering Inc., Eliot, ME) chose to include a reproduction of the surrounding lots via submission of a tax map. I also saw noted that the property survey is not yet complete. I'm sure that I am not telling you anything new but in the field of land survey, tax maps are known to be inaccurate and sometimes misleading in their representation of the real property lines and local features. This is the case with this tax map. It is not current for recent ownership changes, lots line are inaccurate in their exact representation and location. Also, it is worth stating that the road "Priscilla Terrace" as shown on the tax map is a paper road and the area looks nothing like the map details. The recent changes in the new parking lot, rear wood lot and land ownership by St. Mark Methodist Church (Map 4 Lots 181, 173 & 170) has yielded a totally new look. Prior to the spring "leaving" out of the trees, I would suggest a quick trip to St. Marks parking lot for a quick review of the existing view of the rear of the site under debate.

On previous new projects in the area (St. Marks parking, Lots 181, 173 & 170 and the new construction of Condos located at Map 4 Lot 188) I believe we were informed that these new projects had been forced by the town planners and town enforcement officers to observe a 75 foot setback to the wetland. While there is no complete area survey that I am aware of, the Wetlands have always been treated as sized close to or in excess of One (1) acre. I'm not sure if this makes much of a difference. When I personally contacted the State of Maine DOE they informed me that our rear property (Map 4 Lot 183) was a formal Wetland and a 75 foot setback was required. If the "greater than one (1) acre" size of the wetland is critical I would suggest a more formal survey of the complete wetland area (inclusive of wetlands contained on the site of the property and that contained on surrounding owners lots) be carried out. Presently the site survey says the "Wetland Area is less than 1 Acre." I would ask for supporting evidence of this fact, if it is critical, as I believe it may be inaccurate.

Is the construction of Retention Ponds (as shown in the plans) allowed within a 50 foot set back to the wetlands? Is parking hardtop surface allowed within a 50 foot setback, or is a 75 foot setback more applicable? Can you introduce new additional water collection and drainage to an existing wetlands?

Of critical concern to me was the fact that the wetland drainage outlet pipe was not shown on the preliminary site plan. **I would suggest that the pipe location be noted and the elevation of the outlet pipe be noted. I would also seek to have this pipe location and size guaranteed to stay in place for the future.** This outlet pipe is located on the owner's site and is critical to remain in place for the proper drainage of the wetlands during the near constant introduction of collected and ground water. A quick visual note of the surrounding community shows that the wetlands are a natural drainage collection zone. It currently does have several storm drains entering it, and that due to the surrounding hill elevations; water collected in the neighborhood is significant in its entirety. I would estimate that the neighborhood surface area contributing to the drainage entering the wetland is in excess of 10-15+ acres.

I only saw minor mention in the Engineers report (Wetlands, Soils and Drainage Letter dated 14 November 2008) of the "outlet pipe" and that "90%" of the water "drains under Walker Street, into the railroad right-of-way & hence onward to the back channel of the ship yard." I would estimate that in order for the water to drain in the direction of the shipyard the drainage would run up hill, which is impossible. I believe that the drainage does go under Walker Street, enters the railroad right of way in some form, and drains into the wetlands behind Karls Market and Golden Harvest.

All of this reference to the wetlands and the existing drainage pipe is critical to me due to the fact that presently (prior to the addition of a new tarred parking surface) that during strong rain storms (witnessed several times a year) enough water entering the wetland system results in the wetland water level rising such that it can flood my upland wood lot. I would not agree with the removal of the outlet pipe, or changes to its current elevation level that might result in a higher water table within the wetlands. These rising water levels (flooding) in the past few years have at times totaled gains in elevation in the water level of several feet at one time. Now with designs for the new collection of water, designed to enter the same wetland region, that the water rise could be more significant and have a greater impact upon my property.

During the active life of the previous business on this site (Sparkle Spot) the parking lot water collection was not as impacting upon the wetlands, as they did not collect the water and introducing it into the wetlands.

Presently, during the summer months a visual barrier of landscaping trees and vegetation at the rear of the lot is not as critical. When the leaves are on the deciduous trees they function as a visual barrier. In the winter there is no visual barrier. The previous business owners (Sparkle Spot) were required as part of their site approval process to plant evergreen trees of the proper size to act as a barrier at the rear of the lot. After the business was completed and functioning these trees were never planted and the town never enforced the requirement. A quick walk of the rear of the property will bear this as truth. I would ask to have the town properly review the addition of evergreen barrier trees on the rear of the property. In addition, while I am unfamiliar with the Town of Kittery requirements, I would hope the town would require a pre-construction 100% Bond be posted for the cost of the plantings. I am aware that this is the law in some surrounding NH and ME communities. If the owner does not under take the plantings the bond is activated to pay for the completion and enforcement issue.

Thank you for your time.

Regards,



John N. Ockerbloom

There being no further public comment, the public hearing closed at 7:30 p.m.

Mr. Cheever commented on Mr. Ockerbloom's letter:

1. The site is a fill site and they are in possession of the core sample reports that indicate there are no hazardous substances located in the soil;
2. A soil scientist mapped the wetlands and noted that the wetland is less than one acre in size;
3. Parking areas are out of the 55' wetland setback, and grading for detention ponds is allowed within 25' of the wetland;
4. Water collection can be introduced into existing wetlands. Pre-existing and post development conditions are shown. As the project's management engineers, Attar will make sure the outlet pipe is in the right location.
5. The USGS map indicates drainage to the shipyard, but this is incorrect, and the plans will be corrected to show the elevation at the inlet of the pipe.
6. CMA will review the stormwater report. The applicant stated that the post-development impact on the wetland will not be greater than the pre-development impact.

Mr. Luekens suggested that the applicant meet with Mr. Driscoll and Mr. Ockerbloom at the same time to discuss their concerns. General discussion followed regarding drainage and the current impervious conditions and drainage plans. The Town Planner will review the plan carefully prior to

preliminary approval. The Board agreed with the Public Works director, requesting that the building move 10 feet back from the street. Though the applicant has the required number of handicapped and non-handicapped spaces, there was discussion as to whether the employee/residential spaces could be combined, reducing the required number of spaces, thereby enabling an increase in the number of handicapped spaces offered.

ITEM 3 - Amendment to Title 16 Land Use and Development Code Zoning Ordinance – Scheduling a Public Hearing - Save the Village, a citizen's group, has circulated a petition for the repeal of the 2006 amendment to Section 16.12.070 – Village Residential (**VR**) zoning district. The representative for Save the Village is Kathryn Davis, a citizen.

Kathryn Davis, Woodlawn Avenue, summarized the petitioners' request. The **Town Planner** requested that this item be scheduled for a public hearing and discussion with action at the March 12, 2009 meeting. There was general discussion as to whether removal of the language allowing for a small educational facility would be a disservice to the community. Members agreed that the public hearing would be the venue to discuss this issue with members of the community.

Mr. Luekens moved to schedule a public hearing regarding the repeal of the 2006 amendment to Section 16.12.070, the Village Residential zone.

Mr. Evancic seconded

Motion carries unanimously by all members present

ITEM 4 - Plenary Site Plan Review – Discussion with Action: B & F Land Development, Owner, proposes to remove the existing building and parking lot and to construct two new office buildings and parking lot on 1.29 acres at 240 US Route 1, located on Map 22 Lot 13 situated in the Commercial 1 (**C-1**) zoning district. The Owner's agent is Christopher Baudo, RA.

Item 4 was withdrawn by the applicant prior to the meeting. This item will be scheduled for review at the March 12, 2009 Planning Board meeting.

PLANNER'S TIME – No items

Mr. Carleton moved to adjourn

Mr. Evancic seconded

Motion carries unanimously

The Planning Board meeting of February 12, 2009 adjourned at 8:04 pm

Submitted by Jan Fisk, Recorder, February 16, 2009