

**TOWN OF CHESTERFIELD, NH  
PLANNING BOARD**

**Monday, March 20, 2017**

**Present:** Davis Peach, Joe Parisi, Rolland Vollbehr, John Koopmann, Joe Brodbine, Richard Aldrich, and Jon McKeon

**Call to Order**

Davis Peach residing as Chair.

Davis Peach called the meeting to order at 7:06

**Seat Alternates**

Richard Aldrich seated in place of James Corliss

**Review of the Minutes**

March 6, 2017

*Joe Parisi motioned to accept the minutes as amended from March 6, 2017. The motion was seconded by John Koopmann and passed unanimously.*

**Appointments**

**Eversource - Scenic Road** – The purpose of this hearing will be to consider the request of Eversource of New Hampshire for trimming and removing trees on Gulf Road. The Town has designated Gulf Road as a scenic road and pursuant to RSA 231:158 II a public hearing is required.

Dave Crane was present from Eversource.

Crane noted that Eversource is in Town doing their regular maintenance. The last time this was done in Chesterfield was 2013. He stated that this year they are using Asplundh Tree for the work. The tree company makes contact with the land owner prior to doing work on their property. Crane noted that 33 trees have been marked on the Scenic Gulf Road. Most of the trees marked have defects that make them a high risk for failure. Joe Parisi asked if there is potential for more trees to be cut than have been marked. Crane noted that it is not uncommon for landowners to point out trees they believe should be removed or trimmed. It was noted that the road has been posted in 4 different places to alert people to the upcoming tree work. Joe Parisi asked what happens if a landowner does not give permission. Crane noted there is a refusal form that is filled out and goes directly back to him for review. Crane noted that he evaluates the situation and decides to let the tree stay as it is or follow up with landowner. Crane noted that if a landowner objects and it is located on private property Eversource is not allowed to follow through. If the tree is located in an easement area and Eversource has a pole license. Eversource can follow through without owner permission.

Barbara Girs (resident) noted that 30-40 years ago Gulf Road was a scenic road, but it is no longer and that is partly because of the trees that have been removed over the years. A lot of the older more mature trees have rot, but that does not mean they should all be removed. Girs noted that Washington and Court Streets in Keene used to be beautiful and then all of the trees were removed.

Girs noted she would like the board to pay a little more attention to the only scenic road in Chesterfield.

*Joe Brodbine moved to approve the trimming of trees on Gulf Road as indicated by Eversource. The motion was seconded by John Koopmann and passed unanimously.*

**Anderson NH, LLC** - This is an application for Site Development Review and Condominium Conversion of property located at 45 South Shore Road (Map 5A, B-9 and A-47) consisting of approximately 1.3 Acres in the Residential Zone. This is a public hearing and may result in approval or denial of the application.

Tom Hannah was present with the applicant Dan Andersen as well as Rob Hitchcok.

Hannah noted that Andersen purchased the property in September of 2016. Hannah provided the board with a booklet with photos, a legal memo and some letters regarding information on the drainage in 2002. Hannah noted that the current site plan was approved by the Planning Board on May 6, 2002 and there has not been another approval since that date. The plan is dated (revised) May 8, 2002, the plan has a revision date of May 7, 2002 and the letters between the engineers in 2002 ended with a letter of May 1, 2002. Hannah noted that he was unable to find a copy of this plan at the Town Office building, but there is no doubt in his mind this is the plan that was approved via NOD on May 8, 2002 and asks the board to recognize this plan as the approved plan. Hannah noted that not all of the measure required/approved by the Planning Board were implemented. Hannah noted that his client intends to change the form of ownership of the individual cottages as well as the main house and restore the property to the approved 2002 plan. Hannah noted that the Planning Board mentioned 403.1 as a possible issue at the review for completeness. Hannah stated that NH law is crystal clear on an issue such as this and the mere changing in the form of ownership by way of condominium when the use of the land is not changing is not a change that a Town is permitted to deny. Hannah provided the board with case law.

Joe Parisi asked if the Town attorney had looked over Hannah's memo and case law. It was noted that the Town attorney had not looked over the information. Davis Peach asked if a traffic study had been completed. Hannah indicated that a traffic study has not been done and there is no need for one as there is no change from the current use of the property. Joe Parisi asked about the current occupancy rates of the cabins. Hannah noted that the cottages are fully booked. Hannah stated that a change in ownership could provide less use than what occurs on the site currently. It was noted that some potential owners have indicated they have no intent or desire to rent out their cottages, meaning while they are not there during the summer months, the cottage would be unoccupied unlike the current state of full capacity all summer long. Hannah noted that in the past the docks have been leased out and that will no longer happen. The docks will only be utilized by people in the cottages.

Koopmann noted that the cottages are currently seasonal use only asking if that was going to change. Hannah noted that the condominium documents indicate that they are seasonal use only. They open May 15th and close the weekend following October 20th. The main house is currently year round and will remain that way. Koopmann asked if there was anything preventing people from being on the property off season for things like maintenance. Hannah noted that there is nothing preventing people from visiting the property for maintenance during the off season, but they cannot reside there. Dan Andersen noted that the cottages are not winterized for the most part and it would be ridiculously expensive for anyone to attempt to live on the property during the winter months.

Hannah noted that the applicant has done some work to the property since he purchased it. Hannah noted that the cottages have been painted and the rot that was found was fixed, trees have been pruned, broken lighting has been replaced, fencing has been added, hard pack was added over the gravel in the overflow parking area, there was a retaining wall in front of the main house that has been repaired, a retaining wall was installed next to the Donahue property, the sign was replaced and some landscaping was completed. Gravel in three areas has been changed to pavement and all of those areas would not comply with the 2002 site plan. Hannah stated that the applicant was unaware of the site plan and its requirements upon purchase of the property and did not intentionally deviate from the requirements. Hannah noted that a garage on the property has been demolished (permit granted) and is scheduled to be put back up. The garage was falling over onto the neighbors property. Hannah went over the pictures contained in the packet.

Hannah noted that the parking spaces are the same as on the approved site plan and will remain that way. It was noted that the asphalt that was put down will be removed. There was a curb that was to be installed by decision of the consulting engineers which was never put in and will be implemented now. Richard Aldrich asked about fire protection when the venue is closed for the season. Hannah noted that he is not sure how it has been done in the past. Dan Andersen noted that he has hired a company to plow the driveway during the winter months for that reason.

With no additional comments from the applicant or questions from the board, the meeting was opened to the public.

Valarie Starbuck noted that the property is a non-conforming use as it stands because rental property in that district is not allowed. Changing the ownership does not make it conforming and she is not sure that a property should be allowed to move from a non-conforming use to another non-conforming use. Starbuck noted there are things about the application that she likes. Valarie Starbuck noted she would like the board to move slowly and take the time to ponder. She noted that she is not sure anyone is totally against this, but should be brought up to today's standards and not that of 15 years ago. Ken Walton asked if there was going to be restrictions for renting out the condominiums. Walton noted that he is concerned with more people in the area. Hannah noted that there is nothing prohibiting an owner from renting their cottage. Hannah noted that an owner renting out a cottage will not increase the number of people as the cottages are currently rented out. Hannah noted that previously the cottages can be rented for as little as one night creating more traffic. The current owner will not rent a cabin for one night, the summer season requires a 7 day minimum as stated on the website. Ken Walton noted that he is concerned about protecting the lake and the water quality of the lake. Charlie Donahue approached the board and gave the board a packet. Donahue noted that the job of the Planning Board is to protect the community. Donahue noted he is unsure how he feels about the proposal. Donahue noted that he agrees the 2002 plan did come out of the litigation that involved this property. Donahue stated that the plan is very detailed and there were specific things the Planning Board did and did not want. Some of these things have not been done and some things have been done that were not allowed. Peach noted that the applicant has indicated they will comply with the 2002 site plan accomplishing what was not done and returning the items that were done that should not have been done. Donahue noted that some items the applicant mentioned, but other items were not mentioned such as vegetation being removed between the property and the Donahue property and trees being cut and removed. Donahue noted that waivers have been requested from the topography and drainage studies, but the lot is high and the runoff goes directly toward the lake.

Donahue noted that he is concerned about the septic situation as the well and septic are tied in with his property. Donahue noted that the applicant has indicated no change in use, but the current booking policies state that guests are not permitted to have visitors on the beach or overnight. The current use would allow visitors on the beach and for overnight visitors. Donahue noted that he is concerned about fire truck access to the cabins as it does not appear an apparatus can get to each

cabin. Donahue asked if the existing outside shower was an approved use. Donahue noted that the parking situation is different now than what was approved in 2002 noting that overflow parking was designed for special events such as weddings or the 4th of July.

Donahue noted that he does not believe the planning board has all of the information and would like to make sure the board takes their time and really makes sure this is the best thing for the property, neighbors and community.

Steve McGrath (Spofford Lake Association) noted the association has spent a lot of time trying to find out the cause of the current issues with the lake. McGrath noted that DES and Southwest Regional Planning Commission have been helping the Town. McGrath stated that due to lack of enforcement in town, some public beaches had to be closed for the first time. McGrath noted that some of the pictures that Donahue showed are the things DES is looking at as violations. McGrath noted that this site needs to make sure it is in compliance with the State, not just the Town. McGrath noted he would encourage the town to work with the association to make sure that people are in compliance with the newest standards, not standards that were applicable in 2002. McGrath stated that the lake is a vital part of Chesterfield and everyone needs to help in protecting the jewel.

Dave Copeland noted that he is bothered by some of the things expressed by Donahue. Copeland noted that if he wants to preach about following the rules, he needs to start with his own property noting that Donahue's docks are in violation. Copeland asked why the town has waited so long to address issues that have been there since 2002.

Charlie Paquette noted he wanted to commend Mr. Andersen with the improvements done on the property. Paquette noted that the expansion of the mooring field is a concern and he would like to know what the limit is and make sure this is addressed.

Don (unknown) noted that our lake is the jewel of Chesterfield and is important. Don noted he has seen continual development around the lake and continual decline in the quality of the lake. There is erosion of the shoreline due to excessive boat traffic and wake boarding. Don noted that he is concerned with the people that pay high taxes for waterfront and wondering if each of the cottages will be taxed for their waterfront property. Don would like a restriction on the number of boats and limit it to owners of the cottages only.

Jeff Scott noted that if changes are going to be made, they should not be going backwards to 2002, they should go forward and comply with 2017 standards.

Davis Peach noted that the current Master Plan indicates that the lake is the jewel of the Town and the board is aware of the importance of the lake to this community.

Hannah noted that the applicant loves the lake and the community. Andersen noted that he was unaware of the site plan when he purchased the property and made a mistake when paving some areas, but is willing to undo what was done. Andersen noted that he did not install the outside shower, but if the board has an issue with it, he will remove it. Andersen noted he has spent a fair amount of money updating the property and he has no intention of causing issues. Andersen noted that usage of the property will be reduced with owners vs renters.

Davis Peach noted that a lot of information has been presented to the board. Joe Parisi noted he would like a legal opinion regarding the memo provided by Hannah. Koopmann noted he would like to know how far this board can deviate from the court settlement of 2002. McKeon noted that legal advice would be a good idea. Joe Parisi noted that if this board learns it has more latitude, DES should be engaged. McKeon will get contact information from Norm VanCor. McKeon asked if property holds a community well permit. Andersen noted that he tests the water each month, but is only following what was previously done and unsure if there is a permit. McKeon noted that the septic system is also a concern. Andersen noted that he had a company come in and do a review and they replaced one device and stated the system is in perfect working order. Andersen will get the report to the board.

There were no more immediate questions/comments from the public or the board.

*Rolland Vollbehr moved to continue the hearing to April 3, 2017 at 7:30 at the Town Office Building. The motion was seconded by Jon McKeon and passed unanimously.*

## **Items for Discussion**

### Jim Phippard - Area 51 - Conceptual consultation

No minutes taken as conceptual consultations are non-binding on either party.

### Rules of Procedure amendments

Peach asked if everyone understood the amendments.

McKeon asked why elections were held in April as the term runs January through December. Right now the board does not have a vice-chair because someone left the board when their term was up and elections do not happen again until April.

The board would like to change when elections are held to January. The board would also like to add a line that if someone leaves the board, that position will be filled with a special election directly following the resignation. Lachenal will update the Rules of Procedure to reflect the changes and bring to the next meeting.

### Signs

No new information

### Spofford Boat Sales

McKeon noted that Code Enforcement is sending a letter to Mr. Foster.

Jeff Scott noted that he would like to make sure that the moorings are addressed at the same time.

McKeon noted that we cannot control moorings on the lake, but can put regulations in place for the businesses in that district.

## **Items for Information**

### **Other Business**

### Change to voluntary merger forms

There has been a change made regarding requirements for voluntary mergers. Lachenal will update our forms and present at a future meeting.

### Beach agreement

Joe Parisi noted that the agreement appears executed and is unsure of the role the Planning Board plays in an already executed agreement. McKeon noted that it is not quite all set. They still have to go before the Selectboard to get permission to get anything done on the private road. McKeon noted the Selectboard is looking for feedback from the Planning Board. McKeon noted that there has always been an issue with the frontage with a driveway from Forest Ave. The main deeded curb cut for the property is directly off of Route 9. With this agreement, there will be a gate on the Route 9 access with a padlock accessible only by the Police and Fire Departments with the exception of

allowing the owners access with prior notice and for the purpose of big vehicles that cannot gain access via Forest Ave. The Selectboard had deemed this the best option. The Planning Board would like the plans to come before them so they can confirm the plans are up to Planning Board standards. McKeon will speak with the Selectboard regarding having a review by the Planning Board prior to final approval.

Email from Code Enforcement

The board received an email from Code Enforcement asking questions regarding the new ADU regulations. Rod Parsons would like to know when the regulation goes into effect, and who will be reviewing the request the Planning Board or Code Enforcement.

The board noted that there is a 30 day waiting period before the regulations go into effect. The board will discuss the specific process at the next Planning Board meeting.

Wetlands Application

The board glanced at the wetlands application with no comments.

**Items for Signature**

Minutes 2/6/17

Minutes 3/6/17

Foard Panel 11X17 plan

**Adjournment**

*Parisi moves to adjourn at 10:25. Mckeon seconded the motion which passed unanimously.*

The next meeting will be held in the Town Offices at 7:30 PM April 3, 2017.

Respectfully Submitted by:

**Patricia Lachenal**

**Planning Board Secretary**

Approved by:

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**James Corliss, Chairman**

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**Date**