

SANFORD PLANNING BOARD MINUTES
MEETING July 1, 2009 – 7:30 P.M.
Town Hall Annex Third Floor Chambers

MEMBERS PRESENT: Robert Hardison, Chair
Kelly Tarbox, Vice Chair
Joseph Herlihy
David Mongeau
Gary Morse

MEMBERS ABSENT: Margaret Kleinrock, Secretary (w/notice)
Gregory Vermette

STAFF PRESENT: James Q. Gulnac, AICP, Planning & Development Director
Michael Casserly, P.E., Assistant Engineer
Barbara Bucklin, Administrative Assistant

STAFF ABSENT: Charles Andreson, P.E., AICP, Town Engineer (w/notice)

I. CALL TO ORDER

Chair Hardison called the meeting to order at 7:30 P.M.

II. PUBLIC HEARINGS

There were no public hearing items.

III. NEW BUSINESS

1. **File #999-09-T(2): Conservation Plan: The Sanford Conservation Plan** Steering Committee will present an update of the Conservation Plan to the Planning Board as an addendum to the Town of Sanford Conservation Plan.

Chair Hardison said the objective was to review and possibly accept the plan as an addendum to the Town of Sanford Conservation Plan.

James Gulnac, Planning Director, introduced Chris Feurt and then informed the Board that he had received two letters of approval both urging support of the document and congratulating the Town for the effort to promote conservation throughout the town.

Chris Feurt read the name of the plan, Headwaters, thanked everyone for instituting the process and allowing her to assist in putting the plan together, and then gave an overview of the plan and how the plan was put together.

Staff member Gulnac asked the Planning Board to consider accepting the report and make it part of the conservation plan.

Vice Chair Tarbox wanted to thank everyone who took time to help put this together because she felt this was important to the town.

Board member Herlihy asked why the Board was accepting it if the report was not going to be making an impact. Mr. Gulnac stated that the Board would only be accepting the report, but implementing the process would be further reviewed and approved by the Board at a later date.

Discussion took place.

Chair Hardison asked if there were any questions from the Board.

Vice Chair Tarbox asked if we needed to hold a public hearing on this. Staff member Gulnac replied one was held.

Chair Hardison said the Board will discuss in deliberations how to process the report and to take into consideration the impact implementing the report could make.

Chair Hardison asked if there were any other questions or concerns.

Board member Mongeau wanted to say he appreciated all the work that went into creating the report; Chair Hardison concurred.

Chair Hardison called for a motion.

Board member Mongeau made a motion to accept the report.

Board member Morse seconded the motion.

A vote was taken and the motion passed 5-0.

2. **File #04-09-W: Joseph & Sam Sevigny, d/b/a Lincoln House LLC, c/o John Hutchins, Corner Post Land Surveying, Inc., 2 Mill Street, Springvale, Maine.**

Staff member Gulnac wanted to inform the Board that this application was not properly noticed as a contract zone. Chair Hardison wanted clarification on the process for tonight. Mr. Gulnac said that the Board could discuss the application and make recommendations on it, but the Board could not take formal action on the zone change portion of the application. Discussion took place on the process for the Planning Board and Town Council for scheduling.

It was decided that the Board would discuss the application as a preliminary major application, forward to the Town Council to start the contract zone discussions, and hold a public hearing regarding the zone change at the next available Planning Board meeting in August.

John Hutchins, representing the applicant, presented an overview of the project.

Chair Hardison asked if staff members had any questions.

Staff member Gulnac said he was satisfied with the application.

Michael Casserly, Assistant Town Engineer, wanted to inform the applicant of the traffic impact fee ordinance, but Mr. Casserly wasn't sure how this would work considering this is a contract zone.

Discussion took place to determine how the process works, considering the applicant has requested a waiver from providing a traffic study.

Staff member Gulnac informed everyone that the school would be taking care of the fence, which was a prior concern during review.

Chair Hardison said there was one more waiver in the engineer's memo, and it was pertaining to stormwater.

Mr. Casserly stated there was one more item that needed to be dealt with either through a waiver or the contract zone and that was the sight triangle.

Mr. Casserly stated that he misread the ordinance for an item in his memo regarding curb cuts, and he no longer feels a waiver is necessary.

Chair Hardison informed the Board that their job tonight was to give preliminary approval to the site plan and send it on to the council to begin deliberations on the contract.

Chair Hardison asked if there was any further discussion from the Board.

Mr. Gulnac wanted to confirm the three waivers being granted tonight: the traffic impact, the sight triangle, and the stormwater management report.

Lionel Sevigny, applicant, asked if there was still an impact fee to be paid, but not with the traffic impact fee. It was explained that any impact fees he may have to pay are now going to be negotiated in the contract, and don't have to do with the traffic impact ordinance.

Chair Hardison called for a motion.

Board member Morse made a motion that the Planning Board accept the finding of facts (see attached), including the three waivers discussed, and have considered the application for a contract zone as presented in a plan prepared by Corner Post Land Surveying, Inc. with a latest revision date of June 5, 2009 and identified as File #04-09-W, Lincoln House and recommend preliminary site plan approval and forward the plan to the Town of Sanford Council for their review and approval as a contract zone.

Vice Chair Tarbox seconded the motion.

A vote was taken, and the motion passed 5-0.

3. File #28-08-S: Daniel Angers, c/o Carl Beal, Civil Consultants, PO Box 100, South Berwick, Maine.

Chair Hardison called for a representative to present the application.

Carl Beal, representing the applicant, overviewed the project, informed the Board that the requested changes have been made, and reminded the Board that a waiver was being requested.

Chair Hardison asked Michael Casserly, Assistant Town Engineer, to go over his memo. Mr. Casserly reminded the Board they have agreed to the waiver for sight distance, which is only good for three lots, including Mr. Angers' current lot. Mr. Casserly said that a waiver from the abutter, Wesley Littlefield, allowing the applicant to drain stormwater on his land would be needed. Both Mr. Casserly and staff member Andreson felt that a letter from Mr. Littlefield would be sufficient as long as there was an understanding that if any more than three lots are developed, including the existing lot, there would have to be an easement.

Chair Hardison asked if staff member Gulnac had any comments. Mr. Gulnac replied he did not.

Chair Hardison asked Mr. Casserly if the rest of the items in his memo were resolved, including the mailbox. Mr. Casserly said Mr. Angers' existing mailbox could stay across the street, and that would become the common mailbox location for any developed lots.

Chair Hardison then asked Mr. Casserly asked about his last item regarding inspections. Mr. Casserly explained the process for private way inspections, and informed the applicant what is needed from the town regarding inspections after approval.

Chair Hardison asked Mr. Beal if he had concerns about the items outlined in Mr. Casserly's memo. Mr. Beal replied that both he and Mr. Angers were aware of the memo and had no issues with what was written.

Chair Hardison asked if there were any other questions or concerns from anybody; there were none.

Chair Hardison called for a motion.

Board member Morse made a motion that the Planning Board accept the finding of facts (see attached) and find that application file #28-08-S, Jalen's Way, has been prepared according to the guidelines in Section 280-85 of the Town of Sanford Zoning Ordinance and subject to the conditions listed below grants approval:

- a) The plan must be filed at the York County Registry of Deeds within thirty (30) days of the date the plan is signed.
- b) A waiver for sight distance is granted under the condition that the approved private way shall provide frontage for a maximum of three (3) single family building lots. Any proposed construction beyond that will require review by the Planning Board.
- c) The applicant will pay all outstanding planning review escrow fees.
- d) The applicant will provide an AutoCAD copy of the approved plan.
- e) No building permit for the construction of the private way may be issued until the applicant has provided a copy of the mylar with proof of filing at the Registry of Deeds plus six (6) paper copies of the plan.
- f) The applicant shall schedule a pre-construction meeting with the Town Engineer prior to the issuance of a building permit. At that time, the Town Engineer shall determine if any performance guarantee is required and the amount of the review escrow.
- g) The applicant is required to provide the CEO with certification by a professional engineer that the road has been constructed in accordance with the approved plan.

Vice Chair Tarbox seconded the motion.

A vote was taken, and the motion passed 5-0.

4. Update on the EPA Brownfields

This item was heard after item #5.

James Gulnac, Planning Director, explained what the Planning Board responsibilities are for Brownfields. Mr. Gulnac updated the Board on what was happening with the program throughout town so the Planning Board could submit a letter to EPA informing the EPA the Board is updated on the projects.

Current projects being worked on are the Sanford Mill (formerly known as the Fagan Mill), the former Aerofab building, and the area adjacent to the Stenton Trust building. Mr. Gulnac explained the different levels of cleanup, and the money allotment associated with the cleanup costs. Mr. Gulnac also explained the difference between clean water cleanup and Brownfields cleanup.

Mr. Gulnac then asked the Board if they would at least accept the report, by consensus, so he could forward it on. He then asked the Board if they could also recommend, by consensus, to the

Town Council and state level elected officials for their continued support of these programs.

Board member Mongeau asked if there was a summary of Mr. Gulnac's presentation. Board member Mongeau asked if there could be a shortened version of the report so the Board could remain updated on all the grants. Mr. Gulnac said he doesn't have one yet, but he could work on one.

Chair Hardison asked Mr. Gulnac how he wanted the Board to proceed with the acceptance of the reports. Mr. Gulnac said a motion to accept would be sufficient.

Chair Hardison called for a motion.

Board member Mongeau made a motion to accept the plan and would endorse it with the addendum of a summary being provided.

Board member Herlihy reminded Board member Mongeau there were two separate motions being requested.

Board member Mongeau revised his original motion; and made a motion to accept the report on Brownfields.

Board member Morse seconded the motion, with gratitude.

A vote was taken, and the motion passed 5-0.

Board member Mongeau made a motion to endorse both the Brownfields program and the Coast Guard Clean Water Program as funding sources, with the amendment that a summary of work in progress can be provided.

Board member Morse seconded the motion.

A vote was taken, and the motion passed 5-0.

Chair Hardison thanked Mr. Gulnac for his report.

5. **File #999-09-T(1): Shoreland Zoning Ordinance – The Planning Board** will discuss and take action on a proposal to update Chapter 270 – Shoreland Zoning of the Town of Sanford Municipal Code to comply with the State of Maine Shoreland Zoning Guidelines. This is a continuation from the June 17, 2009 Planning Board meeting.

This item was heard before item #4.

Chair Hardison stated that Shirley Sheesley, Chief Codes Enforcement Officer, had received answers to questions that arose at the public hearing meeting. Chair Hardison went over the different ways to treat the questions.

Ms. Sheesley went over the answers, and broke down the questions according to the category the questions fall under:

Revisions to proposed ordinance:

- a) **Q:** The list of commercial and industrial uses allowed with DEP review under current ordinance, are these uses not allowed under the proposed ordinance?
A: There are no changes to this section in the state guidelines – the state has always restricted or prohibited certain uses that would potentially damage water quality. Ms.

Sheesley further read a section of the current zoning ordinance that describes what is allowed in these areas, and gave the reason for the change.

Current zoning that are not being changed in the proposed ordinance:

- a) **Q:** The release of water affects my shoreline. How does this affect frontage setback and the use of property along the Mousam River?
A: The shoreland zone is based upon the normal high water line; seasonal changes do not impact the zone. Ms. Sheesley went on to describe the zones and restrictions this individual property is in.
- b) **Q:** What is the minimum lot size?
A: The town has established that the minimum lot size is based upon the underlying zone requirements. She said this is the same as the current ordinance, but is different than the state guidelines.
- c) **Q:** Why can't you put riprap instead of vegetation in the area behind a retaining wall?
A: Retaining walls within 25 feet of the water are not allowed under shoreland zoning. Other retaining walls would be regulated by the proposed ordinance, and vegetation cannot be removed unless it complies with ordinance standards; plus riprap should not be needed if the retaining wall is functioning properly. In short, if a retaining wall is within 25 feet of the water it is regulated by DEP; outside this area vegetation is required by the ordinance.
- d) **Q:** The ordinance limits the dock length to 20 feet. Can this be increased to 45 feet to allow for larger boats and/or shallow water?
A: The size of docks is determined by the Planning Board. The proposed ordinance is not changing the size limits, so if the Planning Board wants to change this at a later date, the Board could do so.
- e) **Q:** There is nothing in the roads and driveway section that says you can do maintenance on a private driveway, why not?
A: This section applies to new construction and expansion. Legally existing, nonconforming situations may be maintained under Section 270-11B of the shoreland zoning ordinance. This provision is not new to the ordinance.
- f) **Q:** If my house is within the buffer setback area, why can't I cut the trees around and behind the house?
A: This appears to be a site specific question. If the property has a good natural buffer, the clearing standards do allow some clearing. Permission from the town (Codes Enforcement office) is required before removing vegetation within the shoreland area.

Not covered by the shoreland zoning ordinance:

- a) **Q:** Several years ago I had a DEP permit to riprap along the shore front. Since then, the riprap and lawn have settled; can I add to the riprap and lawn.
A: This is a DEP/NERPA question; not a shoreland zoning question. The property owner should contact DEP.

Chair Hardison asked if anyone had questions or concerns about Ms. Sheesley's presentation; no one did.

Ms. Sheesley added that if the Planning Board decided to move the ordinance forward, she has the change to the wording on the resource protection zone setback that was unclear in the draft and she wanted to make sure the change was forwarded along with the draft ordinance.

Vice Chair Tarbox wanted to extend her thanks to Shirley for all her time and patience that was put into revising the ordinance and researching the questions that were asked during the public hearing. Chair Hardison concurred.

Carl Beal had a question regarding the map. He said he is involved with a project that was

impacted by the changes. He asked if a certain wetland area along a stream that flows into the Mousam River is no longer a medium to high value wetland area by DEP standards.

Chair Hardison answered that if DEP changes the map, the change would need to be reviewed by the town to make a determination. Discussion took place.

Chair Hardison asked for the question to be resolved so any discrepancy in the map can be taken care of before the Town Council adopts the map.

Shirley Sheesley was able to respond to Mr. Beal's question, and discussion took place on whether or not the map should be changed now or at a later date.

It was decided that the map would remain the same at this time while the issue is looked into; if changes need to be made, they will be done at a later date.

Chair Hardison called for a motion.

Board member Morse made a motion that the Planning Board accept the finding of facts (see attached), including the revisions handed out tonight and, after consideration of the public comments and those of staff, recommend the revised Shoreland Zoning Ordinance and map be forwarded to the Town Council for their review and adoption.

Board member Mongeau seconded the motion.

A vote was taken, and the motion passed 5-0.

Chair Hardison asked Mr. Gulnac and Ms. Sheesley to further investigate Mr. Beal's question so the Board can decide if there is anything the Planning Board should do before the Town Council adopts it.

Board member Herlihy asked if Mr. Beal should submit a written application for Ms. Sheesley to act upon. Discussion took place, and it was decided that Mr. Beal's question was for clarification, but Mr. Beal should submit a letter for staff members to review.

IV. OLD BUSINESS

There were no old business items.

V. APPROVAL OF MINUTES

There were no minutes for approval.

VI. PLANNING DIRECTOR'S REPORT

No report was given at tonight's meeting.

VII. ADJOURN

The meeting adjourned at 9:20 PM.

Attachment to July 1, 2009 Minutes

Finding of Facts for New Business Item #1
File #999-09-T(2): Conservation Plan Addendum

There is no finding of facts for this application.

Finding of Facts for New Business Item #2
File #04-09-W: Lincoln House

- The Planning Board has determined that the proposal is consistent with the goals and objectives of the Town's Comprehensive Plan and authorized the submission of a contract zone.
- The Contract Zone Coordinating Committee has met and reviewed the project.
- The applicant has standing to make the application.
- The application is classified as a major development which requires review by the SPRC prior to submission to the Planning Board.
- The Site Plan Review Committee has reviewed the technical land issues as a major subdivision and forwarded their report as required.
- There should be clarification on the proposed sign in front of the building. As a contract zone, a sign permit issued by the CEO is still required.
- The application indicates two zoning code issues:
 - a) The use as a multifamily unit in a single family zone; and
 - b) The maximum net density (one du per 2300 SF of net lot area)
- The applicant needs to confirm that these are the only deviations from the existing code that they want included in the contract zone. This should also be confirmed by the CEO.
- The Planning Board grants three (3) waivers: from providing a traffic impact fee, from the sight triangle regulations, and from providing a stormwater management report.

Finding of Facts for New Business Item #3
File #28-08-S: Angers' Private Way (Jalen's Way)

- At the March 18, 2009 meeting Gary Morse moved and Joseph Herlihy seconded a motion to accept the finding of facts itemized above and find that the request to amend application file #04-08-S, Amendment to Brook Hill Subdivision has been prepared in accordance with the Subdivision Ordinance, Article VI Chapter 275 of the Town of Sanford Code and with Title 30-A M.R.S.A. Section 4401 et seq. and grants preliminary approval with the following conditions:
 - a) The approval includes the following waivers as described in the findings of fact:
 - A waiver from the requirement to limit a dead end road to 1,500 feet in length.
 - A waiver from requirement that a well may not be located within 100 feet of a right-of-way.
 - b) The applicant would provide verification of a revised DEP permit.
 - c) The applicant will provide, to the satisfaction of the Town Engineer, a performance guarantee along with a construction time schedule; and
 - d) The applicant will provide the various right, title, and interest documents in sufficient time for them to be reviewed by town council, these would include those needed for the stormwater maintenance system, the private well and the land transfers for the proposed public right of way.
- The engineers have reviewed the application and their report is attached.

Town of Sanford, Maine
Engineering Department
917 Main Street, Sanford, Maine 04073
Tel. (207) 324-9108 Fax. (207) 324-9133

Michael Casserly, P.E.
P.E., AICP

Charles J. Andreson,

**Assistant Town Engineer
of Public Works**

Town Engineer / Director

Memo To: James Q. Gulnac, Planning Director

From: Michael J. Casserly, P.E.
Assistant Town Engineer



Date: June 24, 2009

RE: File No. 28-08-S RR Zone
Angers Private Way for Final Approval

I have reviewed the referenced project with respect to the Private Way Ordinance, other applicable sections, and Public Works policies. My comments follow:

1. Plan notes were revised per comments from Engineering and appear to be acceptable. Besides the notes discussed at the last workshop, other notes were altered or eliminated by the Applicant so as to minimize any assumption or inference to potential lot buyers that it would be expected that the Private Way is to become automatically a future Town - accepted road.
2. **Waiver for Sight Distance:** The Board has indicated it would grant the Waiver for sight distance at Littlefield Road looking right, with the understanding and condition that if the Private Way services more than 3 lots, the sight distance will meet Town standards, and that this will need to be confirmed by the Planning Board. Note 7 on Sheet R1 reflects this satisfactorily.
3. In addition, Note 10 on Sheet R1 indicates that when Jalens Way services more than 3 lots, stormwater easements will be obtained from Wes Littlefield for draining stormwater onto his property. The Board may recall that Charlie agreed to accept just a permission letter from Littlefield for the stormwater instead of an easement, with the condition Note 10 describes. The Board should be OK with this arrangement.
4. The common mailbox location for new lots is proposed to be across Littlefield Road, where Angers' existing mailbox is. The maintenance agreements appear to be acceptable. Also, drainage ditch grading on the plans along Littlefield Road have been adjusted satisfactorily.
5. **Informational for the Owner:** The initial 200-foot length of roadway is to be constructed and paved to standards for a Town accepted road, with a minimum 50-foot right of way, exceeding requirements for a Private Way. Near Littlefield Road, the proposed right of way is approximately 75 feet in width. A stone retaining wall is proposed within this 75-foot right of way. Mr. Angers should understand that if Jalens way is ever brought back for Town acceptance, this retaining wall will need to be moved or reconstructed outside the accepted right of way.
6. As conditions of approval, the Owner will need to provide payment of review fees, participate with his contactor in a PreConstruction meeting with The Town Engineer, and provide an escrow for Town Engineering inspection fees. Town inspections will occur but will be somewhat limited in scope, since by ordinance a Maine Licensed Professional Engineer (Civil Consultants or other) needs to certify the construction of the Private Way. Lastly, an Autocad .dwg file of the project with the usual on-datum, topo, and drainage criteria needs to be provided at approval.

With the Planning Board's concurrence, the project is ready for approval, and the plans are ready for signature. There are two sheets for Board members to sign. Both are to be recorded.

*Finding of Facts for New Business Item #4
Update on EPA Brownfields*

There is no finding of facts for this item.

*Finding of Facts for New Business Item #5
File #999-09-T(1): Shoreland Zoning Ordinance*

- The review has followed the schedule:
 1. The meeting to officially set the date for the public hearing for the Shoreland Zone Ordinance was Wednesday May 20, 2009.
 2. At the May 20, 2009 meeting, the Board set Wednesday June 17, 2009 as the public hearing date for the Shoreland Ordinance.
 3. The Planning Board could vote on the ordinance as the notice included the phrase "the Planning Board may take action on the ordinance."
 4. If the Planning Board votes on the ordinance on June 17, 2009 the ordinance could be sent to the Town Council for possible consideration on June 18th.
- The Planning Board should consider the recommendations from staff and comments from the public and forward them to the council for their review and enactment.
- After approval by the Town of Sanford Town Council, the ordinance should be forwarded to the Maine State Department of Environmental Protection for their review and approval.