

SANFORD PLANNING BOARD MINUTES
MEETING February 18, 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 (w/notice)

STAFF PRESENT: James Q. Gulnac, AICP, Planning & Development Director
Charles Andreson, P.E., AICP, Town Engineer
Michael Casserly, P.E., Assistant Engineer

STAFF ABSENT: Barbara Bucklin, Administrative Assistant (w/notice)

I. CALL TO ORDER

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

II. PUBLIC HEARINGS

1. **File #23-08-S: John Caramihalis, Patterson Companies, LLC, c/o John Hutchins**, Corner Post Land Surveying, Inc., 2 Mill Street, Springvale, Maine.

John Hutchins, Corner Post Land Surveying, Inc., representing the applicant gave a brief overview of the application.

Chair Hardison asked if staff had any comments.

Staff member Casserly, Assistant Town Engineer, said he would like clarification of Note #19 on the plan, referring to stormwater.

Staff member Gulnac reminded the Board that if they grant approval, there would be waivers that would also be granted.

Chair Hardison asked if anyone present wished to speak in favor of the application; there was no one. Chair Hardison asked if anyone present wished to speak against the application. Again, there was no one.

Laura Crockett, abutter, wanted to know what the waivers were because she was not at the previous meetings.

Staff member Casserly replied that two waivers were for the following:

- Stormwater management plan [Section 275-23 C(14)]
- Erosion & sediment control plan [Section 275-23(15)]

Someone commented that another waiver was for overhead power, and staff member Andreson stated that no one was really concerned with the overhead power because overhead power and utilities already exist in the neighborhood and existing utility poles were going to be used.

Mr. Andreson explained the reason for allowing the stormwater management waiver is that the applicant will be using remaining property to maintain stormwater internally within the subdivision.

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

Len Mustacchio, an abutter at 249 Bauneg Beg Road, was opposed to a waiver of any stormwater or hydro studies at previous meetings because he is directly downstream from the subject property. He is opposed to the waiver of stormwater items because he is concerned of septic runoff.

Mr. Mustacchio also asked how long the approval is good for. Mr. Gulnac stated the approval is good for five (5) years for a major subdivision. Someone else stated they believed it was ninety (90) days. Mr. Gulnac replied that the applicant has 90 days to file the approved plan, but 5 years to exercise their approval rights. Discussion took place on when the 5-year period begins.

Mr. Andreson commented that the 5-year time frame is to complete the infrastructure, not the construction of homes, in a subdivision. He went on to say that in a subdivision with no infrastructure, such as this one, there essentially is no 5-year period; once the plat is filed with the county, the lots will remain lots forever – there is no time limit. Discussion took place about unfinished construction of homes.

Discussion took place on Mr. Mustacchio's concern for septic runoff. It was explained to Mr. Mustacchio that a stormwater plan would not cover septic runoff, and that each lot will have to have an approved septic design in place.

Chair Hardison asked if there were any other comments or considerations. There were none.

Chair Hardison closed the public hearing.

Chair Hardison confirmed with staff that all issues have been cleared, and asked if there were any outstanding concerns other than the easement. Staff member Casserly said that there were no other engineering concerns other than the easement.

Chair Hardison began discussion on the stormwater easement. He stated the easement cannot be formally executed until the subdivision has been approved and lot outlines recorded.

John Caramihalis, Patterson Companies, LLC, explained the easement was referencing lots 2-1 through 2-7, fronting on Bauneg Beg Road. Mr. Caramihalis described the easement he was proposing. The easement would also be recorded at the Registry of Deeds.

Staff member Andreson agreed with Mr. Caramihalis' statement, and explained that the engineering staff had the same concerns for the lots fronting on Chick Road also. Mr. Andreson clarified that the concern was for post development conditions.

Chair Hardison asked about the lots fronting on Chick Road, and Mr. Andreson said he would expect the same easement granted to all lots fronting on both roads.

Mr. Caramihalis assured staff and Board members that the easement would be granted to all lots in the subdivision, and would also address post development drainage in the wording of the easement. Staff member Andreson said this would satisfy the engineering concern on the easement.

Chair Hardison asked staff member Casserly if this was discussed with the applicant and was in agreement to. Mr. Casserly said that there was no note on the plan referencing the easement and generally there is reference to the easement. Discussion took place on the note reference.

Staff member Gulnac said that there was another way to address the concern. This would be that the applicant could only file the plan; no other action, such as requesting building permits, etc. could be done until staff is satisfied with the easement. If staff should be uncomfortable with what the applicant presents, the issue would be brought back before the Planning Board.

John Caramihalis stated they are proposing that no transfer of any lots, no permits pulled on any lots, or have anything done to these lots or the remaining large parcel until the engineer and Planning Board are satisfied with the easement.

Chair Hardison asked if Board members had any other questions. He stated the plan is ready for preliminary approval, but if the Board chose to approve as a final the easement issue would have to be a condition of approval.

Vice Chair Tarbox confirmed that the only item holding up final approval was the easement issue. Discussion took place on the condition of approval if the Board decided to give final approval.

Chair Hardison asked if Board members had any other questions, comments, or concerns they would like discussed.

Staff member Gulnac wanted to clarify the waivers outlined in his report. He stated the only waivers that would be approved would be the first three items [application will be considered as both a preliminary and final; state approving both – with specific conditions for final; a waiver from Section 275-23 C(14) (stormwater plan); and a waiver from Section 275-23(15) (erosion/sediment control plan)]. The remaining three waivers have already been taken care of [a waiver from Section 275-45A(2) (stormwater runoff); a waiver from Section 275-61 (performance guarantee); and a waiver from Section 275-57 (utilities)].

Chair Hardison asked if there were any other questions or discussions from the Board; there were none.

Chair Hardison confirmed with the applicant and staff member Gulnac how the Board would proceed with a vote, and how the easement condition on final approval would be worded.

Chair Hardison called for a motion.

Board member Morse made a motion that the Planning Board confirm the Finding of Facts (see attached) and find that application file #23-08-S, Hersom Farm Subdivision, Patterson Companies LLC, for a final major subdivision is approved with the following conditions:

- a) The application has been prepared in conformance of Article XII of Chapter 275 Subdivision of Land of the Town of Sanford General Code and Title 30-A MRSA Section 4404.
- b) The approval includes the following waivers as described in the finding of facts:
 - The application will be considered as both preliminary and final;
 - A waiver from Section 275-23 C(14);
 - A waiver from Section 275-23(15);
- c) The applicant will pay all outstanding application review fees, including a filing fee of \$550.00 (\$50x11 lots).
- d) The applicant has 90 days from this approval to file the signed mylar with the York County Registry of Deeds.
- e) The applicant will provide the planning department with a copy of the signed mylar with proof of filing at the registry of deeds and six (6) paper copies of the same.
- f) The applicant will schedule a pre-construction meeting with the Town Engineer at which time the required performance guarantee (waived) and engineering inspection fees will be paid.

- g) No building or construction permits will be issued until the conditions of this approval have been satisfied.
- h) The stormwater easement will be on the 40-acre lot, the easement will allow unrestricted flow from all the lots within the subdivision, and the easement must be executed and recorded prior to the conveyance of lots, any building permits issued, or any work done on the property. The easement language must also meet the approval of staff; otherwise the application returns to the Planning Board.

Vice Chair Tarbox seconded the motion.

A vote was taken and the motion passed 6-0.

III. APPROVAL OF MINUTES – October 15, 2008; November 12, 2008; December 17, 2008; and January 7, 2009

Chair Hardison called for approval of the minutes.

October 15, 2008

Board member Morse made a motion to approve the minutes of October 15th as written.

Vice Chair Tarbox seconded the motion.

A vote was taken and the motion passed 5-0 (Board member Mongeau was not on the Board in October).

November 12, 2008

Board member Morse made a motion to approve the minutes of November 12th as written.

Vice Chair Tarbox seconded the motion.

A vote was taken and the motion passed 5-0 (Board member Mongeau was not on the Board in November).

December 17, 2008

These minutes were not available for this meeting.

January 7, 2009

These minutes were not available for this meeting.

IV. PLANNING DIRECTOR'S REPORT

Planning Director Gulnac had nothing to report tonight.

V. ADJOURN

The meeting adjourned at 8:48 PM.

**Chair Hardison reminded the Board they had a workshop on March 4th that will deal with the conservation plan, design guidelines, and the shoreland ordinance.

Attachment to February 18, 2009 Minutes

*Finding of Facts for Public Hearing Item #1
File #23-08-S: Hersom Farm Subdivision*

- The applicant has provided proof of ownership of the property in question and has standing to make the application.

- This application is the result of a Planning Board Article 4 determination that the original two minor subdivisions presented for the same property be combined into a single major subdivision. Therefore file #24-08-S has been combined with this file. It was also agreed that the 43.12 acres that separated the proposed new lots was not part of the subdivision; however, it is understood that there are potential drainage impacts, specifically proposed lots 2-1 thru 2-7 which need to be covered in the subdivision.
- The application has been reviewed by the SPRC and their recommendations sent to Planning Board.
- The applicant made and the board considered the following *waiver requests*:
 - a. The applicant requested that the application be considered as both a preliminary and a final application. During the work session the consensus of the board was that, IF ALL ISSUES WERE IN COMPLIANCE, the board would consider reviewing the application first as a preliminary and then as a final.
 - b. The Planning Board, at their October 1, 2008 meeting, considered and approved a waiver of the requirement for underground power as overhead power already exists along both roads.
 - c. The Board discussed the waiver request concerning whether or not to waive a stormwater management report. The applicant has requested a waiver from Section 275-23C.14 and Section 275-45. Stormwater Management A.(2) Quality. The applicant has also requested waivers from Section 275-57 and 275-61. The engineer's report of January 15th outlined the specifics in detail.
 - d. The final language of the drainage easement and related notes are subject to the review of the Town Engineer.
 - e. The plan would also contain a note referencing driveway locations and sight distances.
 - f. It was noted that monuments had been placed and therefore there would be no need for any performance guarantee.

The engineers have reviewed the final subdivision plan with a latest revision date of 01-30-09 and are satisfied that they have been prepared as required.