

SANFORD PLANNING BOARD MINUTES
MEETING October 15, 2008 – 7:30 P.M.
Town Hall Annex Third Floor Chambers

MEMBERS PRESENT: Robert Hardison, Chair
Kelly Tarbox, Vice Chair
Joseph Herlihy
Margaret Kleinrock, Secretary
Bryan Chabot
Gary Morse

MEMBERS ABSENT: 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
Barbara Bucklin, Administrative Assistant

STAFF ABSENT: None

I. CALL TO ORDER

Chairman Hardison called the meeting to order at 7:32 P.M.

II. PUBLIC HEARINGS

1. File #26-08-RU: Richard Charrette, 96 Morrison Road, Springvale, Maine.

Chair Hardison called for a representative to present the application.

Bob Gherig, representing the applicant, explained what type of turbine would be constructed on Mr. Charrette's property.

Chair Hardison asked if there were any questions or comments for the applicant. There were none.

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.

Chair Hardison asked if staff had any comments. Staff member Casserly said the submittal appears to be in order for Board consideration, but the major discussion point would be the requirements for the engineered foundation.

Discussion took place on the foundation requirements vs. the submitted plans by the applicant.

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

Vice Chair Tarbox thought it would be better for the Board to be cautious when reviewing wind turbines until issues such as soil evaluation and engineered foundations should be addressed.

Discussion took place on what the process for approval should be.

Chair Hardison asked if there were any other questions or comments from the Board. There were not.

Chair Hardison closed the public hearing and began deliberation.

Setbacks, turbine height, and noise were discussed as possible issues but all were determined to be fine due to the location of the property in question and the placement of the turbine on the property.

Staff member Gulnac suggested the Board make a comment on Vice Chair's comments on height, etc., and reviewed condition number 4 in his approval.

Chair Hardison called for a motion.

Board member Herlihy made a motion that the Planning Board accept the Finding of Facts (see attached) and find application File #26-08-RU, Richard Charrette, 96 Morrison Road, Springvale is requesting conditional use approval to erect a wind turbine to be used as an alternative energy source for his home (Tax Map R3, Lot 12B, Rural Residential zone) has been prepared in accordance with Article XIV Conditional Uses of the Sanford Code and provisions of Title 30-A M.R.S.A. Section 4404 and subject to the conditions listed below, grant approval:

- a) The Planning Board made a positive finding that the application met the standards of Section 280-66.
- b) The Planning Board granted the waiver request to permit the review without the submission of a formally prepared site plan.
- c) The applicant will pay any and all outstanding review fees.
- d) The applicant will conform to any and all construction or building codes.
- e) The applicant understands and will conform to Section 280-69 Duration of the conditional use approval.
- f) Any additional conditions the Planning Board may wish to add.

Board member Morse seconded the motion.

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

III. NEW BUSINESS

1. File #19-08-RU: Craig & Amy Gagne, 265 Oak Street, Springvale, Maine.

Chair Hardison informed the Board they needed to acknowledge they have received the withdrawal request and placed the application on hold until further notice by the applicant.

Staff member Gulnac pointed out to the Board that he used the term 'without prejudice' in his report which means the Board has made no decisions on the application and would place no conditions on the application if the applicants decided to resubmit an application.

Board member Herlihy asked if the Gagne's situation was the same as Mr. Charrette's in the previous application.

Discussion took place on the differences between the two applications.

Chair Hardison called for a motion.

Board member Morse made a motion that the Planning Board has read the applicant's request to withdraw application File #19-08-RU, conditional use request to place a wind turbine on tax map R5, lot 10B and accepts the withdrawal without prejudice subject to the following:

- a) All outstanding review fees have been paid.

Vice Chair Tarbox seconded the motion.

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

2. **File #27-08-P: Carol Levesque, c/o John Hutchins**, Corner Post Land Surveying, Inc., 2 Mill Street, Springvale, Maine.

Chair Hardison called for a representative to present the application.

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

Chair Hardison asked staff if there were any questions, comments, or concerns.

Staff member Mike Casserly, Asst. Engineer, concurred with Mr. Hutchins that the issues have been resolved and stated that the applicant is requesting a waiver on the slope of the road.

Staff member Gulnac reminded everyone that the long-term plan was to have the road become town-owned, but the present approval was for a private way and that is why the waiver on the slope request was being considered.

Chair Hardison asked Mr. Casserly if the outstanding issue on the drainage easement had been satisfied; Mr. Casserly replied it had been.

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 application File #27-08-RU, Carol Levesque, c/o John Hutchins, Corner Post Land Surveying, Inc., 2 Mill Street, Springvale requesting approval to construct a private way, to be known as Gove Street Extension, to provide frontage and access for future lots on property owned by the applicant and located at the end of Gove Street in Sanford (Tax Map L35, Lot 4, Single Family Residential zone) has been prepared in accordance with the Sanford Code and provisions of Title 30-A M.R.S.A. Section 4404 and subject to the conditions listed below, grant approval:

- a) The Planning Board made a positive finding that the application met the standards of Section 275-51 and Section 280-85.
- b) The Planning Board granted the waiver to permit a slope of 10% for private way standards.
- c) The applicant will pay any and all outstanding review fees.
- d) The applicant will pay a map filing fee of \$50.
- e) The applicant will schedule a pre-con with the Director of Public Works and pay an engineering inspection escrow fee if required.
- f) The applicant will conform to any and all construction or building codes.
- g) The applicant understands and will conform to Section 280-85 C.(6) recording of approved plan.
- h) Any additional conditions the Planning Board may wish to add.

Board member Kleinrock seconded the motion.

Chair Hardison asked if there was any further discussion.

Staff member Casserly wanted to remind the applicant that a proper autocad submission for the project be submitted. He added that certification for the private way must be made by the applicant's engineer and not the town's engineer.

Chair Hardison asked the Board if they wanted to amend the motion.

Vice Chair Tarbox made a motion to amend the motion.

Board member Morse seconded the amended motion.

A vote was taken on the request to amend the motion, and the motion passed 6-0.

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

IV. OLD BUSINESS

- 1. File #05-08-R: Goldmark, LLC, c/o Carl Beal, Civil Consultants, PO Box 100, South Berwick, Maine.**

Chair Hardison called for a representative to present the project.

Carl Beal, representing the applicant, stated they were requesting final approval and gave an update of the changes done since the last meeting as a result of Mr. Beal's correspondence with Mr. Casserly.

Staff member Casserly agreed with Mr. Beal that the last details have been worked out, and the applicant has added the language regarding bricks in the operations manual.

Chair Hardison asked about the continued need for a 50' buffer along the North Berwick property.

Mr. Casserly stated if the North Berwick property has been closed on, there is no longer a need for the 50' buffer.

Staff member Gulnac recommended the language of the DEP permit be made part of this approval.

Discussion of clarification of approval of the operations manual and DEP permit took place.

Vice Chair Tarbox asked if Mike Casserly's questions in his memo had been addressed. Mike replied the questions were answered.

Assistant engineer asked to have language added to the conditions of approval:

1. To have the autocad submittal filed with the town in a .dwg file outlined in his May 30, 2008 email.

Mr. Casserly also informed the Board that the town would be asking the applicant to provide an inspection fee escrow in the amount of \$2,720 for 5 years of inspections, based on 8 hours per year. Mr. Casserly also stated that at the preconstruction meeting, the may ask for installments in paying for this escrow.

Chair Hardison called for a motion.

Board member Kleinrock made a motion that the Planning Board accept the finding of facts (see attached) and find that application File #05-08-R, Goldmark, LLC, requesting approval of an extension to a major site plan for mineral extraction has been prepared in accordance with Article XVI, Section 290-91 Mineral Extraction Standards and Article XVII Site Plan Review of the Zoning Code of the Town of Sanford and subject to the conditions listed below grant a five year extension to the operations permit:

- a) The operations manual is made part of this approval with an understanding that activities not described in the manual may be considered as 'not permitted'.
- b) A waiver is approved to permit the removal of material within the 50' buffer as allowed per Section 280-91 D (8) of the Town Code.
- c) The applicant will provide four (4) complete sets of the approved plans and Operations Manual to the Planning Department for certification (distribution of the certified plans: Planning, Engineering, CEO, and applicant).
- d) A performance bond/letter of credit in an amount approved by the Town Engineer for a five (5) year period is provided, (the instrument may be for a one year period, but must be renewable).
- e) At a minimum the applicant will provide an activity report on April 30th and October 30th each year to the town engineer who will conduct an inspection to verify the report. The applicant will be responsible for maintaining an adequate inspection escrow with the engineering department.
- f) The Department of Environmental Protection permit is made part of this approval.
- g) The extension permit to operate this facility shall be in effect after all the conditions of the approval have been satisfied.
- h) Any changes to the approved plan will require review and approval by the Planning Board.
- i) Any failure on part of the applicant or any subsequent owners to comply with the conditions of this approval will result in the immediate cessation of the operation.
- j) Any additional conditions required by the Planning Board.

Vice Chair Tarbox seconded the motion.

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

V. APPROVAL OF MINUTES – June 30, 2008, August 27, 2008 and September 17, 2008

Chair Hardison called for approval of the minutes.

June 30, 2008

Board member Kleinrock made a motion to accept the minutes of June 30th as written.

Vice Chair Tarbox seconded the motion.

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

August 27, 2008

These minutes were not available for this meeting.

September 17, 2008

These minutes were not available for this meeting.

VI. PLANNING DIRECTOR'S REPORT

Haybrook Mineral

A request for some minor changes for this site plan has come in. Mr. Gulnac wanted to know if the Board would like to review the changes or if the Board would prefer staff to review and approve the changes.

The Board approved staff review unless staff members felt Board review was required.

Abuse Clinic

There is a joint committee meeting scheduled on October 21st. There would be a public hearing for the Planning Board at the November meeting.

Upcoming Meeting Items

- Priority Group, LLC contract zone comprehensive plan compliance
- Review ordinance definitions for 'junkyards'/recycling
- Accessory apartments

VII. ADJOURN

The meeting adjourned at 8:16 PM.

Attachment October 15, 2008 Minutes

Finding of Facts for Public Hearing Item #1 File #26-08-RU: Charrette Wind Turbine

- Wind turbines are listed in the Table of Land Use under the category Utility Uses as CU in the RR, RMU and IB zones.
- There are no specific regulations listed under either Article XV, General Standards or Article XVI, Performance Standards.
- Article XIV Conditional Uses does provide both administrative directions and some general review criteria.
- *Section 280-65 Application requirements:* For the purpose of scheduling the application I have granted a waiver from the requirement to provide a "to scale site plan"; the applicant has provided a drawing of the property which is approximately ten (10) acres in size. The Board in its review may request additional information.
- *Section 280-66 Standards for conditional use approval:* The Planning Board shall approve a conditional use application, or approve it with conditions, if it makes a positive finding, based on the information presented, that the proposed use, with any conditions attached meets the following standards. (See attached checklist).
- The applicant appeared before the Planning Board at a work session held on October 1, 2008. The issue of concern raised during this review centered around the wording on the plans which referenced a requirement for an engineer's signature for the concrete base structure. The applicant was to provide the Board with clarification concerning the statement on the plans.
- It was agreed that any approval granted by the Planning Board is subject to any and all building codes.

- Checklist:

CHECKLIST Section 280-66. STANDARDS FOR CONDITIONAL USE APPROVAL

**File #
&**

Name: *File # 24-08-R Richard Charrette*

Date: 9/26/2008

	STANDARD	COMPLIES	DOES NOT	EXPLANATION
{1}	The proposed use will not place a burden on municipal services which, due to its location or the characteristics of the site or proposed development, is significantly greater than the burden that would result from similar uses in other situations;	OK		
{2}	The proposed use will not create hazards to vehicular or pedestrian traffic on the roads and sidewalks serving the proposed use as determined by the size and condition of such roads and sidewalks, lighting, drainage, intensity of use by both pedestrians and vehicles, and the visibility afforded to pedestrians and the operators of motor vehicles;	OK		Proposed location is well away from public property
{3}	The proposed use will not cause water pollution, sedimentation, or erosion, contaminate any water supply or reduce the capacity of the land to hold water so that a dangerous, aesthetically unpleasant, or unhealthy condition may result;	OK		
{4}	The proposed use will not create unhealthy conditions because of smoke, dust, or other airborne contaminants;	OK		
{5}	The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard, or unreasonably restricted access of light and air to neighboring properties;			The Planning Board needs to confirm the information provided in the application concerning the sound to make it site specific.
{6}	The proposed location for the use has no peculiar physical characteristics due to its size shape, topography, or soils which will create or aggravate adverse environmental impacts on surrounding properties;	OK		The Planning Board needs to confirm that the proposed base of the monopole can be constructed at the proposed location.

- {7} The proposed use has no characteristics that are atypical of the general category of use that will depreciate the economic value of surrounding properties; and
- {8} If located in the Shoreland Overlay Zone, the proposed use will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat; will conserve Shoreland vegetation; will conserve visual points of access to waters as viewed from public facilities; will conserve actual points of access to waters; will conserve natural beauty; and will avoid problems associated with floodplain development and use.
- N/A
- Possible question of height, the proposed 50 feet may exceed the ordinance requirements and require a waiver or a special condition of approval.

*Findings of Fact for New Business Item #1
File #19-08-RU: Gagne Wind Turbine*

- Applicant withdrew application

*Findings of Fact for New Business Item #2
File #27-08-P: Gove Street Extension Private Way*

- The applicant has provided proof of ownership of the subject property and has standing to make the application.
- The applicant is requesting approval of a private way to be called "Gove Street Extension" to be located on property currently owned by the applicant. The purpose of the private way is to establish frontage and access for future lots.
- The applicant has stated that this application does not include any division or subdivision of land.
- The applicant has indicated that it is their intent to construct the road to the standards required for a low volume local street following the standards of Section 275-51 of the Town of Sanford Code.
- The applicant is also proposing that when completed the private way will be offered to the Town of Sanford in accordance with Section 226-5 Acceptance of street and ways of the town code.
- Section 280-85 Private Way Standards states that the Planning Board may approve the use of private ways meeting the standards of subsection B to provide access to and frontage for individual lots of land in accordance with the procedures set forth in subsection C.
- The applicant appeared before the Planning Board at their work session on October 1, 2008. During this review the following was established:
 - a. The Board agreed to a waiver if needed for a 10% slope.
 - b. Whenever an applicant wished to locate a driveway onto Gove Street Extension they would be required to appear before the Planning Board.

*Findings of Fact for Old Business Item #1
File #05-08-R: Goldmark, LLC Mineral Extraction*

- The applicant has removed the request to include excavation of property located on the Louis Realty (Gravel World) site. This removes from consideration the requirement for either cross easements or property ownership transfers for this property.
- The amended application now consists of a request to permit the applicant to remove material within the 50' buffer required in Section 280-91 D (8) between property they own located in

Sanford and adjacent property they now own located in the town of North Berwick. Included with the request is the required support documentation identified in Section 280-91 D (10).

- The applicant has provided a Mineral Extraction Operation's Manual which includes Figures R-1 to R-5. The manual provides a clear description of the proposed operations and will serve as a guide to the day to day operations as well as the phasing of the excavation and reclamation work over the next five years.
- The applicant has submitted an application to the Town of North Berwick. The applicant has indicated that they received an approval but has not yet received any written approval.
- Section 280-91 C 930 requires written evidence that the York County Soil and Conservation District has reviewed the plans and finds them in conformance with all its standards. This has been provided.
- Section 280-91 F requires a surety, a copy of which has been provided in the application. This surety is dated February 6, 2008 and covers the current operation. This will need to be revised to reflect the new approval date and the approved amount.
- The applicant has a current DEP permit for the operation.