

**SANFORD PLANNING BOARD MINUTES**  
**MEETING June 18, 2014 – 7:00 P.M.**  
**City Hall Annex Third Floor Chambers**

**MEMBERS PRESENT:** John McAdam, Chair  
Kelly Tarbox, Vice Chair  
Lela Harrison, Secretary  
Robert Hardison  
Richard Bergeron  
Lenny Horr

**MEMBERS ABSENT:** Joshua Howe (w/notice)

**STAFF PRESENT:** James Q. Gulnac, AICP, Planning & Development Director  
Michael Casserly, P.E., Interim City Engineer  
Shirley Sheesley, Codes Enforcement Officer

**STAFF ABSENT:** None

\*\*\*\*\*

**I. CALL TO ORDER**

Chair McAdam called the meeting to order at 7:00 P.M.

**II. PUBLIC HEARINGS**

There were no public hearing items.

**III. NEW BUSINESS**

- 1. File #11-14-Z: Mark & Ellarene Breton, c/o Brian Bubier, 1 Devotion Avenue, Sanford, Maine.**

Chair McAdam called for a representative to present the project.

Brian Bubier, representing the applicant briefly explained what the applicants wanted to do. The applicants wanted to remodel a 1967 mobile home that was being used as a year-round residence. Mr. Bubier discussed demolishing the existing mobile home and constructing a new home, slightly moving the home location, and moving the septic tank from the front to the rear with the Codes Enforcement office. This discussion brought the applicants to the Planning Board.

Chair McAdam asked if the current mobile home has a foundation. Mr. Bubier responded it supposedly has cement blocks holding it up, but was unsure if they were attached with footing or not.

Chair McAdam asked if there were any other questions.

Board member Bergeron asked if the new home was going to have a full basement; Mr. Bubier said it would have a crawl space due to the water table.

Board member Hardison said he believed it was up to the applicant to demonstrate to the Board exactly why the applicants are looking to make the new building more nonconforming than the current mobile home is.

Steve Horne explained the request to construct a new building is actually making the building less nonconforming and described how this is so. Board member Hardison said without a foundation it is hard to define the existing footprint. Discussion followed.

Chair McAdam said his concern was the definition of new construction. Mr. Horne replied there is a home already on the lot, even though it is inhabitable, and reconstructing the existing home is not really an option due to the age of the mobile home, but the applicants wanted to take advantage of what was there.

Vice Chair Tarbox said it was her understanding that, in the shoreland zone, the setbacks have to be met to the greatest extent possible and it seemed there was room to put most, if not all, of the building outside the 75' setback. Mr. Horne replied the ordinance states the greatest practical extent then explained the reasons for locating the new building where proposed.

Staff member Gulnac said it would be important to establish the definition of foundation because the ordinance does give relief to put the building back in the existing foundation or move it a little bit to the greatest extent possible. He referred to previous applications that had the similar circumstances regarding the definition of foundation.

Shirley Sheesley, CEO, read the ordinance definition of foundation. She said since the applicants are not building on the existing blocks the current home sits on the blocks cannot be considered an existing foundation. She then read the ordinance definition of new construction. In her opinion, the proposal does not fit the definition of foundation and the proposal is considered new construction. Discussion followed.

Mr. Horne confirmed that the Board cannot consider the existing mobile home as something that can be replaced in the current footprint. Staff member Gulnac stated this is correct because the applicant is replacing the home, and based on Ms. Sheesley's findings, the replacement is considered new construction. Mr. Gulnac then referred to Board member Hardison's statement about it being the applicant's responsibility to demonstrate the greatest practical extent when locating the home on the property. Mr. Gulnac also said the Board does not decide the appropriateness of the septic, and it appears the proposed septic location was also asking to be determined the greatest practical extent. Mr. Horne referred to the site evaluator's determination regarding design; Ms. Sheesley stated she has not received a design from the applicant's site evaluator. Ms. Sheesley read a section of the ordinance regarding the Planning Board's role in reviewing septic placement within the shoreland zone; discussion followed on the common ownership of abutting land, the extent of the nonconformity, and whether septic location was reviewable by the Board.

Vice Chair Tarbox noted the proposed garage is larger than the existing mobile home so the increase in building area is considerable; Board member Hardison wanted the applicant to explain to the Board as to why this proposal could not be made to be in conformance with the shoreland zone requirements.

Mr. Horne noted the plan in front of the Board was a result with meetings the applicants and their agents had with staff. He maintained the applicants' proposal did meet the requirements to the greatest practical extent. Mr. Horne then asked if tonight would be a proper time to discuss scenarios for moving items around.

Staff member Gulnac recommended the applicants and Mr. Horne discuss their options while the Board moved forward on agenda items. Staff member Gulnac also expressed other options to the applicant.

Staff member Sheesley clarified the terms reconstruction vs. new construction; discussion followed.

Mr. Horne and the applicants decided to table at 7:30 P.M. and come back later in the evening.

**The Board reconvened at 8:10 P.M. to determine the course of action on this case.**

Mr. Horne said after discussion with CEO Sheesley, the applicants and their agent have decided there is not enough information to ask the Board to make a decision on the application tonight. He then asked the Board to listen to a scenario to provide direction to the applicants.

Mr. Horne asked the Board if they would be willing to consider a slight change in setbacks, but still within the 75' buffer, if the septic location is accepted and all other concerns were addressed or do they want everything to be completely located outside the 75' setback.

Vice Chair Tarbox said as she understood the discussion tonight, the structure is considered new construction and would need to be located outside the 75' setback if there was room to do so, which there is.

Board member Hardison stated it is not the Board's authority to guide the development during the meeting. The applicant should work with staff and come back before the Board with a plan.

Chair McAdam suggested the applicant table the application tonight to work on the plan.

Board member Bergeron asked Mr. Horne if the new construction was a stick-built home or a double-wide. Mr. Horne replied it would be a modular home.

Board member Hardison made a motion to table the application to a future date when the applicant has indicated they have a proposal to submit to the Board.

Vice Chair Tarbox seconded the motion.

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

**IV. OLD BUSINESS**

1. **File #05-08-R: Dana Goldberg, d/b/a Dana Ventures, LLC**, 65 Pine Hill Road, Cape Neddick, Maine.

Chair McAdam called for a representative to present the project.

Staff member Gulnac said the mineral extraction has a new corporate structure so references within the operation manual need to be changed, as well as an address change. He said the applicant has also requested some operational changes, too. He said the applicant has already posted a performance guarantee to cover some

concerns staff had during discussions. Mr. Gulnac said the applicant is also requesting a five (5) year extension to his approval. He added that should/when the applicant reopen the pit to the public, the applicant would need to talk with staff to see if any further review by the Board is needed.

Chair McAdam asked Mike Casserly, interim City Engineer, if he was all set. Staff member Casserly stated that Mr. Gulnac summed up the changes and suggested the following:

- The Board may want to consider the applicant's comment in the manual referring to opening the pit for public sale in the future and have the applicant bring the requested change back to the Board for ratification and revisit the performance guarantee at that time.
- Since the sale of material was only going to be used for solely the construction firm, no groundwater monitoring plan was required. The Board also allowed the firm to bring offsite material into the pit to allow for crushing twice a year. Over the years, the crushing did not take place but the offsite material kept coming in and now there is a large stockpile of material. This has become a concern and thought the Board may want to require a groundwater monitoring plan.

Vice Chair Tarbox confirmed with staff member Casserly that, if the pit reopened to the public, the applicant will confer with the Planner to see if any further review is needed and the groundwater monitoring plan would be required once a year.

Chair McAdam called for a motion.

Staff member Casserly commented that, if the Board was going to allow the stockpile of crushable material to remain, they may want to ask the applicant what his intent is with the pile.

Board member Bergeron asked staff member Casserly if the pile was going to continue to accumulate. Mr. Casserly said the applicant should respond to this question.

Dana Goldberg, applicant stated he doesn't bring much offsite material in and the majority of what is there was brought in by his former partner. Mr. Goldberg said he is working on having it decreased. He added he felt there was less leeching into the ground with the material whole versus being crushed.

Vice Chair Tarbox asked if the increase in crushing activity would trigger the need for increased groundwater testing. Staff member Casserly responded if the Board has the understanding of the applicant crushes it for his own use, the monitoring can be scaled back. His concern is if the pile remains uncrushed and more comes in; there is a greater concern for contamination whereas if the material is crushed it is more easily removable. Discussion followed.

Vice Chair Tarbox made a motion that the Planning Board finds that the request to update the Operations Manual and to grant an additional five (5) years for the mineral extraction permit, File #05-08-R has been presented in a manner consistent with the requirements of the City of Sanford, Maine and the MDEP permit and accepts the Finding of Facts (see attached) and grants approval subject to the following conditions:

1. That any and all outstanding review fees are paid.
2. That the applicant provides three (3) copies of a signed updated Operations Manual.

3. That the applicant provides an updated performance guarantee in the amount of \$40,000.00.
4. If the pit opens to the public, the applicant will confer with the Planner to determine if any further Planning Board review is needed and the groundwater monitoring frequency will be increased to every year.

Board member Hardison seconded the motion.

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

#### **V. APPROVAL OF MINUTES – May 21, 2014**

The minutes were not ready for approval.

#### **VI. PLANNING DIRECTOR'S REPORT**

1. Staff member Gulnac brought a request from Dairy Queen to change their site plan. Since the request is to add a drive-thru to the building, the ordinance clearly states the change is considered a major site plan and review and approval by the Planning Board is required.

Staff member Gulnac is asking the Board if they agree, by consensus, to allow this change to be considered a minor change to an existing site plan and allow the Planning Director to sign off on the plan as such. The request is also going to do some minor building improvements; there is also a letter from an outside traffic engineer signing off on the traffic flow change.

Chair McAdam said he feels consensus approvals to allow minor changes should be determined on a case by case basis. Discussion followed.

Board member Hardison commented if a project needs full Planning Board review but the Planning Director, with the support of staff, determines the change would work he would have no objection allowing Planning Director sign-off on the requests.

Staff member Casserly stated if a project that requires a public hearing is supposed to come before the Board, the Board may want to consider the public's concerns. Mr. Gulnac responded the public can speak all they want but if the project is in conformance there is not much that can be said about a request. Discussion followed.

Board member Hardison questioned the parking that is being relocated and asked about the ownership of the property. Staff member Gulnac responded the owner of the properties, as well as the Radio Shack and thrift store tenants, have seen the plan and feel there will be no issues regarding parking.

Board member Horr asked what would happen if the lots are sold separately. Mr. Gulnac responded there are encumbrances on the properties so if you buy the property, you also buy the encumbrance.

Chair McAdam called for a motion.

Board member Hardison made a motion that, in this particular case, the Planning Board grant approval authority on behalf of the Planning Board to the Planning Director and staff as a minor change for Dairy Queen only.

Chair McAdam seconded the motion.

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

2. Staff member Gulnac then discussed the peer review for Mariner Tower and the cost of this review with the Board.
3. Staff member Gulnac informed the Board he has done nothing and heard nothing regarding the Beaver Hill Estates project.
4. Staff member Gulnac informed the Board about the bus company project going before the site plan review committee in a week.

## VII. ADJOURN

The meeting adjourned at 8:06 P.M. to see how the applicant for File #11-14-Z decided to proceed. After the decision, the meeting adjourned at 8:17 P.M.

### **\*\*Non-agenda item:**

Chair McAdam announced that Board member Joshua Howe had submitted his resignation and called for a motion to accept the resignation.

Board member Hardison made a motion the Planning Board accept Mr. Howe's resignation with regret.

Vice Chair Tarbox seconded the motion.

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

### **Attachment to June 18, 2014 Minutes**

#### *Finding of Facts for New Business Item #1 File #11-14-Z: Longwood Lane Shoreland Permit*

This item was tabled to a later date.

#### *Finding of Facts for Old Business Item #1 File #05-08-R: Goldberg Mineral Extraction*

- The Planning Board mineral extraction permit has passed the five (5) year time limit and needs review for extension.
- The ownership of the property and business has changed and this needs to be noted in the operations manual.
- The applicant/owner has indicated that they will no longer be selling materials to the general public but only using them for his own use.
- The updated site plan is basically the same as the plan on record so the Planner has waived the requirement to provide an application prepared by an engineer or completion of new checklists.
- The owner/applicant has also indicated that he will increase his performance guarantee from \$20,000.00 to \$40,000.00. This will cover a full 10 acres of use should that become necessary based on future activity.
- The owner/applicant has provided an updated Operations Manual which has been thoroughly reviewed by the City Engineer and Planner.