

Planning Board
Minutes
March 19, 2024

Date: 03/19/2024

Place: Sandown Town Hall

Members Present: John White, Chairman - George Grivas, Tom Tombarello, Matthew Devine, Tom Perkins, Coordinator. Steve Keach, Town Engineer.

Members Absent: Alice Major, Doug Martin, Ernie Brown

Opening: Mr. White opened the meeting at 6:35 pm

Mr. White led the membership with Pledge of Allegiance.

Mr. White tabled administrative items on the agenda until the end of the meeting.

Continued Public Hearing for a Site Plan Review submitted by James Lavelle and Associates on behalf of their client, Martin Auger. The subject property is located at Bobcat Way and is identified as Tax Map 2 Lot 33-1

Ryan Lavelle presenting. Brief overview of delays with project.

Mr. Lavelle advised the Fire Chief to sign off on the Fire Engineering Study.

Mr. Lavelle then referenced Mr. Keach's letter dated March 19th of this year and the additional work still required prior to conditional approval is sought.

Mr. Keach reviewed his report echoing that this is a work in progress and does have some significant grading issues to be resolved. He recommended a master grading plan.

After a brief description of the project so far for Mr. Devine, Mr. Lavelle asked for the hearing to be continued until April 16th. The Board approved.

39 **Continued Public Hearing for an Excavation Application submitted by**
40 **Civil Design Consultants, Inc. on behalf of their client Hasago LLC. The**
41 **subject property is located at 2 Showell Pond Road also identified as**
42 **Tax Map 2, Lot 34 (Brief Update)**

43
44 Mr. Busby updated the Board that he believes they are one step closer to
45 moving forward and anticipates the wetland issues resolved by next month's
46 meeting. The Board continued the hearing until April 16th.

47
48 **Public Hearing for Subdivision of Land Application submitted by SEC**
49 **on behalf of their client Phillip A Busby. The subject property is**
50 **located on Cross Road and is also identified as Tax Map 19 Lot 19-1.**
51 **Public Hearing for a Conditional Use Permit submitted by SEC on**
52 **behalf of their client Phillip A Busby. The subject property is located**
53 **on Cross Road and is also identified as Tax Map 19 Lot 19-1.**

54
55 Mr. Bill Hall presenting from SEC Associates.

56
57 This is a subdivision application and conditional use permit request for a
58 proposal for an Open Space, Single Family Residential Condominium
59 Development.

60
61 **Location:**

62 This is a proposal that involves a single parcel of land identified as tax map
63 19 lot 19-1. The property contains 20.19 acres and is bounded on the East by
64 Cross Road and on the south, west and north by several existing single
65 family developments. Frontage/access to the site is in several segments. The
66 first and northerly most frontage/access is a 50' wide right of way,
67 approximately 400' long located between tax lots 19-10 & 11. This right of
68 way contains 99.11' of frontage at Cross Road. The second frontage/access
69 is south of the northerly right of way and is another 50' wide right of way
70 approximately 400' long between tax lots 19-5 & 6. This right of way
71 contains 100.8' of frontage at Cross Road. The third frontage segment is
72 south of both right of ways and is a "tail" between tax lots 19-4-6 & 19-5.
73 This segment contains 1.31' of frontage at Cross Road. All totaled, there is
74 201.22' of frontage. The property is bisected by an Eversource Electric
75 easement that is 320' wide and runs west/east.

76
77 **Property History:**

In 2006 a subdivision application was submitted by the new owners for a conventional residential subdivision consisting of two single family lots and two duplex lots to be accessed via a 50' wide public right of way entering through the northerly right of way. This proposed 24' wide roadway terminated at a cul-de-sac approximately 1,000' in from Cross Road. Wetlands were proposed to be impacted by the roadway construction. Two State approvals were required for that project and were both issued. The approvals included an NHDES Wetlands permit (#2006-02002) for the roadway and an NHDES subdivision approval (#2006007645) for the four proposed lots. The application was conditionally approved by the Planning Board in early 2007 but the development was never constructed.

Existing Conditions:

Currently the property is undeveloped. A portion of the site was logged several years ago and is now covered by new growth, the remaining land is wooded throughout. The majority of the site is downslope from Cross Road and contains a mix of flat, moderate and steep slopes. Soils range from well drained to moderately well drained within the uplands and poorly to very poorly drained within the wetlands. There are some areas of ledge present but the majority of the area tested showed no restriction within the test pit profile. The wetlands (updated for this application) were delineated by Timothy Ferwerda and are as shown on the submitted plans. There are two notable complexes on the site. The smaller of the two is located at the northeast corner of the property where the 50' right of way enters the site. This wetland complex is comprised of poorly and very poorly drained soils and runs to the north off site. There are no vernal pools within this complex on the site. The second complex is a much larger complex and is located south of the Eversource easement and at the end of the southerly 50' right of way. This wetland complex is comprised of poorly and very poorly drained soils. Within this complex is a large vernal pool. The vernal pool has been categorized by Timothy Ferwerda and his report is included with this application.

A wildlife study has been performed by Michael Seekamp on the property. The wildlife study includes the documentation and description of wetland habitat on the site and is included with the application. Additionally, we have submitted a request to NHB for review. The review revealed the potential for occurrences of Blandings turtles. (NHB 22-1060) Review of the NH Wildlife action plan for the property shows that the site is neither considered highest ranked habitat nor supporting habitat.

Current Proposal:

This brings us to the current proposal, Phil A. Busby, now owner, would like to apply the Open Space ordinance to this site and propose a zero lot line, condominium style, single family residential development. To qualify for an open space development a variance was granted to allow the segmented frontage to satisfy the frontage requirement. Access would be similar to the previous 2006 conventional proposal, constructing a roadway through the northerly 50' wide right of way. This right of way was chosen over the other right of way located to the south due to the amount of roadway and wetland impact that would be necessary to utilize the southern access. The new proposed roadway to be known as Camden Court, will commence at Cross Road, carry through the northerly right of way and terminate at a cul-de-sac well north of the Eversource easement. The total length is approximately 850' to the cul-de-sac and will be considered a private roadway. Eight 3 bedroom single family dwellings are proposed along the roadway. All of the proposed homes will be served by either individual or shared sewage disposal systems and one shared well. The yield plan, necessary for determining the projects density, allowed for six 4 bedroom homes. Again, a variance was granted to allow the total yield of 24 bedrooms to be spread amongst eight 3 bedroom dwellings. This is a condominium style development with zero lot lines. Instead of lot areas, limited common areas are proposed around each unit. All of the development including the roadway, homes, and limited common areas are clustered at the north end of the property. This allows all of the remaining property to be utilized as open space. The total area of the open space is 14.79 acres representing 73% of the entire site. This exceeds the area required by the ordinance of a minimum of 33% (6.73 ac) of the total lot be dedicated open space. A 50' wide landscape buffer surrounds the project as well.

Roadway and Drainage Design

As noted, one new 850-FT± private roadway is proposed to serve the 8 single-family units. The roadway has been designed to utilize bituminous cape cod berms and a closed drainage system in lieu of roadside swales, consistent with the Alternative Cross-Section for the Construction of Streets. The Roadway has been designed with a 20' paved width terminating in a cul-de-sac with an outside pavement radius of 50'. This roadway design allows the roadway to be constructed without the use of retaining walls and minimizes wetland impacts on the site to the minimum needed for construction. A turnout is proposed on the southern side of the roadway

between stations 5+50 and 6+50 to allow for construction of a 30,000-gallon fire cistern.

The closed drainage system is proposed in order to minimize, cuts, fills, and wetland alterations on the site. Runoff will be collected in the gutter line of the roadway and collected in a series of catch basins. Runoff from the entrance to station 5+67 is directed to a lined detention pond, where stormwater runoff is treated prior to discharge to a wetland complex. Runoff from station 5+67 to the end of the roadway is directed to a lined detention pond for treatment and is then directed to an infiltration pond where runoff is further treated and infiltrated into the ground. This design results in a decrease of peak rates of runoff from the site, as illustrated in further detail in the drainage report. Proper erosion control is proposed throughout and will be in place prior to, during and after construction until all disturbed areas are thoroughly stabilized.

Wetland Impact Area

Proposed Camden Court will impact one unavoidable wetland. This wetland is located where the 50' right of way enters the northerly end of the tract area between roadway stations 3+75+/- and 4+75+/- . The impact was kept to a minimum by utilizing the narrowest roadway width allowable, designing a curbed layout and keeping roadway height as low as possible. The wetland proposed to be impacted is at the southerly limit of a wetland complex and consists mostly of poorly drained soils with a small inclusion of very poorly drained soils. All together wetland impact totals 7,500 sf. for this crossing.

Additional Permitting:

In all, there are three state permits required, NHDES Wetlands permit, NHDES Alteration of Terrain and NHDES Subdivision Approval. At the local level approvals will be required by the Planning Board as well as the Conservation Commission. In addition the Department of Public Works, Police Department and Fire Department will be reviewing the application as well. All required permits will be prepared and submitted in support of the project.

Mr. Keach, in a memo dated 02/20/24 related the following:

At your request we have completed a technical review of an initial submittal of project plans and supporting information submitted to your Board by or on behalf of the applicant in the subject matter. To date we acknowledge

receipt of copies of the following documents which were the subject of our review:

- A letter of intent dated January 10, 2024.
- An Application for Subdivision approval, with attachments, dated January 08, 2024.
- A Conditional Use Permit Application, with attachments, dated January 08, 2024.
- A Town of Sandown Driveway Permit Application dated January 10, 2024.
- Copies of various NHDES project permit applications.
- A draft of a document entitled “Declaration of Open Space Development, Covenants and Restrictions of Cross Point, Sandown, New Hampshire”.
- Project plans (15 drawings) dated December 27, 2023.

Based upon our careful consideration and review of the cited information we offer the following comments and recommendations at this time:

General Comments

1. As currently presented it appears this proposal will necessitate receipt of the following state agency permits: (a) NHDES Subdivision Approval; (b) a NHDES Alteration of Terrain Permit; (c) a NHDES Wetlands Permit; and (d) NHDES Water Supply Bureau Approval. As always, we recommend all required state agency permits be received prior to or as a condition of any approval ultimately granted by your Board; and each resulting permit be referenced in the form of a note on the Cover Sheet to the final project plans.
2. In addition to the various State project permits specified above, the applicant must also receive a local Driveway Permit from the Public Works Department for construction of planned private road access to Cross Road.
3. We recommend any approval granted to this application be conditional upon the applicant’s submittal of a performance guarantee, in an amount and form acceptable to your Board, to serve as a financial guarantee for implementation and maintenance of required erosion controls throughout the course of construction; site restoration in the event of abandonment; and full and final completion of any off-site public improvements.
4. As acknowledged above, the applicant has submitted a draft Declaration of Condominium document. We recommend this draft be forwarded to Town Counsel for consideration and review to confirm its content satisfies applicable requirements of Article II – Part D – Section 7 of the Zoning Ordinance.

Mr. Keach, after further reviewing his report, advised that the plan is good, clean, and complete and that he is comfortable recommending the Board accept jurisdiction.

Mr. Grivas asked several questions about the conservation report. Mr. Hall was given a copy of Conservation Commission letter and report.

Mr. White made a MOTION to take Cross Point under jurisdiction. Mr. Tombarello seconded the motion. Vote 4-0-0

Mr. Busby, owner of Cross Point, addressed the Board and advised that 14 acres or so will eventually be given to the Conservation Commission. Whatever cutting that has occurred on the land was done by the previous owner.

Public Input:

Tom Duff from 25 Cricket Lane asked some questions of Mr. Hall and Mr. Busby related to the plans.

Mr. White continued the hearing until April 16th and recommended a meeting with the Conservation Commission prior to that date.

Vote to release Sandlot Sports, 33 Sandlot Way from its Bond for installation of fire suppression equipment. Sign off from Fire Chief & Town Engineer.

Mr. Keach reviewed his memo and combined with the Fire Chiefs memo recommended the release of the Sandlot Bond.

MOTION

Mr. White moved to release the Bond currently held for Sandlot Way. Mr. Tombarello seconded. Vote 4-0-0

Discussion regarding Rockingham Planning Commission appointment

Mr. White advised of open positions and asked public to contact the Town if any interest.

MOTION

Mr. Tombarello moved To pay dues for RPC **\$6,843** for 2024. Mr. Grivas seconded. Vote 4-0-0.

MOTION

Board approved 4-0-0 to continue with/ refile with RPC HOP grant program. By Mr. White seconded by Mr. Tombarello.

Mr. Daley letter:

Mr. White read a letter into the record at the request of Resident Fred Daley:

March 18, 2024

*Mr. John White, Chairman
Sandown Planning Board
Town of Sandown
320 Main Street
Sandown, NH 038873*

Dear Mr. White,

Unfortunately, I will not be able to attend the board's meeting tomorrow night. Instead, I respectfully ask that you read this letter to the board to express my concerns and that it be entered as part of the meeting minutes.

My concern regards the board's handling of meeting minutes. Over the years since the Petition Warrant Article to send written information to residents was ignored, I have reviewed Planning Board minutes to see if the recent wetland ordinance would come back to the table. The review was just focused on the term wetlands.

Last year in 2023, I was remiss in my review by not reviewing the January to March minutes. My review from April to October did not find any reference to the wetland ordinance amendment. There were no minutes online for November to review. On December 5th, I received a phone call informing me of a public meeting on December 19th to discuss Zoning Amendment 1.

Surprised, I went back over the 2023 minutes this time including January to March. I learned the issue was raised as an information item from the Conservation Commission expressing their hope to work on an amendment, a workshop would be held later and Planning Board members were encouraged to attend any Conservation Commission meetings when speakers would be present.

As such, even if I had read the January to March minutes and the remaining ones until October the last one available online, I still would not have known about 2 formal combined meetings of members of the Planning Board and Conservation Commission held on the issue. No minutes from April to October referenced anything, not who attended nor updates for the other Planning Board members. If not for the phone call, I may have missed the public hearing on December 19th.

The expectation is that residents need to keep themselves informed on town matters. The most practical way to do that is to review meeting minutes. Therefore, in my opinion, it is essential that an accurate record be maintained.

My earlier comments raise issue with accuracy of minutes and unfortunately, I have a concern with the accuracy of the December 19th minutes. Line 387 includes the word "ratified". At the

January 2nd meeting, with some resistance, I clarified that I did not use the word ratified but rather the word “ignored”. I was even contacted after the meeting to confirm my correction which I did. The correction is not yet reflected in the public record. On January 16, 2024 the December 19, 2023 and January 2, 2024 minutes were approved as amended. However, there is no reference to what was amended.

The December 19th minutes online still include the word ratified and not ignored. The minutes of January 2nd do not reflect the correction. So, the accuracy of the record is in question. Add to this that the minutes of January, August and October 2023 were not reviewed at all, also questions the accuracy of the record.

March 18, 2024

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Another issue I would raise is the lack of information in the minutes. One example is the December 19th minutes. On line 320 I asked a question to explain the differences between the now called “critical wetlands” and the previous Tier Level 1-4 wetlands. The answer to the question was that Tier Level 1-3 wetlands were now identified as critical. This answer was not stated in the minutes.

Why is this important? When reviewing Planning Board minutes there are no references to the issue. When I read in December the October 12th Conservation Commission/Planning Board minutes posted on the commission’s webpage, it states on line 67 that only Tier 1 wetlands would be subject to a 100-foot buffer. Based on that, because I abut a Tier 2 wetland, I would not be subject to the 100 – foot buffer. However, the correct answer is Tier 2 would also be subject to the 100-foot requirement and that would have a major impact to my property. Accuracy and detail are important not only to help residents understand the issues and the impacts on them, but also to provide a clear and accurate record to rely on in the event the town faces legal actions.

Keeping a written record is a difficult task. One thing that I feel may make it more difficult is the apparent practice to table minutes to a future meeting and in some cases the minutes were not reviewed at all. I realize that at times minutes cannot be reviewed because of a lack of a quorum and the review is postponed. Also, there are times when the present quorum does not include individuals who participated in the meeting be reviewed due to the unfortunate need to use alternates to achieve a quorum. Otherwise, the minutes should be reviewed and posted as approved. One suggestion I would make to expedite the process would be for members to review the minutes before the meeting and then at the meeting point out any changes that may be needed. A member who cannot be present at the up-coming meeting could send their comments beforehand to the Chairman.

In my opinion, one of the most important tasks to complete each meeting is the setting of the public record. The length of the minutes, the number of agenda items or that people may be waiting to address another issue do not take precedent. I would also point out the Planning Board’s By-Laws stipulate the second item of the agenda is the approval of minutes. Frankly, the Planning Board should follow its rules as a regulatory board.

To conclude, keeping an accurate, detailed set of minutes is difficult. Fortunately, today through the Cable Committee the tools to record the meetings are available. As the saying goes, a picture is worth a thousand words. Although, it is my understanding that Town’s practice is to over write tapes once minutes have been posted. I would advocate from a risk management perspective that those tapes be kept until the statute of limitation on the matters covered by those minutes has

376 *passed. The tapes would be a far better defense of the issue than written minutes and today's*
377 *technology allows us to store this data in a very small amount of space at a very low cost.*

378
379 *Thank you for your time and attention to this matter. If you have any questions or concerns,*
380 *please contact me.*

381
382 *Respectfully,*

383
384 *Fred T. Daley*
385 *16 Rangeway Avenue*

386
387 Board Members discussed their agreements and disagreements regarding the
388 letter and overall recording practices. All involved agreed to work on
389 improvement.

390
391 **Approval - Contiguous Lot/Voluntary Merger – 76/78 Hampstead Rd.**

392 Mr. Keach explained the merger and its reasoning for tax purposes.

393 Mr. Tombarello moved to approve the merger. Mr. Grivas seconded the
394 motion. Vote 4-0-0 Mr. White signed the document.

395
396 **Board to review dismissal without prejudice policy.**

397 The Board and Engineer reviewed, discussed and table the policy
398 to be further reviewed at another date.

399
400 **Review of Minutes:**

401 **2/20 accepted as written**

402 **1/16 minutes accepted as amended.**

403
404 **Election of Officers**

405 Mr. Tombarello nominated Mr. White to remain as Chairman and Mr.

406 Brown to remain as Vice Chairman. Mr. Grivas seconded the nomination.

407 Vote 3-0-1

408
409 Mr. Tombarello nominated Mr. Devine as Secretary. Mr. White seconded
410 the nomination.

411
412 Mr. Grivas made a motion to appoint Mr. Martin to open position on the
413 Board until 2025. Mr. Tombarello seconded the motion. Vote 4-0-0

414
415 Mr. Perkins to post another opening on Board to the public.

416

417 **Motion**
418 **Approval of mylar signature for Vantage Point pending change from**
419 **Lantern Lane to Lantern Drive. By Mr. Tombarello. Seconded by Mr.**
420 **White. Vote 4-0-0**

421

422

423 **MOTION**

424 Mr. Grivas made a motion to adjourn. Mr. Tombarello seconded the motion.
425 All in favor 4-0-0 motion passed.

426

427

428 Respectfully Submitted,

429

430 Thomas C. Perkins