

**TOWN OF CHESTERFIELD, NH
PLANNING BOARD
MINUTES**

MONDAY, FEBRUARY 22, 2010

Present: Susan Lawson-Kelleher (Chair), Jon McKeon (Selectmen Representative), Helga Frohn, Brad Chesley and Steven Jacobson (newly appointed member)

Absent: Stephen Pro, Bob Del Sesto

Call to Order

Lawson-Kelleher called the meeting to order at 7:40 PM.

Review of the Minutes

February 1, 2010 - Frohn motioned to accept the minutes as amended. Chesley seconded. The motion carried unanimously.

Appointments

- ❖ **Browne Limited Partnership** - Continuation of the public hearing for a proposed 9-lot Major Subdivision of approximately 111.8 acres located on Atherton Hill Road (Map 10, Lot A1) within the Residential and Rural/ Agricultural zones.

Lawson –Kelleher opened the meeting by introducing the board and explaining how the meeting would flow. The Applicant would be given the opportunity to summarize the application, Holden would discuss his findings and then the floor would be open for comments and/or questions.

Robert Dietel (Attorney for Applicant) brought updated plans for the board and gave an overview of the project explaining that the proposed subdivision is located on 110 acres and would divide this land into 9 lots. Each lot has road frontage and the acres for each lot range from approximately 3 acres to 27 acres. He explained that there was a traffic study done, a wetlands impact study done and the proposal was reviewed by Holden. He indicated that he was happy to answer any questions.

Peter Holden spoke of the review conducted by Holden. Holden reviewed the plan for reasonableness and compliance with Zoning Regulations as well as Land Development Regulations. The result was an eight (8) page report. He had a few initial comments to include; spelling mistakes, places where the labeling of the monuments was not clear, the rite-of-way indicates a width ranging from 55' to 67', however the road is not 50 feet wide in some places, none of the setbacks are dimensioned, and the Topographical Map is missing contour elevations. He also mentioned that it may be beneficial to move two (2) driveways (Lot 8 and Lot 9) to improve sight vision. Holden did their own

drainage calculations on the property and actually came up with less than the applicant. He stated that this is a big piece of property and that it drains away from the road. Holden also looked into the drainage as it exits the property and agrees with the applicant's findings. In reviewing the information on the wells and the effect drilling more wells would have on the existing wells in the area, Holden agreed with the applicant that the drilling of wells for the proposed subdivision would not adversely affect the neighbors. He spoke of the sphere of influence being small when drilling in rock. Holden talked about the traffic study and noted that the proposed subdivision would not generate a lot of additional traffic. They looked at access to Route 9 both to Keene and Brattleboro and noted that some of the roads are steep, however there are other routes that can be followed if the roads are slippery, and steep roads are a concern of the town, not the applicant of the subdivision. Holden mentioned removing some material from the corner as one idea to improve some sight distance on the narrow road. The applicant is proposing sprinklers in buildings erected on the lots, but Holden believes that additional fire protection is needed. Holden noted that there were suggestions of a fire pond and cisterns. They recommend a cistern as the best solution. Fire ponds are the responsibility of the fire department to maintain and sometimes the pond fills with other things and clogs. A cistern, once installed is filled and is then ready for use benefiting the entire neighborhood. Holden spoke about the applicants review by the Natural Heritage Bureau, noting that the Bureau acknowledges reports of rare wildlife, plan and/or natural community in the vicinity of this project, but the project as proposed will not impact the item reported.

Lawson-Kelleher questioned the amount of gallons recommended for a cistern in this subdivision. Holden informed the board that 30,000 is the standard, also noting that any durable vessel is acceptable. Frohn inquired if the 30,000 gallons would cover the entire subdivision or is more than one required. Holden stated that 30,000 gallons of water was a lot and would be helpful to anyone in the neighborhood, not just the subdivision lots. It provides the fire department with quick access to water. Cliff Emery mentioned that Chet Greenwood had indicated that in 2012 it will be a national requirement that any new home will be required to have a 700 gallon sprinkler system installed. Chesley asked if having sprinklers installed in the homes was mostly for evacuation and not really intended to extinguish a fire. Holden stated that a sprinkler system may extinguish a small fire, but the main intent is to limit the spread of the fire while the fire department is responding.

McKeon wanted to note that he is concerned with the suggestion of removing the corner. That is one of the few areas where there is drainage to the road, and the knob stops the drainage. Lawson-Kelleher directed this question to Bart Bevis (Chesterfield Road Agent). Bevis stated that although he was not against more visibility, there is a "pond" directly behind the knob which is always wet and he is concerned with the water on the hill and how that will be dealt with. Holden indicated that the intent was to level the spot, not completely remove it, and he was not thinking it would create a swale. Bevis noted that there would have to be a ditch line tilt to the inside and the Town would need to know the elevations.

John Perkowski of Spofford spoke of his concern with the road and spring thaw, mentioning that the town has a limit of 6 tons on dirt roads. He noted that a fire truck would have no chance of getting through during spring thaw, and wanted to know if the Town would be on the hook for widening and paving the road or if the applicant would be responsible. Steve Buckley (Spofford Fire Chief) said that there are a lot of dirt roads and sometimes a truck gets lost in the mud. Bevis mentioned that the fire departments have vehicles specially made for the dirt roads in this area during this time of year.

These vehicles can go anywhere a four-wheel drive vehicle can go. Bevis also wanted to mention that in his opinion the project will help the drainage on the road, it will assist in keeping the water from collecting on the side of the road, which is one of the biggest problems.

Dietel wanted to address some of the issues brought up and stated that the issues with the fire truck and spring thaw exists now, and is not something that would be caused by the subdivision. He also wanted to mention that the initial proposal included sprinklers in each home, and after review of the Holden report, they have changed the proposal to include a cistern. They have located a spot on lot 1.8 where it can be installed and there is room for the necessary pull off. He also stated that the applicant is willing to work with the Town in a manner that will address the drainage/erosion issues brought up due to the suggestion of a change to the knob.

Frank Victor noted that the applicant has said they will help to alleviate the problems, but have not addressed who will be paying for it. Lawson-Kelleher stated that the cistern and the creation of the pull off for the cistern would be paid for by the applicant, the knob is on their property and it may be open for discussion, but it is her feeling that it would be their responsibility, the road itself would be a shared expense between the applicant and the Town. McKeon noted that may be open for discussion.

Dietel mentioned that regarding the issue of the quality of the road, a careful traffic study was done, it was based on nine (9) homes and it states that there are no upgrades necessary to the road. Two separate studies were completed, one by the applicant and another by Holden to assess the first study. McKeon noted that the construction load had not been discussed. Dietel mentioned that all nine (9) lots are not intended to be sold at once and the construction load could be handled as it happened by a construction bond. McKeon asked if the applicant would be willing to limit the number of lots sold per year. Dietel was not willing to limit the sales. Ari Pollack (Attorney for applicant) suggested that the board was asking two questions one being – will the existing road be able to handle the additional traffic created by the nine (9) additional lots proposed. He stated that the two traffic studies indicate that the road can handle the additional traffic. The Second question he believes to be on the table is if the road will deteriorate more quickly with the addition of nine (9) homes and their construction, taking into consideration time frames etc. Pollack stated that his answer to that would be entirely the subject of impact fees. The answer may be that the community believes that there should be impact fees; however the reality is that there is such fee.

Lewis spoke of his frequent walks on Atherton Hill Road, and noted that the road is very narrow and it is a dirt road which makes it hard to walk on especially in the winter when there is traffic on the road, it is hard with the stone walls etc, he wants to know if there is a solution, or if with the additional traffic, he will have to give up walking on this road. His second comment was who hired the people to do the traffic study, noting that if you hire someone, you can pay them to say whatever you want them to say.

Lawson-Kelleher stated that was the reason Holden was hired by the board as an independent reviewer. Lewis asked if the applicant was responsible for just the ½ mile in front of the proposed development, because there is another dangerous corner on that road and he was wondering who is responsible for that corner – noting that additional houses will mean more delivery trucks and traffic on the entire road.

Lawson-Kelleher noted that could fall under impact fees, however Chesterfield does not have impact fees in our ordinances right now. The board has some latitude in saying your impact will be such, however the additional nine (9) proposed lots is probably not big enough for the board to say they are responsible for more of the road unless those suggestions had been made by the engineer.

Frank Victor stated that his understanding of the traffic study was that it was a service study of intersections, which was different from the study of the roads. He did not feel that it fully addressed the safety and condition of the road itself. He also stated that because we do not have impact fees, he believed it would be up to the board to fill the void and address the issues that could impact the town roads.

Jim Scranton (Abutter) said he has been walking around and kind of conducting his own independent survey. He has been in the area a long time and has noted that the wildlife does exist out there and he is concerned about the drainage and how changing it will affect the wildlife. He believes that more homes will deter the animals from the area and he would like to see it stay the way it is.

Pollack stated that the proposal was designed for low impact to the surrounding area. The town ordinances actually allow more impact than the applicant is proposing. The proposal includes large properties limited to one family homes and deed restrictions so that there will be no further subdivisions in the future. He mentions that nine (9) lots on 110 acres is a small amount of lots. They are not proposing a cluster as the regulations would allow, and they are not proposing any internal road, again as the regulations allow. This plan was not the only option the owner had considered, however it was the one chosen as a kind of balance between what is there now the development rights of the owner.

Rebecca Todd asked what rare wildlife or natural resources are found on this property. Lawson-Kelleher noted that the planning board is in possession of the report from the Natural Heritage bureau. Todd indicated that she was looking for what information in addition to the response from the Natural Heritage Bureau the applicant has. Has a natural resource inventory been done? What do we know in terms of wildlife on this site? Dietel stated that the applicant followed the letter of the law and completed the necessary steps to fulfill its burden in that matter. According to the state the proposed project does not pose a threat to wildlife. Todd asked if they would be willing to do a natural resource inventory. Pollock indicated that they were not willing to conduct a natural resource inventory. Pollock stated that what they did know is that they followed the standard form of investigation and there was no "hit". Sarah Cooper-Ellis asked if that meant the owner has not interest in knowing what is there beyond the "letter of the law." Chesley asked if the land was posted. Pollock indicated that he was unsure if the land is posted at this time. Lawson-Kelleher noted that nothing has been received by the board other than the report previously mentioned. She also noted that they had followed the requirements and as a board, we could not make some applicants submit more than other applicants. Pollack noted that first and foremost the applicant has followed the rules, and when it became apparent that there were questions regarding the proposal and it was suggested by the board to fund the 3rd party review the level of detail provided by the applicant they did so, and it is his belief that Holden agrees that they have fulfilled the requirements.

Bevis mentioned that there was a warrant article to make Atherton/Lincoln a scenic road and wanted to make people aware that meant that the road could not be widened, the road could be paved at any time, but scenic roads cannot be widened. Kate Foldeak noted that she was concerned because it was her belief that the curve slowed people down and did not want to change it making traffic go faster. She also inquired how the drainage calculations could be done if the lots had not been formed yet. Lawson-Kelleher asked Rob Hitchcock from SVE to field that question and he stated that nine (9) lots on 120 acres is barley an impact. Holden noted that he did look at the calculations and the increases are small. The area is very large and the drainage will

first go into the undeveloped areas before exiting the land. Jim Scranton noted that he believed the drainage went across Atherton Hill.

Tom Dustin of the Chesterfield Conservation Commission said that it was inaccurate to say that nine (9) lots would not make an impact, because it matters where the lots are located. The California Brook Project affects three of the lots proposed, drainage from the California Brook drains into lots 3, 4 and 5. Lawson-Kelleher asked if there is a certain level of change that would create impact. Dustin responded that he is not an engineer but he does believe that putting a house into a drainage area could impact resources. Brian Owens noted that the Town has committed a lot of money to the project and should be taken into consideration for the lots that may change the drainage and take away the towns ability to be part of the project.

Pat Haley (lives on Atherton Hill) stated that there are two endangered species on Atherton Hill. Jeff Scott asked if there was a cut off to how much more traffic would constitute a need for improvements. Holden explained that there are calculations and things to take into consideration. For example the number of houses and the level of service having to do with the intersections. There is a national book which provides calculations for the passage of roadways. The number was much higher than what the proposed project would generate. If the neighborhood was to continue with development, at some point the town would have to look at widening the road, but this project does not hit those numbers. Kim Roof mentioned that Holden talked about the traffic study taking into consideration how long it takes to turn out of Atherton Hill, but was there any consideration to how long it takes to turn onto the road. Holden responded that all movements were looked at, also noting that Route 9 is a state highway and there is nothing that can be done by the Chesterfield Planning Board. Todd spoke of the traffic study as only being directed to the level of service, how many additional minutes delay. That is not the issue for the residents; the issue is the safety of the road, and in particular, three areas being particularly unsafe. Atherton Hill and Route 9, Cady Road and Route 9 and the sharp corner at Atherton Hill and Lincoln. She would like to know if Mr. Holden can guarantee that there will be no increase in the number or severity of accidents on these roads. Holden stated that he could not guarantee in there would not be a change.

Frank Victor wanted to mention that the three lots which are critical to the California Brook Project is where there is a clear lack of data on the proposal from the applicant. He does not believe that Holden could make a clear review of this as there was no data to review. He also was wondering about the proposal to remove the knoll would entail. Lawson-Kelleher would like to know the general feeling about it from the public and how they feel about it. Victor asked if the knoll was removed how it would be removed, he is concerned about blasting and the wells in the area and the house which sits across from the knoll. Terry wanted to know what happens if this blast affects the house across the street, who is responsible. Bevis stated that for blasting, a minimal amount is used, and there are regulations required – you have to be a certain number of feet away. Cliff Emery inquired if he was allowed to ask who Browne Limited was, do they have other developments, is there someplace we can see anything they have done in the past? Pollack noted that although they are not obligated to answer such questions, he would tell us that it is a family that inherited land from a relative. This land has been in the family for fifty plus years. It has not been developed previously because they were unsure of what they wanted to do with it. It is the view of the applicant that this the proposal with the most balance. It was an attempt at a compromise.

Dan from Spofford commented that he would like the knob removed. With more traffic, the corner will be more dangerous than it is currently. He also asked about the board

guaranteeing that there will be no more subdivisions. Pollack stated that the applicant has agreed to include deed restrictions against further subdivision, and each lot will contain only one single family home. It was asked if this could be changed in the future. Pollock stated that the town would have to give permission for that to be changed. Lawson-Kelleher noted that she talked to LGC about that issue and they indicated that it could potentially be changed, however it is not an easy task.

Todd asked that the discussion be moved to water quantity. She noted that there are already underperforming wells in the area. Can Holden assure us that these nine (9) lots will have sufficient water? Holden noted that because of the unpredictability of drilling holes in rock, I suppose you could drill a hole and not come up with water, however the likelihood of drilling and not hitting one of the veins is not good. Todd asked if he could assure the neighbors that their wells will not be affected. Holden responded that because of the distances that is being discussed and the fact that in order for it to affect another well, the new well would have to be in the same vein, it is very unlikely that the new wells will affect the existing. Todd mentioned that in the past a development went in and the wells in the neighborhood were adversely affected.

Louis Rath noted that she had to dig a new well and she is concerned because of the great expense. She noted that she would put the proposal back into perspective, nine (9) additional lots almost doubles the population in this area on a dirt road. She believes that according to police reports the road is already unsafe and the water and safety of the roads are big concerns.

Pat Grace said that she believes that there are many people concerned over this road, and if this proposal is approved she fears the road will never be the same.

Victor noted that there have been attempts made to address their concerns and they have not gotten responses from the applicant. He feels like they have not genuinely addressed the concerns and many don't feel good about it.

Lawson-Kelleher noted that the board is unable to vote their personal feelings. The board is constrained by State law and our town regulations. It is the job of the board to weigh the rights of the landowners against the rights of the abutters.

Todd asked what it would take to do a natural inventory. Holden said it takes more than a year as it is necessary to do it through each season.

Louis Rath stated that it was her understanding that it was the job of the Planning Board to protect the town and its residents. She would like the board to consider that the residents of the road are experts, as nobody knows the road as well as they do.

Pat Grace wanted the board to understand what a costly issue the well concerns are. There is no guarantee that their wells will not be affected.

Todd informed the board that she would like additional time to respond to Holdens report in writing and submit more paperwork.

The board discussed what would happen now. There was talk of leaving the hearing open and continuing it as well as discussion to close the public hearing. Frohn made a motion to close the public hearing with the stipulation that if the abutters come up with significant changes within 4 weeks, the board will reopen. There was no second.

Chesley motioned that the board close the public hearing with the stipulation that if the abutters have any more information, it be submitted within one week. There was no second. Frohn motioned to close the public hearing with the stipulation that if there is significant information provided to the board regarding the hydrological study, traffic study or wildlife inventory within 3 weeks, the board will reopen. Chesley seconded. (Yes: Frohn and Chesley, No: McKeon, Lawson-Kelleher, Jacobson) motion does not pass.

McKeon motioned to continue the hearing to March 15, 2010 and hold at the Town Hall. Jacobson seconded. Motion passed by majority. (Yes: McKeon, Lawson-Kelleher, Jacobson No: Frohn, Chesley)
Holden took a copy of the updated plans to review.

Items for Discussion

- **Captial Improvement Plan** -*The planning board received a copy of the CIP of the school board from VanHoughten. McKeon noted that the CIP needs to be done every year. The board would like the CIP on the April agenda.*

- **Cersosimo** – Board discussion

McKeon and Lawson-Kelleher had a meeting on Wednesday with Mary Pinkham-Langer(State of NH Gravel Tax Appraiser) regarding Cersosimo. Lawson-Kelleher noted that Pinkham-Langer stated that Cersosimo needs to prove that they are grandfathered. Any change to the original drawing will cause them to need to come back with a revised site plan. The bottom line is that they do need to come back to the board for a revised site plan application. Cersosimo has stated that they are not making substantial changes and therefore they do not need to come to the Planning Board. Pinkham-Langer was clear that they do need to come back. Frohn motioned that Cersosimo needs to come to the Chesterfield Planning Board with amended site plan application in order to be in compliance. Jacobson seconded. The motion passed unanimously. Lawson-Kelleher will give them a call, and it will be followed up with a letter.

Items for Information

Items for Signature

Adjournment

Frohn motioned to adjourn at 11:01 PM, Chesley seconded the motion, which carried.

Respectfully Submitted by:

Patricia Lachenal
Planning Board Secretary

Approved by:

Susan Lawson-Kelleher, Chairman

Date