

TOWN OF TUFTONBORO PLANNING BOARD

June 16, 2022

7:00 PM

Town House, 247 Middle Road

MINUTES

Planning Board Members Attended: Gary Qua, Carol Bush, Kate Nesbit, Tony Triolo, George Maidhof

Planning Board Members Absent: Laureen Hadley

Staff: Susan Burnside

Public: Kelly Lauersen and Cody Owen of 24 Nelson Rd. Moultonboro (Owner/manager of Farm Island Acres, LLC); Paul Kiah and Daughter Kate Porelli, abutter to Pine Cone Café; Randy Owen, Felton Varney, Mt. Shadows, Tuftonboro; Alicia and George Gettmen, Mt. Shadows, Tuftonboro; Douglas Plude, Abutter to Pine Cone Café; Christine and Glenn Cordelli, owners for Boundary Line Adjustment; Francis and Ellen Laase of 5 Bay Rd. Mirror Lake, NH.

7:00 PM Call to Order

- I. **Public Comment** -Randy Owen mentioned that when the Zoning Board of Appeals makes a decision, the applicant has 30 days to appeal the decision.

II. Approval of Minutes

- a) Minutes from May 19, 2022 Planning Board Meeting were approved with minor edits.

III. Public Hearings

- a) Farm Island Subdivision Extension Request - Attorney Brett Allard from Shaughnessy and Raiche representing Cody Owen for the Farm Island Acres, LLC extension request presented the history of Planning Board reviews and approvals and the reason for the current request for extension.

Mr. Allard described the work completed to date in compliance with the Planning Board's Notice of Decision and the work needed to complete all conditions of approval. All conditions have been met with the exception of the utility line construction, which is under the control of the New Hampshire Electric Cooperative (NHEC). The NHEC is currently completing design and engineering plans to install the utility line to the lots on Farm Island, but the final plans are not yet complete and construction has not started. Attorney Allard made the request for a year extension (current expiration is July 20, 2022 – requested extension to July 20, 2023) to complete the utility work. Attorney Allard and Mr. Cody Owen stated that the NHEC expects to start construction in October 2022. A final maintenance agreement with the Town of Tuftonboro absolving the Town from liability related to the electric utility line is in process awaiting completion of the final design plans.

Randy Owen stated that the NHEC also sees the installation of the Farm Island utility line as an opportunity to extend the electric to Chase Island and to adjacent shorelands.

Francis Laase of 5 Bay Rd. Mirror Lake, NH objected to the extension request as 350 people objected to the subdivision plan during the initial public hearings. Additionally, Mr. Laase stated that there is no electricity or water to the lots on Farm Island and the parking issues have not been resolved, so an extension request is not warranted.

Gary Qua reiterated that the case went to the NH Supreme Court, which upheld the Town's approval of the Farm Island Acres, LLC Subdivision and the decisions of the Planning Board. In response to Mr. Laase's comment about the lack of power to the island, Gary stated that the extension request is to give NHEC the time to design and

construct the power line, which is why there is no electricity to the island at this time. Gary stated that this is a reasonable request and within the conditions of approval.

With regard to parking – parking does not become a concern until lots are sold and dwellings are constructed, which is a zoning concern unrelated to a subdivision review at this time. Randy Owen stated that if lots are not sold and houses are not built, parking is not an issue for any unimproved lots and only becomes a concern after a building permit is issued by the Code Officer. Bob Murray stated that appeals to Planning Board decisions can be made; the objector can file an appeal with the Zoning Board.

Gary asked planning board members if there were any other issues to discuss and if not, asked for a motion to approve the extension request. Tony made the motion to approve the extension request and George seconded. Carol recused since she was involved in earlier sales related to Farm Island. The motion passed by the other Planning Board members to approve the extension request.

b) Boundary Line Adjustment – Williams and Cordelli 157 Ledge Hill Road and 11 Winners Circle Farm Road

Eric Roseen, surveyor from Horizons Engineering, representing Williams and Cordelli, presented the plans to adjust the boundary lines for the applicants' respective lots. This is a simple adjustment to rectify utility easements that were previously agreed upon. The lots were created by BAW Realty (Bruce Williams) in 1996. There is an underground utility easement that serves the Cordelli lot which is land locked. The swap in acreage is minimal – approximately 4/10 of an acre.

Eric read the waiver requests as follows:

- 3.3.1A: No changes – no objections from the Board.
- 3.3.1B: No changes - no objections from the Board
- 3.3.1G: No changes- no objections from the Board
- 3.3.1H: No changes – No objections from the Board

Tony made the motion to approve the waiver requests. Carol seconded. The motion passed

Gary asked for a motion to open the public meeting. Tony so motioned and Kate seconded. The motion passed.

Glenn Cordelli, owner of one of the lots, noted that the underground utility goes underneath the Cordelli driveway for which they have a right of way to Winners Circle Farm Road. Glenn asked if in the future, would they be able to construct a driveway through that portion of the lot adjustment. The Board noted that this is a question for the utility company and the Road Agent. Glenn noted that it may be considered in the future, but there is no intent to re-locate the driveway at this time.

Gary asked for a motion to close the public hearing. Tony so motioned and Carol seconded. All were in favor. The motion passed.

Gary asked for a motion to accept the jurisdiction of the application. Tony so motioned and Carol seconded. All were in favor. The motion passed.

Gary reviewed the Conditions for Approval as follows:

1. Submission of a Certificate of Monumentation
2. Submission of a Mylar plat

Gary asked for a motion to approve the above Boundary Line Adjustment with the above Conditions of Approval. Tony so motioned and Carol seconded. All were in favor and the motion passed.

c) Pine Cone Café – Site Plan Review

John Rossi, architect for Pine Cone Café, presented the Site Plans. Gary read the letter from Patti Edson describing the plans for the outdoor seating area of the restaurant, which will accommodate 22 seats. Gary also read the letter from the new owner of the property (Mr. Robert Deeb) giving Patti Edson permission to make the planned changes

to include outdoor seating for 22 people. There are no planned changes to the number of seats currently licensed for the restaurant (75).

John summarized the plans stating that the only changes are to add seasonal (May 1 to October 31) outdoor seating to a blacktopped area that served as parking space. The area will be surrounded by modular fencing and planters. There will be a propane fire pit and LED lighting that is well within the Town's lumen requirements. The area for the outdoor seating does not interfere with traffic flow and temporary parking will be on the grassy area across from the outdoor seating area. The grassy area is over a septic system that was approved by the State of New Hampshire for parking and blacktopping in 1986. There are no issues with parking cars in this space. All furniture, fencing, and other appurtenances will be placed on existing blacktop and removed and stored at the end of the season. Chief Adam Thompson of the Tuftonboro Fire Department has visited the site and approved the plans for the outdoor seating.

Tony asked about the inside area that was formerly the Store. This area will now be used for storage only. There are no plans to re-open the Store.

Carol asked about outside music during hours of operation. Patti clearly stated that there would be no music outside the building.

John Rossi described the planned lighting, which will be low wattage LED Bistro lights that will emit a total of 1700 lumens (Town zoning limits lighting to 1800 lumens per appliance), which is below the Town requirements. There will not be any directed flood lights.

Gary asked about the hours of operation and proposed that the hours be restricted to 10:00 AM to 9:00 PM. The principals agreed with this plan. Kate asked if a tent would be placed over the seating area and John responded that there are no such plans at this time. In the event of rain, diners would be relocated to tables inside as there is sufficient seating capacity to accommodate the diners.

John read a listing of waiver requests as follows:

- 4.3.2.a, b, c, d, e, h, j, k, l, m: No objections from the Board
- 4.3.4: No objections from the Board.
- 4.3.4: No objections from the Board.
- 5.2.c: No objections from the Board.
- 5.3.a, b: No objections from the Board.
- 5.4: No objections from the Board.
- 5.5: No objections from the Board.
- 5.9, a, b, c, d: No objections from the Board

Bob asked if there would be any steps taken to prevent excessive mud in the grassy parking area. John responded that the current grassy area is very dense and should not present a problem. If mud becomes an issue in the future, they may consider Astroturf or a geomat.

Gary asked for a motion to open the public hearing. Tony so motioned and George seconded. All were in favor and the motion passed.

Doug Plude, an abutter asked about the hours of operation. Patti stated that the restaurant would be open for lunch from 11:30 AM to 3:00 PM. Dinner would be served between 3:30 PM and 9:00 PM. Gary suggested that the hours be stated as 10:00 AM to 9:00 PM. Doug also asked if the name would remain the same and Patti confirmed that the restaurant would continue to be called Pine Cone Café.

There were no further public comments. Gary asked for a motion to close the public hearing. Carol so motioned and Tony seconded. All were in favor and the motion passed.

Gary asked for a motion to accept jurisdiction of the application. Carol so motioned and Tony seconded. All were in favor and the motion passed.

Gary read the following Conditions of Approval:

1. Following completion of the changes, Chief Adam Thompson would conduct a site visit and give final approval.
2. Patti would obtain a building permit from the Code Office, Jack Parsons.
3. The season for outdoor seating would be May 1 – October 31, weather permitting. Hours of operation would be from 10:00 AM to 9:00 PM.

Gary asked for a motion to approve the application with the above Conditions of Approval. Tony so motioned and Carol seconded. All were in favor and the motion passed.

d) Fenton Varney – Preliminary Consultation – Subdivision Review – Mt. Shadows

Gary read a description of Preliminary Consultations from the Subdivision Regulations, which is a non-binding discussion of a proposed Subdivision Review. Fenton Varney presented his plans for dividing the remaining land area in the Mountain Shadows subdivision into 10 lots. The last Subdivision approval was in 2009. The total acreage under the new plan is approximately 25.2 acres minus existing open space. Using a cluster development approach as done previously, the new subdivision plans would encompass approximately 19.4 buildable acres with 6.8 acres of open space.

Per Tuftonboro Subdivision Regulations (2.2.1), which require the Planning Board to ensure applicants are aware of any recommendations described in the Town Master Plan (2022) pertinent to this proposed subdivision, Gary discussed the Master Plan 2022. Gary noted that although the Master Plan is not legally enforceable, the consensus of town residents desire to preserve the current rural nature of the town with respect to future development. As stated in the Master Plan, future development will occur mainly in the “town” village areas. Gary noted that Mr. Varney’s proposal limits future development to an existing subdivision, which is consistent with the Master Plan and the wishes of town residents. Gary also noted that the Master Plan mentions that in the future the Town may vote to require any subdivision of 6 lots or more must come before the Planning Board for approval.

The Board agreed that this subdivision plan appears acceptable. The Planning Board will review the plans when Mr. Varney formally submits a complete application to the Planning Board. Mr. Varney expects the plans and submission to be ready by August or September.

IV. Discussion Items

a) Fee schedule and Newspaper Posting of Public Notices

The Board again discussed the \$100 fee for posting public notices and the issue of refunding any payment by applicants less that the actual cost of the public notice. The Board will seek further consultation from NH Municipal Legal Counsel and revise the fees as needed. The Board will also consult with NH Municipal Legal whether a Granite State News posting less than 10 days before a scheduled public hearing was legally acceptable if other public notices were posted more than 10 days before the public hearing. Discussion of this issue will continue at the July 7, 2022 Planning Board Workshop meeting.

b) Part Time Planner

Gary presented information about Carol Ogilvie and her potential role as a part time, on call planner for the Town. The Board agreed with Gary’s suggestion that a part time planner would benefit the Town. Bob asked for position letter and more information that he can present to the Selectmen. Bob also noted that the position would have to be posted publicly as required by law.

V. Public Comment – no further comment from the public as all public attendees left the meeting.

VI. Adjournment – the meeting was adjourned at 9:20 PM.

Respectfully submitted by Susan Burnside