

TOWN OF JAFFREY
Jaffrey, New Hampshire
PLANNING BOARD
Meeting Minutes
December 13, 2011

Present: Chairman Merrell, Members Deschenes, Despres, Doane, Kresge, Grodin, McCarthy, Moore and Selectmen's Representative MacIsaac

Absent:

Staff: Recording Secretary Lemire, JoAnne Carr, Director of Planning and Economic Development, Building Inspector Baron, Fire Chief Chamberlain

MEETING MINUTES APPROVAL

On a motion by Doane, seconded by Kresge, minutes of the November 8, 2011 were approved as submitted. (7-0)

On a motion by McCarthy, seconded by MacIsaac, minutes of the November 22, 2011 were approved as submitted. (6-0)

PRELIMINARY HEARING

Carolyn Garretson, Bill Graf, Nora Bryant – Jaffrey Conservation Commission

Ms. Garretson stated that the National Resources Inventory (NRI) was completed in 2009 and the ConComm is requesting that the Planning Board include the document as part of the Master Plan. Chairman Merrell reminded the board that the Master Plan called for doing an inventory.

On a motion by MacIsaac, seconded by Doane the board voted to include the National Resources Inventory in the Master Plan. (7-0)

Denise Mazzola and Amy Wiley – 53 Chadwick Rd.

Members Grodin and Despres recused themselves.

Ms. Mazzola has owned her own business since 2010 but has worked in the dog training business for over 20 years. She has a Cheshire television show, a call in radio show and she does in-home boarding/training at her residence in Keene, NH. She currently holds training classes at the Recreation Dept. in Rindge.

Ms. Mazzola is hoping to purchase the Chadwick Rd. property which consists of two parcels in Jaffrey, one of which has a home and two land only parcels in Rindge. It is located in the rural district and the total number of acres is 107. One of the appealing features of the property, given the nature of her business, is that there are nearly no neighbors. Purchasing this property will allow her to perform all of her services at one site with room for expansion in addition to residing there which, by the Zoning Ordinance, is a requirement for this type of activity. The construction of a training facility is planned for the 3.5 acre land only parcel in Jaffrey and will host the training classes. With the large amount of acreage they are also proposing to create hiking trails that would be open to the public for a fee. All of the remaining land will stay in current use. Architectural renderings were displayed for the board showing the proposed training center in its entirety at 16,000 square feet.

Member Kresge asked if Chadwick Road was a class VI road. It was responded that it is a class V road turning to a class VI just after the property in question.

Member Doane asked if there would be outside kennels. Ms. Mazzola replied no stating that her background is in educating the dogs and the owners not warehousing them.

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Member Deschenes asked how much traffic is anticipated. Ms. Mazzola replied that she has not estimated that yet however she hopes to provide transportation so if they pick up ten dogs it is only one vehicle going in and out.

Member Kresge asked if there was parking for thirty. Mr. Bill Harper of West Rindge Builders is involved with the project and stated that one class will follow the other so there won't be thirty vehicles there all the time.

Selectmen's Representative MacIsaac asked if anyone will live there. Ms. Mazzola stated that they will live there full time. On the property is a sugar shack, a house, a two car garage and an apartment over the garage.

Member Kresge anticipates the road as being an issue when it comes to site plan, specifically the condition of the road and will any improvements need to be made. Chairman Merrell suggested to Ms. Mazzola that she do some research on the amount of traffic and be prepared with answers.

Selectmen's Representative MacIsaac asked if the training facility will have a septic system. Ms. Mazzola replied that it would; there will still be people and employees in that building.

Reviewing the proposed layout Member Moore asked what the limit was on the number of dogs to be boarded. Ms. Mazzola stated that she has allocated 672 square feet of space for thirty individual rooms for dogs and someone with two dogs can share a room. Member Moore asked if this was only for dogs. Ms. Mazzola confirmed that it was. The business name is Everything Dogs.

Selectmen's Representative MacIsaac asked if this was a permitted use. JoAnne Carr, Director of Planning stated that it is an allowed use in the rural district provided that the owner resides on the property. Selectmen's Representative MacIsaac referred to Section IV, 4.3 and asked if a special exception was required.

4.3 The following uses are permitted in specific zoning districts (as noted) if authorized by the Board of Adjustment as Special Exceptions in each specific case:

4.3.4 Commercial kennel, animal or veterinary hospital (in industrial and rural districts). However, in the rural district, such uses must be located on the same premises as the owner/operator's residence.

Ms. Carr reviewed the section and agreed that a special exception is required. Approval from the ZBA will be necessary before coming to the Planning Board for site plan.

CALL TO ORDER

Chairman Merrell called the public hearing to order at 7:30 p.m. Notice of public hearing PB 11-16 was posted in the Town Office building, the Library; copies were sent to the Planning Board, the Conservation Commission, and the Board of Selectmen.

APPLICATION ACCEPTANCE

1. PB 11-16 Rob Cummings, Lacy Rd., Map 239/ Lot 31.2, Zone: Residential A / General Business

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Site Plan - The applicant proposes to construct a multi-family apartment house with five units.

Chairman Merrell asked if the application was complete. The Building Inspector stated that it was. Ms. Carr, Director of Planning asked if the comments from the Fire Dept. and the DPW were read as they may indicate a deficiency. Chairman Merrell felt they were issues that could be discussed during the public hearing.

On a motion by Grodin, seconded by Deschenes the board accepted the application. (7-0)

On a motion by Doane, seconded by Kresge the board decided that the project is not one of regional impact. (7-0)

PUBLIC HEARING – NEW

1. PB 11-16 Rob Cummings, Lacy Rd., Map 239/ Lot 31.2, Zone: Residential A / General Business

Site Plan - The applicant proposes to construct a multi-family apartment house with five units.

Presentation: Thomas Harvey

Appearance:

Mr. Cummings submitted an e-mail to the board explaining that he was unexpectedly delayed out of town. Mr. Thomas Harvey will present the application on his behalf.

Mr. Harvey stated that he does not have a copy of the application that was submitted however he just received a copy of the letter from the Fire Department addressing his concerns. He will pass the letter along to Mr. Cummings.

Chairman Merrell stated that there are some checklist items that need to be resolved.

Check list item number 8, public utilities, needs to be shown on the plan. Electric is shown but water service appears to be from River St; it is not clear.

The DPW has expressed a necessity to show two water lines; one for domestic and one for sprinkler use. Mr. Harvey asked if an oversized line would be acceptable. Chairman Merrell stated that he would have to discuss that with the DPW. Selectmen's Representative MacIsaac asked Fire Chief Chamberlain if the building had to be sprinkled. The Chief replied that he has not seen a set of building plans as yet but as an apartment building it would need to be sprinkled.

Member Kresge asked to discuss the shift of the access from Route 202 to Lacy Rd. Mr. Harvey stated that the change was mainly due to the extreme cost. The amount of site work that would need to be done is not practical and the grade at the access area would create a serious access problem. Chairman Merrell surmised that obtaining a permit for Route 202 from the DOT may not be easy. Building Inspector Baron replied that the DOT had issued a permit to Mr. Cummings but because work did not commence within one year of the permit being issued it lapsed. During his conversation with NHDOT they indicated that there would be no problem with issuing a new permit if he chose to. The Inspector agreed however with Mr. Harvey that there is a serious access problem due to the slope and it would take an extreme amount of machine work.

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Member Despres asked Mr. Harvey if the Lacy Rd. access would be the same access that he uses for his residence. Mr. Harvey replied that it would not; there is a separate driveway next to the Koski property. Chairman Merrell pointed out as an example that the plan does not identify the abutters. Member Moore questioned whether or not the application was complete. JoAnne Carr, Director of Planning apologized to the board and explained that the town was trying to make right by Mr. Cummings because a building permit had been issued prior to requiring a site plan application. In recognition of the error on the part of the town we were trying to help Mr. Cummings out by scheduling his application as quickly as possible. Ms. Carr stated that all of the information is here albeit on multiple sheets. Mr. Cummings is aware that this information will need to be combined as part of the as-built project and it was recommended that it be a condition of approval within six months of construction if the board is in favor of the project. Ms. Carr demonstrated to the board that all of the required information was present.

Member Moore, speaking from personal experience, asked if there was an engineered drawing of the roadway entrance. Ms. Carr stated that he had his grading plan; an engineered entrance for the driveway is beyond the town's driveway regulations. It's a private drive, not a road.

Member Doane suggested continuing the hearing to January as the application did not seem complete. Mr. Harvey understands that the paperwork was not submitted in the usual fashion and help from the board to work through the problem would be appreciated. Chairman Merrell commented that perhaps Mr. Cummings could have been better prepared. Mr. Harvey reiterated to the board that Mr. Cummings did have a permit in hand to begin working when he was informed that he would have to stop and come in for site plan.

Chairman Merrell asked if Mr. Cummings had an easement for the neighbor's well of which the radius encroached onto his property. Mr. Harvey was unsure.

Member Moore asked if the units were going to be condominiums as stated in an earlier letter from Mr. Cummings. Chairman Merrell replied that this is a new application and the five units will be apartments.

Selectmen's Representative MacIsaac mentioned the elevation drawing and that it only shows three units. Mr. Harvey explained that there will be two units on the lower back side of the building. Member Despres asked if there was any plan for garages. Mr. Harvey replied no. Member Grodin asked in total how many units are there. Mr. Harvey replied five. Chairman Merrell pointed out that the plan shows twelve parking spaces. This number is sufficient for the number of units.

Chairman Merrell asked Chief Chamberlain if the shape of the parking area was suitable for his emergency equipment. Chief Chamberlain replied that as long as it meets the regulations he did not think there would be any issues.

Member Kresge asked if the septic system had been approved by the State. Ms. Carr indicated that it had. Member Moore asked what kind of surface the driveway would be. Mr. Harvey replied that it will be paved all the way to the parking spaces. Member Doane asked where the snow storage will be and what is the lighting plan? Mr. Harvey stated that it is a very large lot with plenty of room for snow storage. As for lighting, each unit front will be lit according to code, the parking lot will be lit by fixtures mounted to the structure itself and the walkway's going around back to the rear apartments will also be lit. There is a utility pole shown on the plan and a light will be put on it; the

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line will run underground from the pole to the building. All lighting will be downcast. Member Doane pointed out that this is not shown on the plan.

Selectmen's Representative MacIsaac asked if there was an approved driveway permit for this property. Ms. Carr replied not yet however the applicant has made an application for both the driveway and the water connection. Because payment was submitted with one check versus two individual checks nothing has moved forward on his applications. Mr. Harvey will relay the information to Mr. Cummings. Ms. Carr also noted that the DPW will want to see driveway markings as was stated in their comment sheet.

On a motion by Doane seconded by McCarthy the board voted to continue the public hearing to the January 10, 2012 meeting to include the following:

- Properly laid out site plan (abutters to be labeled on the plan)
- Waterlines to be clearly delineated as approved by the DPW
- Easement granted to the neighbor for their well
- DOT excavation permit in hand for the water line
- Designate area(s) for snow storage
- Elevation and proper layout of the building including items such as firewalls, etc.
- Description of lighting
- Locate underground power from the pole to the building
- Driveway markings at entrance; Driveway permit in hand

On behalf of Mr. Cummings Mr. Harvey again stated to the board that the reason they are behind the ball on the project is not entirely Mr. Cummings fault. When asked by Member McCarthy to explain Mr. Harvey stated that a building permit was applied for and issued about three weeks ago. Work commenced and then Mr. Cummings was informed that his permit was being temporarily revoked in lieu of site plan approval from the Planning Board. Mr. Cummings was not aware that site plan approval was a requirement.

There being no further questions Chairman Merrell continued the public hearing.

2. To consider the following changes to the Jaffrey Zoning Ordinance:
To amend Section III District Regulations and Permitted Uses to insert new section 3.6.
To amend Section XV Guide to Zoning Districts in the Town of Jaffrey (maps)

Member Grodin recused himself. Member Moore would vote.

Chairman Merrell stated that the board rented a noise meter. With the aid of the Building Inspector it was set-up at the cul-du-sac at 3:30 p.m. on Monday, December 12 with the intention of running it over night. Unfortunately the batteries died at 7:41 p.m. In that time period the data collected showed the decibel levels to be between 45 db up to 53 db. The 53 represents the handling of the equipment during set-up.

The mean runs around 47 and 48 and the distribution of decibel levels at night range from 46 to 51 ½. The following day the meter was set-up at the corner of Prescott and Eastwood and ran again from 10:30 a.m. until 1:30 p.m. The daytime distribution was a bit broader than the night time distribution as the location would lend itself to more traffic noise. These readings ranged between 43

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and 62. The bulk of the readings were around 48; this is well within the limits. Chairman Merrell feels that this tells him that the adjustments in the proposed ordinance are reasonable.

To give an idea of decibel levels, the weakest sound heard by the human ear is 0 db, a whisper quiet library level is 30 db, normal conversation is 60-70 db, telephone dial tone is 80 db, city traffic is 85 db and it goes up from there.

Inspector Baron stated that in all of the years he has taken measurements if there is anything making noise it is at night and only by a difference of a few db. He was recently on the property during the day using his meter and he did notice a change in pitch which lasted only a few seconds and then changed back; something was making noise.

Ms. Carr presented the proposed zoning changes that affect the Millipore property to the board. Copies of the proposal were distributed. In summary the proposal will create new section 3.6 in the zoning ordinance which will be titled Turnpike Road Industrial District and specific to the Millipore property. This district will also include Section 3.6.2 which makes a special designation for the setbacks, being the setbacks for Tract A which is the southerly lot. The second piece to be considered is to amend Section XV and to lay out the courses of that tract. A change to the table in section V, 5.1 will also be made to include the new district.

Member Deschenes asked about access to the lot at the end of Eastwood Drive. If it changes to industrial would they be able to access it through a rural zone? What's to say they will not use Eastwood Drive? Attorney Uchida addressed the issue stating that if they try to construct a new drive into the site it would require site plan approval and it is not their plan to have access off of Eastwood Dr. Any access will be via the front Millipore lot.

Moving on to Section XV Ms. Carr stating that this section gives a narrative description of all the zones. The description of the Millipore lot will be added.

Attorney John Arnold from Orr and Reno was representing Millipore along with Jim Spaulding from The Turner Group, Dr. Ralph Palermo from Aries Engineering, Mike Walker and Rob Johnson from Millipore and Richard Uchida from Orr and Reno.

Attorney Arnold gave a brief overview stating that Millipore is hoping to reclassify lot 17 located on Eastwood Drive to Industrial. The reason is that the existing building on Prescott Rd is reaching capacity and by rezoning the rear lot (lot 17) to industrial it would allow the existing site to continue to service Millipore's needs moving forward.

Attorney Arnold stated that the Courts are sensitive to the consequences of rezoning a lot from rural to industrial but they have worked very closely with expert Engineers to address the concerns and he believes they have done so in many ways. Looking back at proposed Section 3.6.1 it was noted that the allowed uses shown are much more limited than what is allowed in a typical industrial district. Essentially it is limited to allow the uses that currently exist on the Millipore site.

As for setbacks, the normal rear setback is fifty feet and the side is thirty feet. Millipore is proposing to increase the setback to one hundred feet and a vegetative buffer would have to be maintained to enhance privacy.

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Speaking to the proposed Section VIII, specifically Aquifer Protection item F, it was pointed out that since it was drafted there has been a revision to the ordinance to allow on-site waste water treatment facilities to exist on the lot therefore item F should be stricken to coincide with the change previously made to section 3.6.1 of the ordinance. There is waste water treatment that takes place at Millipore and this correction would ensure that Millipore is not in violation. The regulation also provides for sound and odor as the board is aware.

Mr. Richard Grodin is an abutter to the Millipore property. Although he has concerns about noise, odors and light which might intrude onto his property he is in favor of the proposed changes. A letter expressing his concerns was submitted into the record.

Ms. Carolyn Saari is an abutter on Eastwood Drive and has had continuing issues with noise from the Millipore facility. Ms. Saari has purchased her own noise meter and alongside Inspector Baron they have taken noise measurements. These measurements are higher than those reported by the board. Ms. Saari believes the noise level is not the highest at the intersection of Prescott Road and Eastwood Drive as some may think but rather at the cul-du-sac in front of 26 Eastwood Drive. The reason being is the amount of forestation and that the residence is closer to the facility. Ms. Saari stated that she is not asking for Millipore to go away or not to expand; she is merely asking that something be done about the noise that she hears.

Mr. Bill Johnson is an abutter to the east. He does not believe that the spot checks are adequate. There should be sound checks that run 24/7 for a number of days. Both the Inspector and Chairman Merrell agreed that this was a good idea but a meter capable of recording for longer periods of time would have to be used.

Ms. Saari stated that assuming there were trees left along Eastwood Drive or a wall, although not exactly what she would like to see, she would have no objection to that. She feels this could be in part a reasonable solution to reducing the noise.

Following the discussion Selectmen's Representative MacIsaac asked if Millipore conformed to the current regulation. Chairman Merrell stated that based on the measurements taken, yes they do. Inspector Baron interjected that there was the one day that he heard the spike in noise even though it didn't last long and he had never heard it before. That reading was above the allowed level.

There being no further questions Chairman Merrell closed the public hearing.

3. To consider the following change to the Site Plan Regulations:
To amend Section VIII Standards of Performance to insert a new section E

The purpose of the proposed changes is to reclassify residentially zoned land of Millipore (map 257/lot 17) to industrial.

Abutter Bill Johnson has some concerns over the integrity of his well. It is his understanding that State regulations require an on-going monitoring program plus a mitigation program. The previous owner ignored that requirement and he would like to have a meeting with the new owners to work out the on-going monitoring program and mitigation program. The Millipore representatives agreed to meet.

Member Grodin expressed concern over having two different standards in two different areas.

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During a working session on November 22, 2011 Dr. Palermo spoke to the board about the noise ordinance and odor issues via a conference call. To help clear-up any further questions he addressed some of the comments made at this evenings hearing. There was some discussion about noise levels and the proposed ordinance as well as ways to minimize the noise. Mr. Rob Jackson of Millipore stated that barriers were constructed on the roof around the air handlers. If there are still outward occurrences then they will have to look around and investigate. Before coming to this hearing they believed they were in compliance.

Member Moore asked how the proposed ordinance compared to other towns; are other towns more stringent? Dr. Palermo feels the proposal is very comparable to what other towns have. Selectmen's Representative MacIsaac asked if the new ordinance is more or less stringent than the old one. Dr. Palermo feels that in the end it will probably collect more representative measurements because you will be collecting them over a longer period of time. In summary he feels that the proposed ordinance, from a practical stand point, has more merit. It's not a singular number; it's looking at an average of all the sound level measurements over a period of time and in the end there will be better results. Attorney Uchida pointed out that the proposed ordinance allows for the random spike in noise level to account for a passing car or a lawn mower and he conceded that the Town's current ordinance is theoretically more stringent but it is also much more difficult to enforce in a court of law.

Member Grodin does not feel there should be two different standards and perhaps the board should look town wide to bring that into sync. Chairman Merrell and Member Kresge agreed. Member Grodin stated that he feels having two standards is open to a law suite and turned the question over to Millipore. Attorney Uchida pointed out that when developing the proposed ordinance they tried to track the limits in the current ordinance. He believes an appropriate ordinance and an ordinance in the best interest of the town is the one proposed.

Moving on to the issue of odors Dr. Palermo reminded the board of how a scentometer works describing it as an instrument that gives an indication of how strong an odor is. Although you have to be trained on how to use the device it has several advantages; it allows you to take measurement of odor, you do not have to send the samples off to the lab, it's not expensive and it's very practical and easy to use.

Chairman Merrell feels in view of the fact that they agree with legal counsel that the town does not have an enforceable noise ordinance as it stands now he feels the board should take a look at both ordinances and establish one standard for all industrial zones. Member Kresge reminded that board that although this portion does not have to go to town vote there is still a time line involved to the extent that site plan regulations do influence peoples thinking. This should be ready before town meeting.

There being no further questions Chairman Merrell continued the public hearing.

PUBLIC HEARING – CONTINUED

None

DECISIONS

2. To consider the following changes to the Jaffrey Zoning Ordinance:
To amend Section III District Regulations and Permitted Uses to insert new section 3.6.

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To amend Section XV Guide to Zoning Districts in the Town of Jaffrey (maps)

On a motion by MacIsaac, seconded by McCarthy the proposal to amend Section III District Regulations and Permitted Uses (insert new section 3.6, amend section 5.1) and amend Section XV Guide to Zoning Districts in the Town of Jaffrey (maps) were moved to the town warrant.

OTHER BUSINESS

CIP –

Ms. Carr handed out copies of the CIP and gave a brief overview outlining what has been updated. The CIP is scheduled to be presented to the Budget Committee on Wednesday, December 14.

On a motion by Kresge, seconded by Doane the board accepted the CIP. (7-0)

ADJOURNMENT

The meeting adjourned at 10:15 p.m.

Submitted:

Erlene Lemire
Recording Secretary

Attest:

Edward Merrell
Chairman, Jaffrey Planning Board