



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Draft

Planning Board

Monday, January 23, 2017

7:00 PM

Council Chambers

1 Call To Order

2 Roll Call and Declaration of Quorum

The meeting was called to order by Chair, David Douglass. Other members present were: Keith Elder, Jim Hanscom, Bill Walker, and Nick Kalogerakis.

Planner, Amanda Lessard, was also present.

3 [PB 17-009](#) Approval of Minutes: January 9, 2017

Attachments: [Minutes 1-9-17 draft](#)

Jim Hanscom made a motion to approve the minutes as written.

Seconded by Bill Walker.

Vote: All in favor.

New Business

4 [PB 17-008](#) 17-01 Majestic Woods Subdivision, Phase 2. First Amendment. Custom Built Homes of Maine to request an amendment to the approved stormwater treatment for lot 63-3. The property in question is identified on Tax Map: 6 Lot: 63-3 and located at 9 Swett Road Zone: Farm (F).

Attachments: [17-01 Majestic Woods Phase 2 Amend 01-18-17](#)
[17-01 Peer Review MajesticWoodsAmend_01-10-2017](#)
[17-01 2017-01-09 Majestic Woods Comment Response](#)
[17-01 Peer Review MajesticWoodsAmend_01-09-2017](#)
[17-01 2017-01-06-Amended Subdivision Application](#)
[17-01 2017-01-06-Amended Subdivision Plans](#)
[2017-01-06-Amended Subdivision Plans](#)
[Majestic Woods Phase II 9-2015](#)

Ted Wandishin, representing Custom Built Homes of Maine, was present. He proposed replacing the approved no cut buffer on the lot with a drip line filter for the roof and driveway.

Amanda Lessard explained:

- A portion of the forested buffer on the lot had been cleared during construction of the house. The house and septic field were located partially within where the forested buffer was shown on the subdivision plan.
- The applicant's engineer had selected an alternate Best Management Practice (BMP), which met DEP's Stormwater Chapter 500. The town's engineer had found the proposal to be an acceptable alternative to treat stormwater on the lot.
- The proposed BMP only affected lot 63-3.
- The proposed BMP had additional maintenance responsibility.
- The subdivision did not trigger the DEP stormwater permit.

The Board commented:

- How did a house get build in the forested buffer? Why was the plan not followed?
- Would the additional maintenance responsibilities be deeded into the lot?
- How would the lot owner be aware they were responsible for that maintenance?
- The Board did not have much choice but to approve the amendment for this after-the-fact situation.
- Any approval should be done so that management of the stormwater was part of the deed.

Mr. Wandishin replied:

- There had been some blow downs and the person who was cutting trees for them had cut into the no cut buffer in error.
- They could add something to the deed. Other lots in the subdivision also used that type of filtration for stormwater treatment.

Amanda Lessard explained that although the plan had not been followed, this amendment was the appropriate remedy.

Jim Hanscom made a motion that the Final Subdivision application for 17-01 Majestic Woods Subdivision Phase II Amendment on Tax Map: 6, Lot: 63-3 was to be approved with conditions with the following findings of fact and conclusions, including the requirements and obligations of the property owner to maintain the approved amendment to the stormwater system being noted as part of the deed for lot 63-3.

FINDINGS OF FACT

A. POLLUTION

- The new residential lots will not result in undue air or water pollution.
- A portion of the property on either side of Colley Wright Brook is in the FEMA mapped 100-year flood zone. There is no disturbance of soils within the flood zone proposed as part of this application.

B. WATER

- All lots will be served by individual wells.
- The closest fire hydrant is located at the corner of Pope and Albion Road, just over 2,000 feet from the closest lot in the subdivision. At the Development Team meeting on March 26, 2013, Fire Chief Hammond recommended that the houses in this subdivision include sprinkler systems that meet NFPA standards.
- At a meeting with Chief Hammond and Deputy Chief John Wescott on August 28, 2013, the applicant agreed to install residential sprinkler systems that meet NFPA standards in all homes in the subdivision. This has been noted as a condition of approval, below.

C. SOIL EROSION

- A surface drainage plan has been submitted as part of the Preliminary Plan, labeled as Sheet 1 of 1, dated July 3, 2013.
- A soil erosion and sediment control plan has been submitted as part of the Preliminary Plan as Sheet 3 of 3, dated July 3, 2013.
- In an e-mail dated January 16, Mr. Haskell indicates that all stormwater peer review comments have been addressed in the submission dated January 13, 2014.
- A soil erosion and sediment control plan has been submitted as part of the Swett Road Re-Construction Plan Sheet 2 of 2 dated August 11, 2014.
- An amended subdivision plan and a revised lot development plan dated January 6, 2017 was submitted to show the revision to replace the wooded buffer with a roof dripline filter bed and residential driveway drainage strip on Lot 3.
- In an email dated January 9, 2017 Town Engineer Jon Earle, P.E., requested calculations indicating that the reservoir layer will provide adequate treatment storage as well as a maintenance plan for stormwater BMPs.
- Michael Tadema-Wielandt, P.E. of Terradyn Consultants LLC, responded to the review comments in an email dated January 9, 2017 and provided stormwater calculations of Lot 3 and a maintenance plan for stormwater management.
- In an e-mail dated January 10, 2017, Mr. Earle stated that all comments had been addressed.

D. TRAFFIC

- Lots 1 through 5 obtain frontage from Swett Road, and Lots 6 through 13 obtain frontage from Chute Road.
- At the Development Team Meeting on March 26, 2013, Public Works Director Doug Fortier and Will Haskell, P.E., at Gorrill-Palmer Consulting Engineers recommended shared driveways in specific locations on Chute Road if the Board chose to move forward with the traditional subdivision layout. The plan shows shared driveways for Lots 7 & 8, and Lots 10 & 11.
- All shared driveways must be designed to the Minor Private Street standard.
- The access easement to the Town indicates that the Town will be responsible for maintaining the access. This should be the responsibility of the owners of Lots 8. See suggested wording for Condition of Approval #4, below.
- The hammerhead turnaround at the end of the road providing access to Chute Cemetery must also meet the Town's design and construction standards.
- At an on-site meeting with planning staff and Doug Fortier, Director of Public Works, on September 9, 2013, the applicant indicated they would reconstruct Swett Road from the intersection with Chute Road to the top of the hill, a distance of about 635 feet. This would involve the relocation of two utility poles and building this portion of Swett Road to the Minor Public Street Standard, with the exception of secondary shoulders (see waiver request) and paving. Mr. Fortier indicated that the Town would be responsible for paving that section of rebuilt road in the future.
- A cross section of the proposed work the applicant is responsible for is shown on Sheet 1 of 2, revised January 13, 2014. Note that the section is based on waivers being granted for removing the requirement for secondary shoulders, and the Town being the responsible party for paving the improved portion of Swett Road.
- The applicant has proposed conditioning building permits to the re-construction work on Swett Road. See Condition of Approval #3 for the proposed wording.
- A plan and profile of the Swett Road Reconstruction has been submitted as part of the Final Plan as Sheet 1 of 2, revised November 19, 2014.
- In an e-mail dated September 4, 2015, Mr. Haskell requested a description of the improvements and additional detail on Swett Road grading and ditching.

- *A response to the peer review comments and a revised plan and profile of the Swett Road Reconstruction was submitted on September 11, 2015.*
- *In an e-mail dated September 18, 2015, Mr. Haskell stated that all prior comments had been addressed.*

E. SEWERAGE

- *Lots will be served by private subsurface wastewater disposal (septic) systems.*
- *Soil test pit logs have been included with the Preliminary Plan submission dated July 3, 2013. Two passing test pit locations are shown for each lot on Sheet 1 of 3 on the Preliminary Plan dated July 3, 2013.*

F. SOLID WASTE

- *Private residences in this subdivision will participate in the Town trash bag program.*
- *Development of these lots should not produce an undue burden on the Town's ability to collect and dispose of solid waste*

G. AESTHETICS

- *The site is currently open fields and wooded areas.*
- *There are no documented rare botanical features for significant wildlife habitat documented on the site.*
- *Two potential vernal pools have been identified from aerial images by in 2008 by Fred DiBello of Stantec, Inc. One is located in the wetland area in the center of the property; the other is located on the land that has been transferred out in 2011, labeled as "Out-Parcel" on the plan. The Town of Windham does not have regulations pertaining to vernal pools, but if these potential vernal pools are found to meet the state definition of Significant Vernal Pools, they would be regulated as significant wildlife habitat by the Department of Environmental Protection.*
- *The applicant proposes planting two (2) trees per lot, each within 50 feet of the edge of pavement, to meet the requirement for street trees as part of the subdivision (§911.E). The applicant should clarify if these trees are proposed for private property or the public right of way, and make certain that new trees will not interfere with driveway sight distances.*

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- *Comprehensive Plan:*
- *The plan does meet the goals of the 2003 Comprehensive Plan.*
- *Land Use Ordinances:*
- *All lots meet the 80,000 square foot minimum lot size for a standard subdivision in the Farm District.*
- *All yard setbacks are shown on the plan.*
- *Subdivision Ordinance*
- *The post-construction tree cover line must be shown on the Preliminary Plan, along with a note stating that there will be no clearing of trees in areas where tree cover is depicted on the plan for a period of at least five (5) years from the date of Planning Board approval (§911.E).*
- *The Tax Map and Lot numbers provided by the Tax Assessor must be shown on the Final Plan.*
- *Subdivision plan data compatible with the Town GIS must be submitted as part of*

the Final Plan submission.

- *Others:*

I. FINANCIAL AND TECHNICAL CAPACITY

- *An estimate of the cost of the development for Phase II as well as evidence of financial capacity for the new applicant, Shoreland Development, LLC has been provided as part of the August 2015 Final Plan submission.*
- *Evidence of technical capacity has been provided as part of the Preliminary Plan submission, dated July 3, 2013.*

J. RIVER, STREAM OR BROOK IMPACTS

- *Impacts to Colley Wright Brook must be accounted for in the Maine DEP permitting process.*

CONCLUSIONS (N/A)

- 1. The proposed subdivision will not result in undue water or air pollution.*
- 2. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the site plan.*
- 3. The proposed subdivision will not cause an unreasonable burden on an existing water supply.*
- 4. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.*
- 5. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.*
- 6. The proposed subdivision will provide for adequate sewage waste disposal.*
- 7. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste.*
- 8. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.*
- 9. The proposed subdivision conforms with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.*
- 10. The developer has adequate financial and technical capacity to meet the standards of this section.*
- 11. The proposed subdivision is not situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.*
- 12. The proposed subdivision will not alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.*
- 13. The proposed subdivision is situated entirely or partially within a floodplain.*
- 14. All freshwater wetlands within the proposed subdivision have been identified on the plan.*
- 15. Any river, stream, or brook within or abutting the subdivision has been identified on any maps submitted as part of the application.*
- 16. The proposed subdivision will provide for adequate storm water management.*
- 17. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in Title 38, section 480-B, none of the lots*

created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.
18. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.

19. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will/will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located. (N/A)

20. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14.

CONDITIONS OF APPROVAL

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated April 2013, as amended January 6, 2017, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the Planning Board or the Town Planner in accordance with Section 913 of the Subdivision Ordinance.

2. All new homes in the subdivision shall have residential sprinkler systems that meet NFPA standards.

3. No building permits will be issued for Lots 1-5 until Swett Road is reconstructed to base gravels, per the cross-section on Sheet 1 of 2. Paving Swett Road will be the responsibility of the Town.

4. The easement deeds for Lots 7 and 8, and Lots 10 and 11 must be recorded at the registry with the property deeds, prior to the issuance of building permits for these lots. The easement deed for access to the cemetery must be approved by the Town prior to the issuance of building permits for Lots 7 and 8.

Seconded by Bill Walker.

The Board discussed:

- If other lots in the subdivision already used the roof and driveway dripline BMP then why was it such a big thing for this lot? It was uncertain if the deeds for those properties had a deed restriction regarding stormwater maintenance.
- Anytime there was an obligation it may be lost in subsequent deeds and the applicable encumbrances may adversely affect sale of the lot in the future.
- All the lots should be treated the same way?

Jim Hanscom withdrew the condition of approval that would require maintenance responsibilities to be noted on the deed.

Seconded by Bill Walker.

Vote: Four in favor. Jim Hanscom opposed.

Other Business

5 Adjournment

Jim Hanscom made a motion to adjourn.

Seconded by Keith Elder.

Vote: All in favor.