

**TOWN OF CHESTERFIELD, NH  
PLANNING BOARD**

**Monday, June 19, 2017**

**Present:** Davis Peach, James Corliss, Joe Parisi, John Koopmann, John Pieper, Joe Brodbine and Jon McKeon

**Call to Order**

James Corliss called the meeting to order at 7:01

**Seat Alternates**

John Pieper is seated in place of Rolland Vollbehre

**Review of the Minutes**

June 5, 2017

*Joe Parisi motioned to accept the minutes as amended from June 5, 2017. The motion was seconded by Joe Brodbine and passed unanimously.*

**Appointments**

**Christian D. McCauley & Namaschaug Landing Association** – This is a continuation of an application for a Boundary Line Adjustment of property located at 14 Namaschaug Landing & Former Cul de Sac (Map 5G, Lot B4.1) consisting of approximately .73 acres in the Spofford Lake District.

*This application was previously continued per request of the applicant without any testimony.*

Corliss noted that the board has received a number of emails from residents/abutters with question and comments about this application. Corliss noted that prior to receiving an application on this property, there was a conceptual consultation. Conceptual consultations are an opportunity to come in and have a non-binding conversation with the board. Minutes are not kept for conceptual consultations. Corliss noted that this board has reviewed the application for completeness, but has not discussed the application.

Jim Phippard was present on behalf of the applicants.

Phippard noted that the proposal is for a lot line adjustment involving the former cul-de-sac and the lot immediately adjacent and south owned by Christian McCauley. Phippard noted that there are no new lots or buildings being created. Phippard stated that there are easements on both properties which remain unaffected and unchanged. There is also a pump house inside a structure which remains unchanged. Phippard noted that the adjusted lot lines meet the setback requirements. Corliss asked who holds the authority of Namaschaug landing. A letter was provided to the board (dated 6/12/17) stating that Michael Bentley has been chosen to represent the Association. Bentley noted that there are 7 members of the association and 5 are clearly in favor. Bentley stated that the jurisdiction of the Planning Board is if the application meets zoning requirements, and the

dissention of the association is not something that concerns the board. Bentley noted the application meets the requirements and that is the concern of the Planning Board.

The letter was read out loud by the Chairman.

Parisi asked who owns the old cul-de-sac. Phippard noted that the association owns it. Phippard noted that when it was a cul-de-sac an issue with loitering arouse and they decided it was better to eliminate the turn around and provide separate joining driveways and a grassy area. Pieper asked what the purpose of acquiring the area was. Phippard noted that it all came about when Mr. McCauley wanted to add a bay onto his garage. Phippard noted that the addition would have been expanding the footprint of the property and there are issues with lot coverage and setbacks. These issues are easily fixed with the proposed Boundary Line Adjustment. McCauley will pay the taxes on the new amount of property and there are no variances needed to add a bay to his garage. McKeon asked what the original amount of common land was in the original plan. Phippard was not sure of the number, but noted that this proposal reduces the common land by less than one tenth of an acre and there is more than 30 acres of common land across the street.

The meeting was opened to the public

Bill Knaus (2 Namaschaug Landing) noted he has lived there since 1991. Knaus noted that he has some documents and will save time by just hitting the highlights and then distributing the documents to the board. Knaus noted that the first issue is that the proposed Boundary Line Adjustment seeks to amend the cluster development. Knaus stated that the common land is governed by the covenants and in order to take common land, you must then change the covenants. Knaus noted that he has no interest in relinquishing ownership in the common land and feels the entire process was deficient. Knaus noted that includes the application and the June 4, 2017 meeting minutes. Knaus stated that there was never a unanimous agreement to sell the land. Knaus noted that the agreement was to allow McCauley to determine if it was feasible and then the details were to be worked out. Knaus noted that the intent was not to alter the covenants that run with the land and stated that the suggested changes violate the covenants.

Bill Knaus noted that the bylaws and covenants require 30 days notice for special meetings and 30 days notice was not provided. Knaus stated that the notice must specify what the meeting is about and this did not say what was going to be discussed. Knaus noted that the letter from the Association dated June 12, 2017 was a result of a process that did not meet the requirements of the covenants or bylaws and therefore every decision made in that meeting means nothing, which includes Mr. Bentley's appearance. Knaus noted that that April 21 application where it clearly states that the board members of Namaschaug Landing agree to convey the land is a misstatement and probably grounds to dismiss the application and from a constitutional standpoint is not right.

Knaus handed the board a document with comments on the June 12 letter from the association noting that he values the boards review of the document and notes that the basic idea is that if you are going to convene a meeting, you must do so according to the bylaws and covenants. Knaus noted that the bylaws are clear that the association chooses the representation and many of the issues are due to the arbitrary decisions and not by the bylaws and covenants. Knaus noted that the covenants run with the land and are attached to the deed and there is no provision in the covenants allowing a lot line adjustment. Corliss noted that the Planning Board is the only board that can approve a lot line adjustment. John Pieper noted that he keeps hearing that the bylaws and covenants state certain things, and maybe the board should see them. Corliss noted that if someone wanted to present them.

Parisi noted that for him it comes down to what is the governing structure that has the authority over the common land. Parisi stated that we have a lawyer with a letter, but until we understand who that entity is and how it is managed we cannot know if we notified the right abutters. Parisi asked who was responsible for the Namaschaug landing association.

Mike Bentley noted that the Namaschaug Landing Association is made up of the 7 lot owners. Bentley noted that 6 of the 7 members are present at this meeting tonight. Bentley noted that Mr. Robbins, Mr. Parker, Mr. Oot, Mr. McCauley, Mr. Patneaud and the Knaus' are present and Jeff Morse is the 7th member who is not present. Bentley noted that the Planning Board should not get sucked into a private fight. Bentley noted that any issue with the association, they have ample opportunity to address that, but in front of the Planning Board is not the place. Corliss asked from where Mr. Bentley receives his authority. Bentley noted that Mr. Parker and Mr. Robbins are the officers of the association and have given him the power.

Larry Robbins noted that he is a direct abutter and in favor of this application. Robbins noted that the association rules by majority. Robbins noted that at the June 4th meeting the majority of homeowners were present and voted to allow Mr. Bentley to represent us in this matter. Corliss asked if the meeting was held in accordance with the bylaws. Robbins noted that they believed that they did hold the meeting in accordance with the bylaws and believe it was an appropriately held meeting. Parisi noted that any non-profit board has a governing structure noting how things are done and voted on, how to run a meeting and if 2 members of a board or a majority of the board have the right to speak for the entire organization.

Bill Knaus provided the board with a copy of the covenants.

McKeon noted that there are two things the board needs to think about. Does the application as it sits look like something we should do and do we have the authority to make a change to the physical lots against the covenants.

Corliss noted that the covenants say they require 5 members.

Peach noted that he thinks the board should postpone the hearing and speak with our own attorney.

*Davis Peach moves to continue the hearing until a representative from the Planning Board contacts our lawyer to iron out the situation between the changing of the covenants and any legal question. Jon McKeon seconds the motion.*

Corliss noted that as part of the discussion for the evening, he would like to ensure that all testimony is received that is available tonight. Peach noted that we cannot make any decisions until we get some information from our attorney. Koopmann noted that the board needs to refine the charge and define it a bit better making it narrower. Corliss noted that the main question is who has the authority and where it flows from. Brodbine noted that the board needs to verify that Bentley has the authority to speak in this matter. Corliss noted that it is important to get all information that we can tonight from the people that are here so that we are not finding out at a later day that we have more questions. Brodbine noted that the board has not talked about the actual application and if both parties were valid and authorized, is the lot line adjustment something that we could approve. Corliss noted that the board approves or disapproves the paperwork. Brodbine noted that he believes the board should look at the application and see if the physical attributes are something the board could approve, because if they are not, there is no point in going forward with speaking with the attorney. McKeon noted if the application is not legally presented, the board cannot make a decision. Corliss noted that he agrees that the hearing should be continued, but would like to give the public the time to present all of the information they wish to present.

*Peach withdraws the motion to continue.*

Pieper asked if we talked to town counsel, who pays the bill. Corliss noted that if the Planning Board uses the Municipal Association, it will be covered by the dues we already pay each year. McKeon noted that if it rises to something beyond the NH Municipal Association, the Planning Board has a small budget that can be used.

Forrest Patneaud - Abutter 337 N Shore Road noted that when the cul-de-sac was made, there was a circumference of 32 feet from the center line to where the next structure can be built up to. Patneaud noted that if you go changing around in the 1989 plan, then you are going into my deed and

adjusting my covenants and taking ownership of my property away from me. Patneaud noted that he has spent his life in the Marine Corps and then worked in the department of defense and he is not going to let anyone take his property away from him.

Corliss asked Patneaud if he was contending that taking the .09 acres from the common land is diminishing his property and the homeowners association does not have the authority to do that. Patneaud noted that he does not believe that anyone has the right to do that and disagrees with Mr. Bentley.

Larry Robbins - 18 Namaschaug Landing noted that the land is common land governed by the Association. The Association is not taking Mr. Patneauds land. Robbins noted that a letter was given to the board from the officers who were elected with appropriate authority by the bylaws and he is not sure why the board would question the letter. Robbins noted that he, as an abutter have no opposition.

Robert Parker - 22 Namaschaug Landing noted that the whole issue began at the annual meeting last July where there was a unanimous agreement that Mr. McCauley could proceed with an application for a Boundary Line Adjustment. Parker noted that the association had begun the process of going over the bylaws and covenants to ensure they were up to date. The association agreed to have an attorney review them. Parker noted that the president of the association is authorized to carry out the wishes of the association and the letter states the wishes of the majority of the association. Parker noted that from an abutters standpoint he has no objection. Parker noted that from his understanding the common land is owned by Namaschaug Landing Association and not the individual owners.

Jeff Scott asked if there was a precedent being set. He asked how the board could say no to the next one that wants to make an adjustment. Corliss noted that the board is not bound by previous decision.

Chris Oot - 10 Namaschaug Landing noted that it is his understanding that an annual meeting was held and a special meeting. Oot noted that issues were raised and great care was taken at the June 4th special meeting to make sure it was called in accordance with the Bylaws.

Bill Knaus stated that he has a copy of the June 4 minutes and there is a statement from Jeff Morse that he left early. Knaus noted that the controlling document is the covenants and it takes 7 written statements to alter the covenants.

Nancy Knaus noted that she has a letter for the board and will summarize it. Nancy Knaus noted that the common land is part of why she purchased the property. She noted that the attempt to sell that land without her consent is what has brought her here. Nancy Knaus noted that she cannot support the application stating that it was done and pushed through partly while she was in Florida. Nancy Knaus noted that she had asked previously how it was possible to change a boundary line that is stated in our covenants. Knaus noted that she was told McCauley would look into it and see if it can be done. This was back in November. Knaus noted she and her husband were unable to attend the June 4th meeting due to a very sick dog. Knaus noted that this entire thing has been very upsetting and has caused bad relationships between people when it could have been simply handled. Nancy Knaus noted that Namaschaug Landing should not have been put on the application as a co-applicant. Knaus noted that it was agreed to allow him to investigate.

Corliss noted that the board received a letter that gives mention of the June 4th 2017 meeting and asked if Nancy Knaus was indicating that the meeting was not valid. Knaus noted that the meeting was probably not valid as there was not 30 days notice. Knaus noted there is a provision to waive notice, but each individual waives notice in writing and that was not done by her or her husband.

Koopmann noted that there seems to be an issue with the process and the events leading up to this application, but he has not heard an objection to the change itself. Pieper noted he his hearing that the application is invalid and we should not vote on it. Pieper asked if the Association held a proper meeting would that solve some of the issues being presented. McKeon noted that the Planning Board does not care how it happened. McKeon noted that the board cares about the Application and

if the board is able to approve it and if the party stating they are representing the owner of the old cul-de-sac is in fact the owner.

Chris McCauley - 14 Namaschaug Landing noted that the bylaws state it takes 5 of 7 to approve anything and 5 voters have approved this application. McCauley noted he had 7 votes previously, but the name Namaschaug Landing was put on the application and 2 believe it should not have been on the application. McCauley noted that even if the people opposed to the application were present at the June 4th meeting, it still would have passed by a vote of 5 to 2.

*Davis Peach moves to continue the hearing to July 17, 2017 at 7:30 PM at the Town Offices in order to allow James Corliss to contact NH Municipal association. The motion is seconded by Jon McKeon.*

*Jon McKeon offers an amendment stating that if NH Municipal association comes back stating it is better for the Town to seek Town Counsel approval, then the board authorizes Corliss to expend the funds to seek that counsel. The amendment is seconded by Davis Peach and passes unanimously. The motion is amended to:*

*The hearing is continued to July 17, 2017 at 7:30 PM in the Town offices. James Corliss is to contact the NH Municipal association and if NH Municipal Association recommends seeking Town Counsel, Corliss is authorized to expend the money to pay for such counsel. The full motion passes unanimously.*

Corliss pointed out to the public that the hearing is continued to July 17, 2017 at 7:30 in the Town Office Building.

## **Items for Discussion**

### Brad Roscoe – Rt. 63/Stage Road- Conceptual Consultation Solar Panels

Roscoe noted that this meeting is just for information to keep the board up to date. Roscoe noted that a plan is being discussed to install solar panels on the corner of Route 63 and Stage Road. The lot is one acre and owned by the Town. The system is a 110 kW DC Photovoltaic system producing about 85% of what the Town needs for power. The estimated cost is \$325,000 which would be funded by private investors. The only cost to the Town would happen at the end of a lease agreement of 5 or 6 years at about \$30,000.00. McKeon noted that the potential savings in electricity costs in the 5-6 year lease period will cover the cost of the system. It was noted that the system has a life span of about 25 years.

Parisi asked what the lot was zoned. Roscoe noted he was not sure. Corliss and Roscoe looked at the zoning map located in the Selectmens office and determined it is a residential lot. It was noted that the lot may require zoning approval. It was noted that municipalities do not have to follow the regulations, however the Town does try to go through our own regulations.

Koopmann asked about screening. Roscoe noted that fencing is required.

It was noted that Roscoe was here tonight to inform the Planning Board of the potential and to get the information out to the public. Roscoe noted that a Special Town meeting will be held in July with the Board of Selectmen seeking permission to enter into a multi-year lease. This will not allow them to go forward and purchase anything, that will be handled at March Town meeting. It was noted that there is a Town Committee made up of 7 or 8 people involved in this project.

### Area 51 – Request for administration approval of 8 bollards for security

Jim Phippard was present on behalf of D&T Partners with a request for an administrative modification of the Area 51 site plan on Brown Avenue.

Phippard noted that the board has been provided with an SK drawing due to the minor nature of the changes. Phippard noted that there will be 5 bollards located across the entryway and three outside the egress. The purpose of the bollards is extra protection for the glasswork. Phippard noted that concern came about right after the store opened with an incident involving a truck in the lot after hours driving across the newly loamed areas. The security cameras are all pointed toward the store and did not pick up the incident. The owner is concerned with the value of the product inside the store and feels that some extra security is necessary. Phippard noted that they are proposing decorative bollards that are 3.5 feet tall and are a fiberglass product filled with concrete and anchored with rebar.

Phippard noted that the second proposed change is adding steps to from the warehouse door to the loading area. This will allow employees direct access to the loading area and allow them to safely get there to assist in unloading.

Parisi asked if there are any standards for spacing of bollards for getting out the building safely.

Phippard noted that the spacing is 6 feet. Koopmann asked if there was any anticipation of a need for bollards along the storage containers in the future as there are hazardous materials inside those. Phippard noted that bollards are a permanent installation and they do not feel it would be necessary due to the location and material of the storage containers. Phippard noted that if it became a concern, they would use jersey barriers in that situation. The proposed stairs are granite. The public had no questions or comments.

*Joe Brodbine moves to accept the proposed changes as administrative changes. The motion is seconded by Davis Peach and passes unanimously.*

The plans will be signed at the end of the meeting tonight.

#### PDD#4

Corliss asked how the PDD was filed, if it was just documentation held within the town. McKeon noted that it was simply a zoning change to the parcel that already existed and nothing was file with the Registry. Corliss stated that based on the conversations he has had with the NH Municipal Association, as long as there was nothing filed with the State, the Planning Board would have the authority to rescind the approval based on no activity. Corliss noted that the Board could do this at a noticed meeting, but the abutters and people who worked on the original plan did not need to be notified. Corliss noted that if the board agreed, it will be put on a future agenda.

The board agreed that it should be dealt with on a future agenda.

#### Spofford Boat Sales

No new updates

#### Mark Lanoue

McKeon recused himself from this discussion

Corliss noted that the board received information from Bell Engineering regarding the Notice of Decision for missing items. Corliss noted that the board reviewed the plans and deemed them not complete and believes the board has voted. Parisi noted that if the applicant added the information contained in the memo on the plans it would stand on its own. Peach noted that the board stated it

was not complete. Parisi noted that the goal is to get to a place where the board can review the application and the information on the memo should be put on the plan.

The board reviewed the drawings and the memo. Corliss noted that typically the board is provided with a drawing of existing conditions and another with post development. Corliss noted that these drawings need to be separate drawings. Corliss noted that the board needs the drawings specified by the regulations, not combined drawings.

It was noted that one of the items on the Notice of Decision was the lack of Final Elevation under regulation 405.3E and this application does not have any new buildings so this is not required.

Corliss noted that it is clear that this board does not find the plans have the detail required by the regulations. Corliss noted that the pre and post documents should be on separate sheets.

Parisi noted that the board needs to address the first item on the Notice of Decision regarding the uncertainty of the existing conditions plan. Parisi noted that there is no indication of how the site got from the last approved site plan to where it stands today. Corliss noted that all the board can do is look to see if all of the elements are on the documents presented and cannot think about the actual application. Parisi noted that it was included in the motion and was not addressed by the applicant. Parisi stated that he believes there are two issues, one is where the site is today and two is the drawing package muddles how the site exists today and how it will be when complete. Parisi noted that we cannot now ignore it. Parisi noted that the board voted to put that in the Notice of Decision and the Chairman does not have the authority to not act on what the board votes. Corliss noted that his view as Chairman is that discussion of the particulars of the site is not appropriate and he will move on.

Parisi called for a point of order which was seconded by Koopmann.

Parisi noted that he would like to continue and discuss if the board has enough information to review the application. Corliss noted that the discussion is an attempt to say the plans do not describe the site and all we can look at is the application in front of us for completeness.

It was explained that a No vote keeps the discussion going and a yes vote is a vote to move on from this discussion. Yes - Parisi and Koopmann No - Davis, Brodbine Corliss. Pieper abstained

The board would like Lachenal to inform the applicant that the plans are not complete as noted on the Notice of Decision and the plans need to be on separate sheets as required by the regulations.

## **Items for Information**

### **Other Business**

#### Andersen

Koopmann noted that he received a reply from DES regarding the rain garden recommendations. The information has been passed on to the board. Lachenal will forward this onto the applicant.

#### Lanoue

McKeon noted that Code Enforcement and the Board of Selectmen asked him to ask if any members of the Planning Board would like to sit in on a non-public meeting to discuss possible settlement agreements. McKeon noted that it may be inappropriate for any Planning Board members to sit in as it may look like prejudgment on the application.

#### Area 51

McKeon noted that Code Enforcement asked that the Planning Board have some discussion and a vote regarding the flags located at Area 51 being used as advertisement for commerce. McKeon noted that the state jumped in and made them move the flags that were located in the setback. McKeon noted that the issue is that the Planning Board view the American Flag if used as promotional purposes as a sign. McKeon noted that he has seen letters from Mr. Phippard regarding respect for the flag, but the Flag Code clearly states that you cannot use the flag to sell merchandise. McKeon noted that you can fly the American Flag but they are using the flags to sell merchandise and that is not allowed. Brodbine asked how you differentiate the use of the flag. McKeon noted that they stated they were using them as promotion.

*James Corliss moves that if the American Flag is used as or in the nature of an announcement, direction or advertisement and which is visible from any street or from abutting property, it is a sign under Chesterfield Zoning regulations. The motion was seconded by Davis Peach and passes unanimously.*

### Food Truck

McKeon noted that there has been some question about an ice cream truck going around in town and if there is a need for a permit for this type of situation. McKeon noted that we do not currently have any regulations or permits for this type of activity. The trucks could be on site for 15 minutes or three hours. McKeon noted that Rod Parsons came before the Board of Selectmen asking about the issue. McKeon noted that the Planning Board has been provided with permits from other communities to take a look at if there is a desire for such a process in Chesterfield. Corliss asked if the Town currently prohibits this type of activity. McKeon noted that he is not sure that we do prohibit it at this time. Corliss asked how this would be different from the Swans delivery people. McKeon noted that the duration could be different. If they were hired for an event, they could be on one site for hours.

The board is not interested in crafting regulations for this type of vendor.

### Fireworks

McKeon noted that the Board of Selectmen are working on ordinances for permitting/banning fireworks in town. The board feels they need to protect the lake from the pollutants and garbage that are going into the lake. McKeon noted that as the board began discussions, many people have brought up the issue of quality of life at the lake as well as the pollution issue.

### July 3rd meeting

*Davis Peach moves to cancel the meeting on July 3, 2017. The motion is seconded by Joe Brodbine and passes unanimously.*

### **Items for Signature**

May 15, 2017 Minutes

Area 51 plans

### **Adjournment**

*John Pieper moves to adjourn at 10:16. Joe Brodbine seconded the motion which passed unanimously.*

The next meeting will be held in the Town Offices at 7:30 PM July 17, 2017

Respectfully Submitted by:  
**Patricia Lachenal**  
**Planning Board Secretary**  
Approved by:

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**James Corliss, Chairman**

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**Date**