

TOWN OF CHESTERFIELD, NH
PLANNING BOARD
Monday, May 4, 2020

Due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically. Please note that there is no physical location to observe and listen contemporaneously to the meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, this is to confirm that we are:

a) Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means;

We are utilizing the Zoom platform for this electronic meeting. All members of the Board have the ability to communicate contemporaneously during this meeting through the Zoom platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following phone # 1-929-205-6009 and password 86738883573 or by going to the following website address:

<https://us02web.zoom.us/j/86738883573>

b) Providing public notice of the necessary information for accessing the meeting;

We previously gave notice to the public of how to access the meeting using Zoom, and instructions are provided on the Town of Chesterfield website at: <https://chesterfield.nh.gov/>.

c) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access; If anybody has a problem, please call 603-499-6534 or email at: tricia.lachenal@nhchesterfield.com.

d) Adjourning the meeting if the public is unable to access the meeting.

In the event the public is unable to access the meeting, we will adjourn the meeting and have it rescheduled at that time.

Please note that all votes that are taken during this meeting shall be done by Roll Call vote.

Present: Jon McKeon, Jeanny Aldrich, James Corliss, Joe Parisi, John Koopmann, Joe Brodbine and John Pieper

Call to Order

James Corliss called the meeting to order at 7:03 PM.

Seat Alternates

John Piper was seated in place of Roland Vollbehrr

Review of the Minutes

April 20, 2020

Joe Pieper moved to approve the minutes from the April 20, 2020 meeting as amended. The motion was seconded by Jon McKeon.

John Koopmann noted that there was a member of the public that had some comments on the draft minutes and was asking if there would be a moment that the public could give input on the draft minutes. Koopmann noted that Jeff Scott had some comments on the minutes from the previous meeting. The board did not allow public comments on the minutes.

Parisi noted that the draft minutes captured what was discussed, however he is not sure if the information given was correct. Parisi asked what the mechanism for relaying the truth of the minutes was. Corliss noted that there can be false statements in the minutes if that is what was said. Pieper noted that the minutes from this meeting could state the things that may have been stated incorrectly in the previous minutes.

Roll call vote the motion passed by majority. (No: Koopmann)

Appointments

Pine Grove Springs Country Club, Inc. – A continuation of an application for a Major Subdivision for property located at NH Route 9A (Map 5K B8 and Map 5N B9.1) consisting of approximately 93 acres in the Residential zone.

Corliss noted that a bit of testimony has come in between the last public hearing and now. Corliss noted that Mr. Norm VanCor wrote a letter and asked if the board had an opportunity to read the letter. The board noted they have had time to review the letter. Corliss noted that a response was received from the applicant, and therefore they have had an opportunity to read the letter also. Parisi asked if the board has received any feedback from the Town Attorney. Corliss noted that at the last meeting he was directed to pass along the updated package once received back from the 3rd party reviewer to the Town Attorney to assure the Town interests were handled. Corliss noted that the 3rd party reviewer did review the new package and the Town Attorney also reviewed it. Parisi asked why the board had not received anything from the Town Attorney. Corliss noted that Lachenal was not copied on the email and he had not forwarded the email. Corliss noted that the Attorney had suggestions for conditions if the board was inclined to approve it. Corliss forwarded the email from the Town Attorney to Lachenal for distribution.

Koopmann noted that on Channel Road the plans show a setback along the south side of the road, where the single illegal property – Corliss interrupted noting that it is not illegal -

Koopmann noted that there should be a front setback on the property on the north side of Channel Road. Corliss noted there is not one shown. Chad Brannon (Engineer) noted that there are no building setbacks there as there is no buildable area there. Brannon noted that the jurisdictional wetland and the shoreland protection prevent building in that area and therefore there are no building setbacks on the plan. Koopmann noted that a note or something that clearly states there that defines there are no structures allowed within the side setback and the definition of structure should be added. McKeon noted that if it was in writing and could be pointed to, it would be much easier on the town and would alert potential buyers. Brannon noted that a note can be added as a condition of approval stating that the portions of lots 1-4 on the north side of Channel Road are entirely encumbered by the Town setbacks. Panciocco noted that the applicant is willing to add a note stating that no structure as defined by the 2019 Town of Chesterfield Zoning ordinances are allowed. Koopmann noted that would give the opportunity for ZBA relief in the future. Corliss

noted it would give the potential buyers additional warning. It was noted that the wording could be The land to be located to the North of the Class VI road, more commonly know as Channel Road, shall not be used to construct a structure as the term is defined by the 2020 (March 10, 2020) Chesterfield Zoning regulations. Koopmann asked if it should be tied to a date. Corliss noted that the board cannot make something subject to a future regulation. Panciocco noted that they could put the definition into the note. McKeon noted that when a building permit is pulled, the owner is required to adhere to the current regulations. Panciocco noted that the applicant is not willing to agree that no docks would be allowed. Panciocco noted that the applicant is willing to accept that no structure can be placed there as the current definition of structure is spelled out in the Zoning regulations, but the fear is that the definition will change to include docks and that is not something the applicant is willing to agree with. Corliss noted that the Town does not have control over docks. McKeon noted that he understands Panciocco's concern, however the board cannot limit this to current ordinances as it would be making this property different from all other properties that get developed in Chesterfield. McKeon noted that this property cannot be expected to be held to a different standard than other properties. Koopmann noted that adding the side setbacks would be clear and ensure that this property is treated like all others in Town. Koopmann noted that every building inspector and land owner understands there is no building allowed in the setbacks, so no note would be necessary.

Corliss noted that a note that states all land north of Channel Road is entirely in the setback would cover everyone's concerns. Panciocco noted that she would be ok with the recommendation made by Koopmann if we were to accept out docks which fall within State jurisdiction. Parisi noted that he likes the suggestion made by Koopmann, but is unsure what the board would be expected to say about the dock as it is out of the jurisdiction. Aldrich noted that you should not treat it differently, we have no control over docks and therefore we do not need to put anything about a dock. McKeon noted that a note stating there is no structures allowed on the North side of Channel road as defined within the Chesterfield Zoning Ordinances should be added and then there is no confusion. This adds protection for the applicant and the Town. The board agreed there should be a note that states the Map and Lot numbers of the 4 lots on the North side of Channel road cannot have any structures as defined by the Chesterfield Zoning Ordinances built upon that portion of the lots.

Corliss noted that Mr. VanCor wrote a letter and the applicant has written a response to that letter. Van Cor noted that he has not seen the response to the letter and did note that he wrote at the end of his comments that the applicant would probably refute what was stated. VanCor noted that having not read their comments, he can only say that the applicant can only say that he did do the things I mentioned in the letter, but none of it is included in the report.

Chad Brannon noted that there is a lot of misrepresentation in Mr. VanCor's letter and he would like an opportunity to speak about the letter on the record without being interrupted.

Parisi noted that he walked the property today and found fairly deep standing water well beyond the area marked as wetlands. Parisi noted that he would like Brannon to also address the definition of wetlands and how it is determined.

Brannon noted that the letter casts some opinions on the engineering review done by Keach. Brannon noted that they carefully reviewed the information, they are qualified and knowledgeable and Brannon noted he believes it is unfortunate that there are negative statements about their review. Brannon noted that Keach reviewed the plans and made suggestions and the revisions made the plans better.

Brannon noted that in response to VanCor's letter, he wanted to point out that the plans submitted spell out the wetlands that were found and delineated during a field inspection. Brannon noted that his certification is located in the report. Brannon noted that the site impact analysis report is quite extensive and based on the field inspection that included utilization of an auger, an excavator and hand digging. Brannon noted that it is a drastically incorrect stance to take that somehow web based

information was used. Brannon noted that a web based soil survey was not used to delineate the wetlands and therefore the conversation Mr. VanCor had with another engineer, was out of context. Brannon noted that the reference line was located and those details are on the plans. Brannon noted that there is a section of the letter regarding runoff and Brannon stated that they used all the standard engineering practices for calculating runoff which includes following local regulations and DES standards for the Alteration of terrain permit. Brannon noted that Keach did not have a lot of comments or suggestions, because the report accurately states what is out there and meets all of the standards. Brannon noted that the report accurately represents the pre and post runoff situation of the property. Brannon noted that nothing has been misrepresented. Brannon noted that everything has been done to evaluate the storm water management on this project. Brannon noted that there is no infiltration proposed on this property. This plan should be a model on how the Town wants things designed around the lake. Brannon noted that the peak flow and the volumes of runoff and there is an improvement as a result of this project. There will be an increase in time it takes for the runoff to get to the lake. Brannon noted that the most important part of the letter is where Mr. VanCor notes where he is not an engineer or a soils expert. Brannon noted that this is why he is a professional and this is what he does every single day. Brannon noted that he encourages people to review his work, but this plan has been gone through over the last year and the design before the board has been vetted. Brannon noted that they are refuting the letter provided by VanCor and notes that maybe he did not have the ability to review all of the information, but there is no substance in the letter to require any revisions or further changes to the plans. Brannon noted that there were some questions about the jurisdictional wetland line. Brannon noted that Mr. Chris Guida is present at the meeting and is a certified wetlands and soils scientist and would like him to explain the jurisdictional wetlands vs. the seasonal. Guida noted that he did the wetland on the ground with his auger and noted that as shown, the lines around the lake are irregular and that has to do with the topography, that land is quite flat. Guida noted that there is a photograph, although unsure who took it, he noted that he believes it is the water Mr. Parisi is referring to and noted that if you look there are also eastern white pine trees in that picture doing well and what we have is a transition there from a duchess silt loam on the higher part and as it goes down, it transitions down to an Agawam fine sand. Guida noted that the water slows down as it reaches the sand. Guida noted that the trees will suck a lot of water into the roots. Guida noted that you will see the water table drop down. Guida noted that it is not uncommon this time of year to see the average seasonal high water table. Guida noted that he did do extensive augers through this area and found the transition from silt loam to sand, so you do not have that water table at or near the surface long, which is evident by the white pines in the area. Guida noted that this time of year it is common to see standing water with the spring melt, frequencies of rain and the fact that there are no leaves on the trees. Guida noted that the frequent mowing of the area and the traffic are factors on how the water moves through the soil. Guida noted that the water goes to the culverts and go under Channel Road. Guida noted that the statement that there is not an on the ground wetland delineation done, is incorrect. Guida noted that the test pits were only for suitable areas on each of the lots, and not a soils survey, but did verify the soils in the area. Make it clear this line was done by me on the ground in accordance with state federal and local regulations. Guida noted that he dug a number of holes in a number of areas by hand that it was in excess of 50.

The meeting went to a break for 5 minutes.

VanCor noted that as he predicted, there were comments on his testimony and noted that he was not calling into questions about anyone's qualifications, only the work performed for what you are paid to do. VanCor noted that the Planning Board received a storm water management plan and stated that now there are claims that many things were done that are not in any of the documentation submitted. VanCor noted that the soils engineer put his seal on there for one thing and that was the test pits, there is nothing else in any documentation and no evidence in the field. VanCor noted that

the delineation of the wetland is not evident in the field and there is only general information. VanCor noted that he did not hear any new or compelling information that the work was actually done. Why is there a storm water management report submitted and details assumed and taken from other sources. It is incomplete information. No data about rain gardens and why those and other features are placed where they are placed. Corliss noted it would have helped if this particular document that the planning board received was available. Aldich noted that the site impact analysis is posted online. Parisi noted that Guida referenced the photos the board received and talked about why there could be water in those areas that are not official wetland areas. Parisi noted that while those photos were part of the reason for his site visit today, while there, he noticed water close to the Western boundary line. Parisi asked if there was an explanation as to why there would be water in that area that is not delineated as wetlands. Parisi asked if the water in that area would be consistent with seasonal water.

Guida noted that he would like to take a moment to address Mr. VacCors comments. Guida noted that the wetlands were delineated on site in February of 2019 and the flags do not last long. Guida noted that they were not instructed to place monuments, and flags do get moved by the wind and rain as they are not meant to be permanent markers. Guida noted that the area that Parisi is speaking of includes a beach area that at one point it appears to have sand added and some work was done with the parking lot and drainage. Guida noted that those things could be contributing to the water as well as the couple of inches of rain that was received the other night. Guida noted that that area is a flat low lying area. Guida noted that many folks have puddles in their yard at different times of the year, noting that this occurs because of the time of year and the high water table. Guida noted that he was not on site with Mr. Parisi, but he is fairly certain that is what was seen on site. Parisi noted that if these lots are subject to so much standing seasonal water that potential buyers should be warned. Guida noted that the proposed development is all in the higher elevation places and intentionally none of the areas that are talked about having standing water have any proposed development on site. Guida noted that there is a difference between seasonal water and jurisdictional wetlands and what needs to be addressed is the plan before the board. The plan favors the higher elevations and once the golf course is no longer maintaining the laws to the current degree, it will be favorable to the impacts on the water. Guida noted that the jurisdictional wetlands are noted, but the areas around that are sometimes wet are not noted, and asked how that would be accomplished. Guida noted that the regulations do not reach that far requiring notice of areas that are sometimes wet. Guida noted that the design plan meets all local regulations and also meets state regulations and the 3rd party reviewer gave a review based on this design. Panciocco noted that there is no legal obligation to disclosure on where you get water puddling on your property when it is sold.

McKeon noted that to add to Brannons comment that the review was a review of the data that Brannon and his company provided, it was not a review of what is actually going to happen. McKeon noted that there is a difference between going and gathering data and reviewing data that was given. Aldrich asked if the site impact analysis was part of the 3rd party review. Corliss noted that Brannon would not know if that document went. Aldrich noted that is a big part and would assume that it went to the 3rd party reviewer. Branon noted that it is important to note that they are not proposing any impact on the jurisdictional wetlands. Brannon noted that were are talking about 5 large lots and all of the information was reviewed by the 3rd party reviewer of the Towns choice and they went through the reports, plans and the Town regulations. Koopmann noted that there are places that are not delineated. Koopmann stated that he walked the site and took photos in March after a mild and dry winter, but it was worse today when he visited the site. Koopmann noted that the wetlands did extend well beyond where he thought they were. Koopmann noted that the markers seem to be off quite a bit and he does not feel comfortable with the delineation. There has been great concern by the citizens about the impact on the lake. The continued concern and is reflected in

sentiments of the Town are that the numbers should be checked. If someone would have generated and confirmed your numbers, it would have put everything to rest. Panciocco noted that the plans and all three reports were delivered to the Town not later than early February and have no ability to control where they are kept and how accessible they are. Panciocco noted that there were numerous copies in paper distributed to the town and three months later, the biggest report, the site impact analysis is being questioned. Panciocco noted that it should be reasonable to assume that by this time, the contents have been digested and understood before this evenings meeting. Panciocco noted that Keach reviewed the entire proposal and did his report and the board continues to bringing up and rehashing these details when we should be talking about conditions of approval. Panciocco noted it is time for some of these things to be put to bed. Parisi noted that the information distributed during the meeting from the Town Attorney – McKeon interrupted and noted that the board needs to be careful about discussing that. Corliss noted that it is under advice from counsel and we could go into non-public and discuss it, but that would not be a good use of time. Parisi noted he wants to discuss what is not in it. McKeon noted that right now the reluctance to discuss it is that if we talk about it in the meeting, it becomes a public document. McKeon noted that once we talk about the contents the document becomes public. Corliss asked if there was another night the board could continue to review without waiting the 2 weeks. Corliss noted he would like to review FedEx also and it is after 10PM. Corliss noted he wanted to leave the Pine Grove Springs discussion for a moment and discuss other business the board needs to finish. Lachenal noted that the review and hearing can be accomplished on the same night for FedEx, but the board cannot have another meeting and expect to hold the public hearing on the 18th without a motion this evening. Lachenal noted that there are requirements for notice and if a motion to schedule is not made tonight, the FedEx plan will not be able to be heard on the 18th of May. Corliss noted he is not sure he wants that on the next meeting night as that meeting is already going to be long. Brodbine noted that he agrees that there may not be more time. Corliss noted that it can be scheduled and see what happens. Parisi asked if another meeting could be scheduled for next Monday. It was noted that a meeting could be held for review without notice to the public, but a hearing could not happen. It was noted that a review can happen anytime prior to the public hearing.

James Corliss moved to hold the public hearing for JA Mulligan Associates, LLC Fedex Parking Expansion for May 18th at 7:30 Pm virtually via Zoom. The motion was seconded by Joe Parisi. Brodbine asked if there was going to be enough time to do all that needs to be done at that hearing. The motion passed unanimously by roll call vote.

Koopmann noted that he would like to see if the board had the ability to see the plans. Lachenal noted that Koopmann can make an appointment with Lachenal and review the plans in the office. *Corliss moved that the board will meet on Monday May 11, 2020 at 7:00 PM virtually via Zoom to review the completeness of FedEx. Joe Brodbine seconded the motion which passes unanimously.*

Public Input –

Steve McGrath noted that he is The Spofford Lake Association president and noted they have not had a chance to review watershed issues that may come up with this. McGrath noted that that they have concerns that may not line up with the Town ordinances but there are programs that are being introduced through DES and pollutions from silt. Question is will this be part of what is being introduced to the public, but we will pick up and secure \$100,000 in water quality enhancement, but all we have to show improvements to water quality. Will any of your plans accomplish that? McGrath asked if the development will help to enhance these efforts. Corliss noted that from a Planning Board perspective, development shall not increase runoff and its generally a good thing if it decreases and that has been looked at. The planning board does consider that indirectly. McGrath would like to know what Brannons comments are on the water quality improvement. Brannon noted that from a local regulation standpoint, there are requirements that need to be met, such as the quality and quantity of stormwater. Brannon noted that the design of this project will capture the

majority of the runoff from the state highway and route it through the treatment systems and then it will be discharged via sheet flow across a vegetative area and that area ranges from 160 to 400 feet. There is definitely water quality enhancement and mitigation that is built into the design. Brannon this project is a large property and all development are close to the state highway. Situating the improvements away from the lake as far as possible. This project would meet any design objectives you are looking to improve the various watersheds. McGrath asked about these lots and the property owners will be looking for access to docks. McGrath noted that dredging is not allowed and the lake is shallow there. They will have long docks that block the navigational channel Will that cause loss to other boats that use the channel now. Corliss noted that he can answer that because he ran his pontoon boat through there. Corliss noted there is not much of a navigable channel now and the deeper tends to be to the North side. Corliss noted that the Town has no control over the water, its navigation or docks. McGrath asked about the drainage system that pours into the lake. Corliss noted that currently there are 2 culverts under the class VI road. Pam Walton noted that 30 years ago nobody thought would ever be developed. The thought of having houses there is unsettling. Did contact DES and sent him the plans and asked if docks would be allowed in this area. DES noted that it is not a given that docks would be approved. Every aspect that happens near that property is negative. That area is a sponge, even with the rain gardens but the natural basis of the property is doing a good job and the man made things may not be able to do it as well. It may start out well, but if the things in the plan are not done, what will happen to the water. What if the entire golf course is developed in the future? Walton noted she will contact the Allens, who used to own the property. Walton noted her question is when you are figuring the amount of water coming down is it as it is today or after developed. Corliss noted that the regulation are looking for current and post development. Corliss noted that the Planning Board does not consider hypothetical development in other areas. Corliss noted that the regulations do not require it, but also hypothetically there is another development proposed across the road, it would have the same requirements to not increase the flow off the property. Brannon asked if the letter Walton submitted was on behalf of the Conservation Commission or herself. Walton noted that the letter is just from her, not the Conservation Commission. Brannon noted that land owners have rights to develop property and this proposal meets all the regulations. The regulations clearly outline what is required. Brannon noted that the features are being done around the state to address the quality of runoff. Brannon noted this is a very low maintenance system and have also made land owners aware via the deed. This is the way that land is supposed to be developed near sensitive properties. Brannon noted that he understands emotional comments, but noted that we have to be aware of the land owner's rights and what is allowed per the regulations. Brannon noted the numbers speak for themselves and it has all been reviewed. Walton noted that she understands that the plan meets done a fairly good job of meeting many of the parameters the town has asked for, however the Master plan indicates that we want to preserve our natural resources and this is a major one and I do not think it meets the guidelines of our master plan. Walton noted that she does not want the plan to go through. Brannon noted that the master plan has to follow the town regulations and the Town can purchase the property. Corliss noted that Mrs. Walton is opposed to the application and asked in a letter that it be denied. Cheryl Maibusch stated that she is speaking as a Board member of Pine Grove Springs Country Club and also an abutter as I live directly across Canal Street. Maibusch noted that the proposal fits well. Fits all zoning regulations, in looking at the properties around the lake, the proposed lots are larger than existing lots. If the property was developed in accordance with the conceptual plan, the quality of water runoff would be improved over current value and all local residents care about the quality of the lake. Maibusch noted that due to the fact that most of the opposition to the plan is coming from citizens that do not even live in the vicinity of the proposal, it sounds like "We have ours and do not want you to have yours". Maibusch noted that adding 5 houses would increase the tax base for the Town. It would be overreaching for any Town

Government to restrict an owners use of his property if it falls within its designated and zoned use. Pine Grove Springs desires to sell this property to be able to better provide for its “jewel” the Golf Course. Maibusch noted this land is at their disposal. Maibusch noted that there is nothing saying that someone cannot come in and buy the entire parcel or parts of the subdivision and put fewer or zero buildings on the land, but Pine Grove Springs desires to raise revenue with the sale of this property and we expect to be allowed to do so as the entire plan falls within town guidelines and no legitimate basis has been shown for denial. Jeff Scott noted that he takes offense to what Maibusch said, regarding people not living in the area as all of us live in the areas and as a shareholder I am offended by other things not related. Scott noted he could not speak about the minutes before ,but wanted to address an omission as I discussed a couple of weeks ago the right of way on Channel Road the rods and what can and cannot be cut within that right of way, would like to see in the plan that nobody can cut within 20 feet 6 inches from the middle of the road. Would like to see it clear that nobody can cut the big trees located in that right of way. Corliss noted that he recalls that discussion and it ended up that its Town property and you cant go on other property and do anything. Scott noted that it was omitted from the last minutes and wants it to be clear to potential buyers that it is not allowed. Scott noted the PB insisted in having as much information in the deed as they feel is needed to inform the current and future owners that are upon this property. Corliss noted this applicant is proposing to sell lots prior to doing the work, so we are trying to come up with a system to notify them of the plans. Scott noted he wants that in the deed. Scott noted that VanCor suggested that the Planning Board was hoodwinked and on September 9th and the PB violated the zoning regulations of the town of chesterfield. Corliss noted that is not this application. Corliss noted that it is in the past and not part of this application. There were no more public comments at this time. Koopmann asked Brannon if all of the calculations assume that the maintenance of the woodlands and wetlands all of your calculations assume the maintenance of the woodlands and wetlands. Brannon noted that the existing numbers are based on a golf course and the predicted numbers assume a more residential area. Brannon noted that if they had assumed that the area would all be brush or woods, the runoff numbers would have been even better. Brannon noted that the important areas are the areas that are proposed improvements and those are the areas that will be enforced. Koopmann noted that the woodland buffer between the grass and the lake will continue. Brannon, yes, we are not proposing any tree cutting on the Town property. Koopmann noted that any cutting in that area would increase the effect of the flow off the property. Brannon noted there is nothing proposed in that area. Corliss noted he would like to now get a sense of the board if they are interested in considering conditional approval or if there is other input wanted. Poll of the board: Jeanny would like to go in that direction. Parisi noted that there are items that the board has not talked about and it was discussed at the last meeting to get input on the legal documents proposed by the applicant. Parisi noted that would at a minimum be a condition of approval if that is the direction the board wants to go. Parisi noted that there may be sufficient information missing but could go either way. Brodbine would like to go in the direction of conditional approval. McKeon noted that he believes that the applicant started off presenting a plan in a manner that was trying to get us to conform to what they would like to see, as the process has gone through, we have a plan that resembles a plan that we require in our regulation, but a true 3rd party review should have happened. McKeon noted that the applicants attorney were against that to begin with, but were ok with someone just checking their work. McKeon noted that the data provided is from the entities that are hired by the applicant, but I do not believe we have the information the town should have to compare and make a decision. McKeon noted he believes the true 3rd party review should happen and then get to the end. Koopmann noted that he is feeling the same as McKeon. The September meeting was well attended and there was a universal appeal for the environmental impact statement. Koopmann note that Brannon is well prepared but are representing the interest of the applicant. This project has an enormous impact on the Town and

there are still some questions. Koopmann noted he has questions about how this will be monitored and the impact on the Code Enforcement on the Town. Koopmann noted he does not believe we are ready yet. Pieper noted that he may be ready, he dislikes this plan but sees no legal basis to deny it except for the need to follow the Master plan which supersedes all other regulations. Aldrich noted that she is wondering what McKeon is looking for. McKeon noted that he is looking for an independent analysis of what the development is. The applicants attorney told us that there was no need for that and stated we do not have the authority to do that, but we do have that authority. McKeon noted that the Town needs a true 3rd party review. McKeon noted that means a review that does not include using the data provided by the applicant or their representative. Aldrich asked why the 3rd party review was done if it is not what the board wanted. McKeon noted we stated we would look at it, and see how it came out. The board was trying to compromise. Aldrich noted that she also wants to limit the growth on the lake, but have gone over everything and believe we set conditions for them to meet and have they met them and if the answer is yes, how do we now change that to something else now. Corliss noted that we would not generally do that unless we were made aware of facts that were not in evidence. Panciocco noted that she has heard this mentioned a few times about the Master Plan. Panciocco noted that the Master Plan is a beautiful document as a future vision of the Town, but it is a non-binding document. The Planning Board is supposed to propose zoning to meet the Town goals and regulations for development that is consistent with the Master Plan. Panciocco noted that the Master Plan is something to look forward to but, its mandates have not reached the regulations. It is the applicant's job to meet regulations. Panciocco noted that there is no such thing as a true 3rd party review. The Town does not have the authority, at the applicants expense to hire someone to do the work that fieldstone has already done. A third party reviewers job is to go through the data according to the regulations that the professionals that are bound by codes of ethics to confirm compliance with Town regulations. Panciocco noted that the 65 day clock is gone and we are two weeks beyond. Panciocco noted that the same things are being rehashed over and over. Panciocco noted that the time is up, and we need to come to closure. Panciocco noted she is respectively asking the board to take a vote this evening. Corliss noted that the 65 day clock has been suspended by the COVID-19 crisis. Panciocco noted that if that was the case, why all of the court deadlines were are being held today. Panciocco noted that they have been patient and have responded to all requests. Corliss asked for an emergency order that changed the timeline. Panciocco noted it was not from the governor it was from the courts. Panciocco noted that the application meets the regulations and zoning and its time for the board to make a decision. Panciocco noted that she has no doubt that she can work with Town Counsel on the legal documents.

James Corliss moved that the board proceed to discussions for conditional approval. The motion was seconded by Joe Brodbine.

McKeon asked if the input from Rattigan was received. Corliss noted that he has spoken with Rattigan and he is confident that he can support the board in whatever direction the board goes. Parisi noted that he mentioned previously that there are pending legal documents. Parisi noted that the documents are critical to protecting the property and providing full disclosure to potential new land owners and without feedback from Rattigan it is difficult to support an approval of any kind. Parisi noted that the applicant's attorney has stated she is willing to agree to almost anything, but Parisi noted that to leave that as a pending condition is risky and puts the future land owner and potentially the lake at risk. Corliss noted he is asking if the board wants to go in the direction of approval. Pieper asked if the intent was to continue this meeting till 2 in the morning or another date? Corliss noted that he would like to continue on, but not till 2AM. Pieper asked what if we lost a quorum. Corliss noted that if we lose a quorum, we would be in never land, so lets not let that happen.

Vote: NO: Pieper, Parisi, Koopmann, McKeon

Yes: Aldrich, Brodbine and Corliss.

The motion failed.

Aldrich asked if there was a way that everyone can look at the Attorneys comments and on the meeting on Monday take a straight vote. Corliss noted he has his own thoughts on conditional approval and one that I would want applied would be that the town legal counsel approves all legal documents. Pieper noted that he would like to see town counsel comments before deciding. Corliss noted that from his discussion with Counsel, he thought that the Town was protected legally with conditions. Parisi noted that he has stated what he needs to make a decision. Parisi noted that the board needs to decide what additional information is needed. McKeon noted he could go along with the suggestion from Aldrich, that the board review what Rattigan has provided and at the next meeting it can be discussed from there.

Jon McKeon moved that the hearing for Pine Grove Springs be continued to May 18, 2020 at 7:30 on virtually via Zoom. The motion was seconded by John Koopmann.

Discussion: Pieper asked if the meeting should start earlier than 7:00PM as there is a lot to cover. Aldrich noted that it should be heard on the 11th. Panciocco asked if it was possible to close the public portion of the hearing so the board can deliberate at a later date. Corliss noted that the board tries not to do that because sometime they want to ask questions. Pieper asked if the board wanted to start at 6:30 PM. Corliss noted that he is not sure what the board is looking for from Rattigan. Pieper noted that if his opinion is worth getting, then it should be dispersed to the board. Corliss noted he is not sure he has anything in writing that the board is looking for from him.

John Pieper moved to amend the motion to change the public hearing time from 7:30 to 6:30 PM . Jeanny Aldrich seconded the motion which passed by majority. (No: Parisi and Corliss)

Vote on the original motion with the amendment. The motion passed by roll call vote. (No: Corliss)

The meeting on May 18 2020 will start at 6 and the public hearings will start at 6:30PM

Corliss noted that next Monday the board will review the FedEx.

Brodbine asked if we could have the information from the Attorney before the 18th for review.

Corliss noted he does not have what the board is looking for. Pieper noted that Corliss stated he spoke with Rattigan, but that does the rest of the board no good. Aldrich noted that an email was received during the meeting. Corliss noted he does not believe it will answer the question. McKeon noted that the board wants to read and digest what the attorney had to say and they have not had an opportunity to do so. Parisi stated one of the objections to the 3rd party review was that they did not visit the site, is there an opportunity to have them visit the site. Corliss noted that the hearing has been continued so the hearing is done and we cannot take more action. Jeanny noted that she would like to have a plan in place as to what we will be doing when we meet again. Are we going to look specifically at the Attorneys email and see if anything needs to be put in a conditional approval. Corliss noted he cannot control the direction the board goes in. Corliss noted that he tried to have available tonight if the board was interested in doing, a comprehensive set of baseline conditions. Aldrich asked if the board could go over what each member still has questions with. Corliss asked Panciocco if the applicant had any objection to the board continuing to talk about figuring out the plan for the 18th. Bob Maibush noted that he does not object to the board talking about what the plan is, but noted his objection for another continuance. Maibusch noted that it costs him thousands of dollars for each of these hearings and he would like some commitment that the board will not spend another three hours asking questions of the people that are on his clock that have already been answered. Maibusch noted that the engineers were kind about the comments, but he finds it offensive that people on the committee are insinuating that they are acting unprofessionally. Pieper noted that the attorney's letter in response to Mr. VanCor's letter. Pieper noted that there were serious suggestions that he was using his position as selectboard member to influence the Planning Board. Pieper noted that he found her letter to be offensive and unprofessional.

Aldrich noted she believes that there should not be any new material accepted, there has been ample time to go over the information and we should be able to come to a decision. Pieper noted that he agrees with Aldrich and noted that if Corliss wants to put together a list of conditions in advance, it may expedite the meeting. Corliss noted that he should have gotten them to everyone in advance. Parisi noted that he would like his opinion on the various legal documents proposed by the applicant that would become deed or lot restrictions with the primary purpose of having full transparency to future land owner and to do our best to make sure legal documents are in place to protect the lake., Corliss noted that the Town attorney has looked at it. Parisi noted that he has not seen any input on that and would like to see it. Koopmann noted that he would like to see the wetland delineation defined. Koopmann noted he would like to see it boldly and clearly flagged or delineated. Aldrich noted that was done almost 2 and half years ago.

Items for Discussion

Review for Completeness – FedEx Parking Lot

A motion was previously made (during the Pine Grove Springs discussion) to hold the public hearing on May 18th virtually.

Update to Rules of Procedure

It was noted that the rules of procedure were voted on at the last meeting and there has been a modification. Aldrich noted that the Board of Selectboard modified the document so that the meeting is opened by the administrative secretary. Aldrich noted that the employee should be the one to open the meeting and they are not likely to miss a meeting without notifying someone in advance.

Jeanny Aldrich moved to accept the policy as amended. The motion was seconded by Joe Parisi and passed unanimously by roll call vote.

A public hearing will be held on May 18th to add the amended zoom virtual meeting procedure to the rules of procedure.

Items for Information

Other Business

Items for signature

Adjournment

Jeanny Aldrich moved to adjourn at 11:45 P.M. The motion was seconded by John Pieper and passed unanimously by roll call vote.

The next meeting will be held virtually at 7:00 PM May 11, 2020, please see the Town Website calendar (<https://chesterfield.nh.gov/events/>) for the meeting ID.

Respectfully Submitted by:

Patricia Lachenal

Planning Board Secretary

Approved by:

Planning Board May 4, 2020

James Corliss

James Corliss, Chair

19MAY2020

Date