

**TOWN OF CHESTERFIELD, NH
PLANNING BOARD**

Monday, December 21, 2020

Public meeting convenes at 7:00 p.m.

Appointments scheduled to begin at 7:30 p.m.

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, 1-312-626-6799 or 1-301-715-8592 Meeting ID 846 9280 0587 and passcode 519818, or the following website:

<https://us02web.zoom.us/j/84692800587>

Meeting ID: 846 9280 0587

Passcode: 519818

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.

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

Present: James Corliss, Jon McKeon, John Koopmann, Joe Parisi, Roland Vollbehr, Jeanny Aldrich, and Joe Brodbine.

Call to Order

Planning Board December 21, 2020

James Corliss called the meeting to order at 7:01 PM.

Seat Alternates

Aldrich noted that Bob Maibusch will be an alternate, but he has not signed paperwork yet.

Review of the Minutes

November 16, 2020 and December 7, 2020

Joe Brodbine moved to approve the minutes from November 16, 2020 as amended. The motion was seconded by John Koopmann and passed unanimously by roll call vote.

Joe Parisi moved to approve the minutes from December 7, 2020 as presented. The motion was seconded by John Koopmann and passed by roll call vote. Aldrich abstains.

Appointments (7:30)

Town of Chesterfield Planning Board - A public hearing will take place to review and vote on the proposed addition of section 220 "Spofford Lake Watershed Steep Slope Overlay District Ordinance" to the Chesterfield Zoning Ordinances. Please see the Town website for full draft of proposed regulation. (chesterfield.nh.gov)

Corliss noted that Koopmann Chaired a Steep Slopes Sub-committee with the charge of coming up with a draft steep slopes zoning amendment. It was noted that the sub-committee has gone over several drafts which are all located on the website for review. The last meeting held by the sub-committee was Friday December 18, 2020. It was noted that there is an overlay map that the Planning Board will have to approve, but it is too large to email and will be very slow on some computers.

Parisi noted that originally there was talk about a slope at 50 feet, but it is now 40 feet. Koopmann noted that they used other towns precedence and noted it will be a fairly easy standard to establish from the 2-foot gradients contours.

Koopmann noted that he would like to remind everyone that this is not a town wide ordinance, it is only for the Spofford Lake Watershed. Koopmann noted that the land and waters that flow directly into the lake are what will be addressed by the ordinance. Parisi noted that he is concerned about going from 50 to 40.

Corliss noted that prohibitive slopes will increase the necessary lot size and there was a lot of discussion about an engineered solution being possible.

James Corliss moved to amend 220.9 Exemptions to:

A. Undeveloped lots of record are exempt from the dimensional requirements of land area of a lot.

B. Development on lots of record may be exempted from the restrictions if the landowner presents a professionally engineered development plan that demonstrates no negative impact from runoff to surrounding properties or waterways approve by code enforcement or their designee.

C. The requirements of the Spofford Lake Watershed Steep Slope Overlay District Ordinance established herein are not intended to limit forestry operations, as long as forestry operations are

practiced in accordance with New Hampshire State Requirements and NH Best Management Practices for Erosion Control on Timber Harvesting Operations (as revised), as published by the UNH Cooperative Extension.

The motion was seconded by Roland Vollbehr.

Brodbine noted that he believes the regulation is too rigid without adding “b”, but the way it is written is too lenient. Brodbine noted that the wording needs to be worked on as leaving it to Code Enforcement is not acceptable. Koopmann noted that the Town would have to make sure the plan is maintained properly. Koopmann noted that Code Enforcement is already having to check some properties annually that are not complicated plans. Koopmann noted that he has not seen wording like this in any of the ordinances he has seen but would be agreeable if this were only permitted in the precautionary slope area and nothing greater. Aldrich noted that this would require appropriate oversight. Aldrich noted she would like the Planning Board to be the oversight in something like this. Corliss noted that the Planning Board does not have the authority in residential. Brodbine noted that it could be added as a special exception forcing an applicant to go to the Zoning Board for approval, but not making a variance necessary. McKeon noted that if “b” was there, the only way he would be comfortable would be to require a third-party independent engineer review looking at the entire concept. (Not just the numbers) Aldrich asked how many properties may be affected. Corliss noted that development includes redevelopment, so if someone was tearing down and building new, they would be subject to the new regulation. Corliss noted that could affect any property on the lake. Parisi noted that no matter the regulation, an owner can always go to the Zoning Board for relief.

Roland Vollbehr moved to amend the motion to remove “B”. The motion was seconded by Joe Brodbine.

Amended Motion:

220.9 Exemptions

A. Undeveloped lots of record are exempt from the dimensional requirements of land area of a lot.

B. The requirements of the Spofford Lake Watershed Steep Slope Overlay District Ordinance established herein are not intended to limit forestry operations, as long as forestry operations are practiced in accordance with New Hampshire State Requirements and NH Best Management Practices for Erosion Control on Timber Harvesting Operations (as revised), as published by the UNH Cooperative Extension.

The motion to amend the motion passed by Majority Vote. (No: Parisi, Brodbine, Corliss) (Yes: Aldrich, Vollbehr, Koopmann, McKeon)

Vote on new 220.9 passed unanimously.

Bob Maibusch noted that he believes the regulation to be much too prohibitive. Maibusch noted that he has not located any regulations that are close to being this restrictive in the State. Maibusch noted that the majority of them are 15-24% and prohibitive starts at 25%. Maibusch noted that he has spoken to a land use attorney and they indicated this regulation is obstructionist and a land grab. Maibusch noted that the Town will have issues with people upset the Town is taking their property rights. Maibusch noted that there is nothing in the regulations allowing people to improve the properties and that is a big miss. Maibusch noted that there are things that can be done to improve the lake, but this regulation does not allow any improvements to be made. Maibusch noted he

believes that the board needs to redo the % and look at exemptions for people that can demonstrate no adverse effects.

Pam Walton noted that the sub-committee voted down the exemption idea that was presented and voted down by the Planning Board by a vote of 4-2. Walton noted that only Corliss and Maibusch thought that addition was important. Walton noted that developers have one view and conservationist have another view and there needs to be a meeting of the minds. Walton noted that there are a lot of places that have the 15-24 percentages and the prohibitive starting at 25, but there is no other steep slope in the State for a lake that has such a small watershed. Walton noted that it has been shown that the water quality is diminished, and the State has recognized our struggle and have given grants to assist. Walton noted that she wants to do everything that can be done to make sure that the runoff is as small as possible.

Geoff Jones was in attendance in support of the regulation. Jones noted that he is a professional forester and Chair of the Stoddard Conservation Commission. Jones noted that he looked at the ordinance and believes it will be an additional layer of protection. Jones noted that the best water comes from undisturbed forest and once it is gone, you cannot get it back. Jones noted that he agrees that putting in a place for engineered plans to be an exception is a bad idea as there is always a maintenance component that is ongoing, and most are not maintained properly. Jones noted that extreme weather events will also negate how the system works even if it is maintained. Jones noted that the number of extreme weather events continues to climb.

Potter noted that he has a cottage on the lake, and he finds this ordinance to be an overreach and that it will take value from his land. Potter noted that he would like “b” in there and it would feel less like a land grab.

Bayrard Tracy noted that the cost of poor steep slope management is evident with Lone Pine and North Shore Road. Tracy noted that every time there is any volume of rain, the soil is washed down toward the lake. Tracy noted that many have owned cottages for generations and are noting that the water flow has changed. Tracy noted there has been a lot of money spent to attempt to change the situation, but there has not been a lot of success.

John Zanotti noted that looking at 220.7 E, it sends you to the Land Development Regulation 605.3 and in there it talks about erosion control mechanisms, however it does not indicate any requirement for maintenance. Zanotti noted that this regulation points to another and that one has no teeth.

Koopmann noted that he agrees and would like to add “maintain” to “E”. Zanotti noted that he believes it to be a regulation that is not enforceable and there is no point to having it in there if it is not enforceable.

Norm VanCor noted that there has been much discussion on exemptions, and he would like to point out that the intent is to protect the lake and therefore it needs to be restrictive for the common good. VanCor noted he strongly urges the Planning Board to keep the ordinance as it is and recommend approval from the voters.

Val Starbuck noted that she agrees with VanCor and Jones. Starbuck noted that the Town has invested substantial money to help the Spofford Lake and the Spofford Lake Association has performed extensive work. Starbuck noted that she has seen huge differences in the lake and there are now at least 25 different weeds in the lake where there used to be one or two. Starbuck noted this affects the oxygen level and therefore the fish. Starbuck noted that a loophole should not be created allowing development where the ordinance is designed to prohibit development.

Roland Vollbehr moved to add “maintain” to 220.7 E.

E. Erosion and sediment control measures, soil stabilization measures and stormwater management systems shall be designed, installed, and maintained in accordance with best management practices. Such measures include but are not limited to all the requirements set forth

in SECTION 605 EROSION AND SEDIMENT CONTROL STANDARDS of the Chesterfield Planning Board Land Development Regulations. Appropriate use of the NHDES Erosion and Sediment Control Handbook, Volume 3 (2008 or later) is recommended to ensure compliance. It is the responsibility of the landowner and permit applicant to ensure that erosion and sediment are properly controlled in order to mitigate potential adverse impact associated with the disturbance of Steep Slopes during and after construction.

The motion was seconded by Joe Brodbine and passed unanimously.

Cheryl Maibusch noted that the entire region of Spofford and Chesterfield boils down to the property owners around the lake. Maibusch noted that property rights are being infringed on and land is being devalued.

Koopmann noted that the charge of the Planning Board is to implement the Town of Chesterfield Master Plan which was voted on and created by input from all residents. It was clearly identified that the Lake is the prime target of the effort and should be protected. Koopmann noted that protecting the lake bolsters the land values around the lake.

John Dix noted that he lives on the lake and agree that this is overly restrictive. Dix noted that the percentages are to extreme and noted this regulation will prevent him from ever doing anything on his property, even if it meant protecting the lake. Dix noted there are 2 class VI roads on his property and this will prevent anything from being done with them as well. Dix noted there is runoff from Route 9 that should be addressed. Dix noted that if his septic failed and a contractor had a better place to put it, even if it would be better, I would not be allowed to do so.

Bob Maibusch noted that the board did not have a professional engineer look at this document and that is a mistake. Maibusch noted that Code Enforcement may not have the expertise to manage this and the wording change that indicates designee will allow the Code Enforcement officer to seek help if necessary. Maibusch noted that the Town should have a professional engineering firm at their disposal for items that are to complex for Code Enforcement.

Burt Riendeau noted that after serving on the Zoning Board of Adjustment for many years, a special exception only allows the board to look at it and see if it meets the requirements. Riendeau noted there is no course for rejection if it meets the requirements. Riendeau noted that he believes that turning it over to a board of 5 or 7 people is not the best idea. Riendeau noted that if Code Enforcement has questions, there is a mechanism for him to get assistance and that is better than an entire board. McKeon noted that Code Enforcement does not have the same ability that Land Use Boards have to require a 3rd party review and have the cost borne by the applicant. The Town would be responsible for the cost. Riendeau noted that it could be written into the ordinance that the applicant pays that cost. Aldrich noted that the Code Enforcement office is busy now without this added responsibility and believes it should be the Zoning Board.

Poll of the board to see if there is interest in finding wording to allow someone to present an engineered plan.

Parisi noted that he does not necessarily support the option for an engineered solution but believes that adding it to the ordinance will be necessary to have the ordinance approved by the full Town. Parisi noted that some people are calling this a “loophole” but if it is very limited and subject to third party review as suggested by McKeon.

Koopmann noted that the Sub-committee and the Planning Board have both voted it down and he would like to move on.

Poll:

Does the Planning Board want to work toward finding the language to allow an engineered solution that is reviewed by someone?

Planning Board December 21, 2020

Yes: Aldrich, Brodbine, Parisi, Corliss

No: Vollbehr, Koopmann and McKeon

The sub-committee will meet on December 28, 2020 at 2:00 PM.

James Corliss moved to continue the public hearing on the proposed addition of section 220 “Spofford Lake Watershed Steep Slope Overlay District Ordinance” to the Chesterfield Zoning Ordinances to January 4, 2021 at 7:30 via Zoom. The motion was seconded by Joe Parisi and passed unanimously by roll call vote.

Items for Discussion (7:00)

Set date for public hearing on petitioned zoning amendment

Corliss asked if Lachenal had received anything more. Lachenal noted that nothing else has been received. Corliss noted he reached out and suggested the Owners of Ames performance to come to a conceptual consultation.

Jon McKeon moved to hold the public hearing on January 4, 2021. The motion was seconded by Roland Vollbehr and passed unanimously by roll call vote.

Review for completeness – Cormier

The board reviewed the application for completeness noting the following:

Tax map references are missing from the map.

Not to the nearest 100th of an acre.

Monuments are planned where it intersects with the street.

There may be questions about the driveways. Corliss noted that the highway can weigh in at the public hearing

Joe Parisi moved to schedule a public hearing on January 4, 2021 at 7:30 PM via Zoom. The motion was seconded by Joe Brodbine and passed unanimously by roll call vote.

Pine Grove Springs request for final approval

The board reviewed the conditional approval from May.

Parisi noted he has not seen the NHDES subdivision approval. Maibusch noted it was sent and the approval number is ESA2020071401.

Koopmann noted there is one pin missing from the property. Koopmann noted that he was there with other people and none of them could locate the pin.

It was noted that the Town attorney has not seen the new documents from the applicant. Maibusch noted that there were no changes to the legal documents from the last time they were reviewed.

It was noted that it would be best if the applicant packaged everything together in one place for the board to review and compare to the conditional approval.

It was noted that the area that Koopman was referring to there being a pin missing, there is no indication a pin needs to be set there. Maibusch will put the package together for the board. Corliss

Planning Board December 21, 2020

noted that if the legal documents match what the attorney already reviewed, there will be no need to send it to him again.

Items for Information

Other Business

Items for signature

Adjournment

Jon McKeon moved to adjourn at 10:12 P.M. The motion was seconded by Joe Brodbine and passed unanimously by roll call vote.

The next meeting will be held virtually at 7:00 PM January 4, 2021, 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:



James Corliss, Chair

5JAN2021

Date