

TOWN OF ESSEX PLANNING COMMISSION
MINUTES
SEPTEMBER 14, 2023

PLANNING COMMISSION (PC) PRESENT:

IN PERSON: Dustin Bruso, Chair; Johnathan Schumacher; Trefor Williams and Georgia Lavigne.

VIRTUAL: John Mangan, Clerk; Daniel Parkins.

OTHERS PRESENT:

IN PERSON: Katherine Sonnick, Community Development Director; Sharon Kelley, Zoning Administrator; Kent Johnson, Planner; Nancy Williams; JH Stuart; Paula Duke; Shawn Cunningham; Jeff Lyon; Susan Alexander; Kirk Lord; Julie & David Albright; Bryan Currier; Marty & Elizabeth Baslow; Alan French; Roger Sammuel; Kenan Keco; Jeff Lyon; Tim Mack and Jean MacBride (Essex Reporter.)

VIRTUAL: Diana (Unidentified); John Turner-Cayuga Diana Matthews; John Rowe Patty Davis; Ken Signorello; and Paul Davis.

AGENDA ITEM 1. CALL TO ORDER: The meeting was called to order at 6:03 p.m., noting that Vice-Chair Knox is attending remote and 5 PC Members were present in the room.

AGENDA ITEM 2. AGENDA ADDITIONS/CHANGES: None.

AGENDA ITEM 3: APPROVE AGENDA: Commissioner Mangan **MOVED** and Commissioner Lavigne **SECONDED** a **MOTION** to approve the Agenda. The **MOTION** passed 6-0.

AGENDA ITEM 4: PUBLIC COMMENTS: None.

AGENDA ITEM 5: PRELIMINARY PLAN-PUBLIC HEARING: PROPOSED COVENTIONAL 9-LOT SUBDIVISION LOCATED AT 60 COLONEL PAGE ROAD IN THE LOW DENSITY (R1) AND SCENIC RESOURCE PROTECTION OVERLAY (SRPO) DISTRICTS:

Kent Johnson, Planner stated that the subject property was located in the Low Density Residential, Scenic Resource Preservation, and Flood zones and he needed to evaluate all those areas. He reported that the applicant has not provided adequate documentation on the existing scenic resources or how these will be impacted/mitigated by their development proposal. As such, he has not been able to complete his review. He highlighted the following areas that need more information:

- Line 141, the traffic study, road//cul-de-sac driveway designs are not not complete; and a variety of water line issues need to be corrected.
- Line 161, corrections are still needed to trail easement areas.
- Line 183, trees need to be out of the utility areas.
- Line 187, the existing conditions remains incomplete.
- Line 195, he reported that 5 different site plans were provided and, they only need 1 site plan.
- Line 209, the Landscape Plan is incomplete.
- Line 218, the text is too small to read on the plan sheets.

- Line 266, significant grading changes need to be shown on the plans.
- Line 231, the road profile on Sheet 2 appears to be incomplete or inaccurate.
- Line 232, the road detail on Sheet 2 needs a correction.
- Line 239, the cul-de-sac appears too large and should be smaller.
- Line 362, he suggested the applicant consider removing the cul-de-sac, even though it has been shown on the plans for a while, and suggested the applicant go back and look at each lot having its own driveway.
- Lines 402 & 424, the flood area boundary needs to be shown on the plan and he needs a pre and post grading plan with landscaping and description of how the waterway will be relocated.
- He noted comments from the Conservation & Trails Committee as follows: Did not see a stream shown on the plan and suggested maybe a secondary stream was on the premises; and questioned what assurances will be made that the open space lands remain open and if it was going to be written into the deed.
- He noted that the State Wastewater permit has an outdated plan and the permit may need to be amended.

Chairman Bruso asked the PC if there were any questions for the Planner. There were none.

John Stuart and Alan French represented the application. Stuart made the following points:

- He reported that he did not receive Staff comments until the day of the meeting and, this did not give them much time to digest it or provide feedback to staff. Stuart reported that the Staff Report was buried on the website.
- He believes much of the disagreement between the applicant and staff centers on the Scenic Resource Overlay District. Stuart reminded the PC of its site visit, less than 1 year ago, and the plan showed the road bisecting the meadow and accessing Colonel Page Road. He believed that everybody agreed that a shorter road would come off Chapin Road to allow for more clustering. He reported that they received Sketch Plan approval in December and read a passage, "The project complies with the purpose of the SRPO and protects its strategies since it minimizes impacts of development on the identified Scenic Resources." Stuart felt, and the landowners felt, that the SRPO concerns was "resolved."
- He was not sure about staff's comment, and his specific criticism is "why they were looking at an alternative for the road as Section 2.20(f)(5) stated, all roads would be served by a single drive." He stated that their proposal was to have a single road serve "at least 7 of the lots" as it was the appropriate way to deal with access. He noted that mound systems were moved and Lots 2 & 3 pushed to the wooded area so that they could not be seen and lots 6-9 were pushed closer to Col. Page Road and Chapin roads so that the view corridor would be more protected by the proposed development.
- Regarding the site plan, he reported that the planner asked that they separate out the plan onto additional plans as he was confused by all the information on one plan. He then created Sheets 1a, 1b and then added another Sheet 1aa.
- He described Sheet 1aa showing the meadow not to be developed and the open space preserved as shown with hatch markings on the plan. He noted that nothing is blocking the views.
- He disagrees with staff that the cul-de-sac is too large and believes a snow-plower would agree with him. He pointed out that there is no dimensional standards in the

Public Work's Specifications. They feel the size is appropriate to get traffic around the cul-de-sac.

- He believes modifying the location of the house on Col. Page Road is bad planning and would not be visually or aesthetically pleasing.
- He reported C2 District standards are determined by the state and flood areas are determined by FEMA. He stated that the metric was not viable, but it ended up in the zoning regulations. He reported that the landowners had its property re-classified about 2,000 feet of Alder Brook and it determined that the flood area is significantly smaller than what FEMA originally projected. FEMA plans to put the correction in its next publication of maps. He noted that all the plans show the update. He stated that no development portion of the project is within the 100-year floodplain.
- He reported that on August 24th, they received comments back from Public Works and on August 28th all the plans were updated and submitted to the town both electronically and in person. He reported that the plans have changed, at the request of staff several times, at great expense and stated the situation was now "Wacko mode".

Chairman Bruso suggested that since the applicant's just received staff comments today, the hearing should be continued. Stuart stated that the applicants and staff's positions are too far apart. Stuart believes the issues with the SRPO are settled and there is nothing more to talk about.

Alan French, reported that the state guideline are not to use individual driveways. He does not know what more can change. He said, "Wacko mode is a challenge."

Chairman Bruso suggested opening the Public Hearing and asked for PC comments.

Commissioner Williams asked if the picture provided in the packet was to scale. Stuart replied yes, it will be precisely where the house sits and gives a fairly good representation of what people will see on the site. Williams asked if the height was to scale. Stuart said, "yes." Stuart noted that Lots 4 & 5 are the most significant house lots. He pointed out that the house will be 30' in height and the mature trees beyond the lot are 40' to 50' high, and the house will not impair the view to the hills.

Commissioner Parkins noted that the staff notes call out specifics on what is needed in order to pass and asked if they reviewed the notes. Stuart said yes. Parkins stated that if the specific information is provided, the application will move forward at a faster rate. Stuart stated that there is a divergence of opinion. Commissioner Parkins noted that site specific information was requested. Stuart replied that all that information was provided to the town on 8/8/23. He was not sure if Public Works received same. Katherine Sonnick confirmed that Public Works received the information.

Commissioner Mangan felt that a continuance was a good idea. He does not put fault on anybody as the application has been confusing and still needs some clean up.

Commissioner Schumacher MOVED and Commissioner Williams SECONDED a MOTION to Open the Public Hearing. The Motion passed 6-0.

Patty Davis, remembers walking the site which resulted in new plans that everyone loved. She questioned why they changed the original plan as everything seemed perfect. Alan French responded that the lot felt too congested. He grew up on a dairy farm and wanted the same

147 feel. He plans to live and die on this lot. They moved the houses to the ridge line and tucked
148 some into the tree line.

149
150 David Albright, 75 Chapin Road, asked if they received state septic approval. French said yes.

151
152 Paul Davis seconded “what Patty said.” He said that clustering is more in keeping with the
153 SRPO zone and spread out seems to take up a lot of space.

154
155 Marty Baslow, 65 Colonel Page Road, feels clustering is not pretty and not in keeping with the
156 character of the neighborhood.

157
158 Kurk Lord, 50 Colonel Page Road, asked if a sight distance study was done for the other 2
159 houses as it was coming down off a small hill and had a potential for accidents.

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161 Susan Alexandar, 50 Colonel Page Road, asked what occurred with the floodplain. She asked
162 the status of the Wildlife Corridor Study. The planner referred to the State Act 171 revisions
163 that protect forests and habitat areas.

164
165 Commissioner Schumacher stated that they have seen this application over a period of time;
166 they walked the site and did not see a huge issues, that were alarming. He feels a continuance
167 is more beneficial. Commissioner Parkins concurs.

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169 **Chairman Bruso MOVED and Commissioner Schumacher SECONDED a MOTION to**
170 **Continue the application to the next available meeting once outstanding issues are**
171 **resolved. The MOTION passed 6-0.**

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173 **AGENDA ITEM 6: SITE PLAN AMENDMENT & BOUNDARY LINE ADJUSTMENT-**
174 **PUBLIC HEARING: JEFF & DAWN LYON: REQUEST TO RE-APPROVE A 2021 PC**
175 **APPROVAL TO ACCOMMODATE 8 ADDITIONAL RESIDENTIAL UNITS AND**
176 **MERGE TWO LOTS IN THE LOW DENSITY RESIDENTIAL (R1) AND SCENIC**
177 **OVERLAY DISTRICTS.**

178
179 Sharon Kelley representing the application and made the following comments:

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181 This request is for a re-approval of a Site Plan approved by the PC on March 26, 2021 due to the
182 mylar not being recorded within the 180-day deadline period. Modifications to the 2021 plan
183 include:

- 184 • Expanding the building from 64 s.f. x 68 s.f. to 72 s.f. x 84 s.f.. This includes enclosing
185 the existing back porch on the building. The overall footprint of the “new” area is very
186 similar. It extends 2 additional feet to the north, 2 additional feet to the west, and 2
187 additional feet to the east.
- 188 • The parking lot was extended and increased from 26 spaces & 2 handicapped spaced (28),
189 to 38 spaces & 2 handicapped spaces (40 spaces); the solar structure accommodates one
190 carport which includes 14 of the 40 parking spaces.
- 191 • The gravel wetland bay shifted positions and went from 15’x33’x3’ to 15’x44’x4’.
- 192 • Relocated the gravel access drive. The gravel access drive was relocated to accommodate
193 the Fire Chief’s concerns. Chief Cole is now satisfied with this project.
- 194 • The dumpster was relocated and a couple of picnic tables were added,

- 195 • Red Oak trees were replaced with Red Maple trees; and Cedar trees replaced with
196 Hemlock trees.
- 197 • Confirmed that Public Works will review the stormwater calculations, however the
198 applicant is required to obtain a state stormwater permit and they will be required to
199 update their stormwater calculations to ensure that the proposed swale is able to handle
200 the runoff from the additional proposed impervious and to recalculate the phosphorus
201 removal from the proposed system.
- 202 • Confirmed with PW's that the traffic study does not reflect the actual impact from the
203 proposed plan, but this falls to Vtrans as the lot is along a state road.
- 204 • Suggested to add to the Staff Report, Line 471 'Additional Findings' to read:
205 "The PC acknowledges that Kana Lane enters and exits off a State Highway, and that
206 the state reviews the traffic. A copy of the State approval regarding access and traffic
207 should be received by prior to the issuance of a Zoning Permit" and a proposed new
208 condition to read,
209 "Prior to the issuance of a Zoning Permit, the applicant shall submit a letter of
210 verification from Vtrans that they approve the curb cut and the additional traffic."
211

212 Shawn Cunningham, Bryan Currier and Jeff Lyon represented the application. Cunningham
213 stated that they are in for approval of the same site changes, however there was a bump out of
214 2' from the previous approval.

215
216 **Commissioner Williams Moved and Commissioner Schumacher Seconded a MOTION to**
217 **Open the Public Hearing. The Motion passed 6-0.**
218

219 Katherine Sonnick informed the PC that they received written comments from Lorraine
220 ZaLoom on this application and asked the PC Clerk, John Mangan, to read the comments,
221 dated 9/14/2023 into the record.
222

223 Commissioner Mangan read,

224 *We do support building residences in this district as it is much needed.*

225 *We also appreciate the design as it is aesthetically pleasing and thoughtful.*

226 *I would like to know that what we see here in print is what gets followed up on and built as*
227 *Jeff had shared that we were going to love the solar canopy they built next door.*

228 *While we do applaud and love the addition of solar, that canopy does not at all match what*
229 *Jeff had represented to me that they would build.*

230 *Their solar canopy looks like those gas stations that frequently dot our I89 when I travel*
231 *south to NJ.*

232 *I have had many folks, from both Essex and out of town ask me what that is and how that got*
233 *built that way given its industrial look right along our gateway into our lovely town.*

234 *I know that this did not fall under our planning purview given state statute around utility*
235 *builds, but that said, trust was broken by Jeff when he promised something aesthetically*
236 *pleasing and instead we now have a view from our backyard of a gas station looking canopy.*
237 *We probably would not have noticed it had they not removed all of those pines that previously*
238 *blocked our view of their property, route 15 and their parking area.*

239 *We also want to make sure our property line is respected as our neighbor neglected to put up*
240 *erosion protection the first round until we reached out to our zoning department for follow*
241 *up.*

242 *My recollection was the Mylar had not been recorded last time per our Zoning Administrator.*

We also noted some of our paid for survey stakes were damaged or removed during their tree removal.

This has also broken trust as a neighbor.

We see the existing parking lot is to be removed and 40 spaces built to replace it.

I would like to be assured that the swale will handle the additional runoff in terms of the phosphorus and that it also keeps the runoff from adding to our already too high water table.

We note that number 3 says that the wetland has not been delineated and no need to as it will not be impacted.

Not sure how one determined that the wetland will not be impacted given Jeff previously cut the trees in the wetlands and a lot of the impact is happening now due to their decision.

I believe a larger swale to handle the added impervious surface runoff was in their first plan.

We never saw that built out either despite the addition of the solar canopy adding to runoff coupled with the loss of so many water sucking trees.

We now literally have our first ever grey heron regularly hunting our backyard.

We let our fields grow up in hopes of reducing the higher water table post major neighboring tree removal.

We also just spotted our first ever shore bird, a sandpiper now hunting out back.

We also have had to pump out our basement throughout this summer.

This was the first time we have had to do this all summer.

We did experience a longer seasonal wet basement starting a week after Jeff cut down all of those trees but it did not last all summer, just longer than our usual spring thaw wet basement.

If we are to meet our aggressive Carbon Footprint reduction goals, water in basements increases energy usage.

Might be worth surveying folks to see how many others are now having to pump out their basements, starting with those of use who have wetlands on our properties or abut them.

I am confused by number 16 in red?

Prior to the issuance of a Zoning Permit, the applicant shall provide the pounds of phosphorus to be removed by the proposed system to the Zoning Administrator for 522 review and approval by Public works

I see this was quantified as .89 pounds in this review which was previously submitted to our public works?

Does this mean there needs to be an updated calculation yet to be provided?

Does our public works check the calculations for the added impervious surface area to check against the applicants' phosphorus sum?

This image provided is outdated as they removed all of those trees x'd out as well many more along their drive.

I did the math on the average diameter of the trees removed and how much water is taken up from the ground on average by white pines as the majority of these trees were white pines.

I was floored by my findings.

I hope our planning departments and commissions take note as we just experienced a major flooding disaster in our state.

Essex, thankfully, did not get hit too badly despite bad predictions for our town.

Please consider impacts of major tree losses in wetlands and abutting wetlands in Essex going forward.

Chairman Bruso asked for the PC's thoughts.

Commissioner Lavigne did not see any red flags and the application looks similar to what was previously approved. Commissioner Mangan agreed.

Commissioner Parkins asked what renewable and energy specifics would go with the design. Jeff Lyon responded that they have not finalized that aspect however, they were considering radiant heat on the first floor and heating pumps for the other floor. Commissioner Schumacher noted that the applicant has state guidelines they have to meet.

Chairman Bruso asked about the solar array. Sonnick stated that it bypasses town review if it is connected to the grid. Jeff Lyon stated that it was "quite a rigorous PUC process." He noted that nothing was presented in the original approval and may have mentioned where it could go on the site. Lyon stated that he has received a lot of positive public feedback. He stated the rules were followed for its installation. Lyon reported that the solar has 144 panels and provided 60,000 kw per year.

Commissioner Mangan was not sure if solar was shown or discussed at the original hearing, and that is water under the bridge, noting that they followed state statutes. Lyon stated that they copied what was installed in Stowe.

Commissioner Lavigne Moved and Commissioner Mangan Seconded a Motion to close the Public Hearing. The Motion passed 6-0.

Commissioner Lavigne Moved and Commissioner Schumacher Seconded a Motion to approve the application as proposed. The Motion passed 6-0.

AGENDA ITEM 7: 2024 TOWN PLAN DISCUSSION:

Chairman Bruso suggested this item be taken up at the next meeting due to the time. Sonnick agreed and also noted that it would be helpful to have Vice-Chair Knox in attendance for the conversation. Sonnick noted that the Conservation & Trails is wrapping up its comments on Act 171. She informed the PC that they should be ready for a deep dive into the Town Plan and asked that they review all the chapters. She reported that a public hearing needs to occur in November and asked if they were agreeable to hold a second meeting on November 16th for the hearing. The PC agreed.

Ken Signorello asked for confirmation that the latest update from Conservation/Trails was received. Sonnick confirmed.

Commissioner Lavigne asked what the PC should focus on with the Plan. Sonnick replied integrating more public information and inconsistencies. Chairman Bruso noted that the PC has 3 new sets of eyes to review the document and the goal was to make it a readable document. Commissioner Williams noted that Chapter 4 should note that there are 2 Amtrack stations in Chittenden County.

Sonnick asked the PC to send her any changes or corrections via email prior to the meeting.

AGENDA ITEM 8: Approval of Minutes August 24, 2023.

Commissioner Lavigne MOVED and Commissioner Mangan SECONDED a Motion to approve the August 10, 2023, minutes as written. The MOTION passed 6-0.

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341 **6. OTHER BUSINESS:** None.

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343 The meeting adjourned at 8:02 p.m.

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By: 
PLANNING COMMISSION
Dustin R. Bruso, Chair