

MILFORD PLANNING BOARD MEETING

August 16, 2011 Board of Selectmen's Meeting Room, 6:30 PM

Members present:

Janet Langdell, Chairperson
Tom Sloan, Vice chairman
Paul Amato
Kathy Bauer, BOS representative
Chris Beer
Steve Duncanson
Susan Robinson, Alternate member

Excused:

Judy Plant

Staff:

Sarah Marchant, Town Planner
Shirley Wilson, Recording Secretary
Jack Knowles, Videographer
Meghan Bouffard, Videographer

Matt Sullivan, Perspective member

MINUTES:

1. Approval of minutes from the 7/19/11 meeting.

NEW BUSINESS:

2. **Town of Milford/Boynton Hill Rd – Map 40, Lot 104.** Public Hearing for a waiver request from Development Regulations Article V, Section 5.016. (new application)
3. **Creative Investors – Mile Slip Rd – Map 45, Lot 17.** Public Hearing for a proposed conventional subdivision creating three (3) new residential lots. (new application)
4. **Spring Creek Sand & Gravel, LLC – Mile Slip Rd – Map 50, Lot 4-4.** Public Hearing for an excavation plan amendment to revise one note on plan #SP1004-15 for the existing, approved gravel operation. (new application)

Chairperson Langdell called the meeting to order at 6:30PM, introduced the board members and staff and reviewed the ground rules for the meeting.

MINUTES:

P. Amato made a motion to accept the minutes from the 7/19/11 meeting. S. Duncanson seconded. P. Amato, K. Bauer, C. Beer, S. Duncanson, and J. Langdell voted in favor. T. Sloan abstained.

NEW BUSINESS:

Town of Milford/Boynton Hill Rd – Map 40, Lot 104. Public Hearing for a waiver request from Development Regulations Article V, Section 5.016.

Abutters present:

John & Nancy McDevitt, Boynton Hill Rd

Joe Traficante, Boynton Hill Rd

Chairman Langdell recognized:

Sarah Marchant, representing Bill Parker, Milford Community Development Director

P. Amato made a motion to accept the application. C. Beer seconded and all in favor. J. Langdell noted that the application was complete according to the staff memo. S. Wilson read the abutters list into the record.

S. Marchant explained that the waiver request application is taken care of per the verbiage of town counsel and signed by Bill Parker, Director of Community Development as part of the petition. Since the original subdivision, approved and signed in 2003, three lots have been built and one lot is anxiously awaiting a closing. The roadway has been built through phase I with the proposed turnarounds; however, it has never been completed. Ownership has switched hands several times and the town has gotten involved with winter road maintenance. Staff has been working for the past eight months to try to figure out the best way to take over the road and use the securities which are sufficient, to finish the roadway. We have reached a solution and all parties have agreed; however, part of the original subdivision approval and Planning Board regulations require that a deed to the roadway be granted. It is not possible for a deed to be granted for this roadway, and in lieu of that, the BOS will hopefully be making a decision, on August 29th, to take the roadway. There will be no discrepancies but this is outside of normal process which requires a waiver. The ownership of this roadway has switched several times; several of the lots have been sold to individual owners and there are many mortgagees on these properties. Because of how the deeds were written when the properties sold, our process would require sign-off by all owners and parties of all the lots. It would be very costly and time consuming to chase down all the mortgagees specifically. There are very clear, legal ways per RSA without having to go that route.

J. Langdell read item #14 of the petition/application *..when the lots in this subdivision were conveyed, the deeds did not contain any such exception...* which would have created the right of the Town to get the deed for the roadway *.. and, accordingly, ownership of the bed of the roadway shown as Boynton Hill Road appears to reside fractionally in the two original developers as well as an undivided fractional share corresponding to ownership of any of the individual lots in the subdivision.* We are tracking back to something that happened around 2002 and trying to move forward. S. Marchant said that the Town's goal, with this waiver and the Selectmen's sign-off later this month, is to finish the road before winter so we can take over all maintenance for plowing and drainage. J. Langdell added that would also maintain public safety.

P. Amato inquired as to how much money was held as security. S. Marchant replied that the owners have signed over the remaining amount of nearly \$25,000 which will cover our estimates for paving, cleaning out the drainage, the as-builts and for the last of the bounds to be set. P. Amato said he didn't remember getting into this kind of situation in the past and asked what happened. S. Marchant said she was not exactly sure how we got here and there are many factors, such as not having a development agreement, the repeated switching of owners, private ownership sales, and unclear ownership of the roadbed. Usually we have a very clear sale from one owner to another that can be traced back, but there are some fuzzy documents in this case that make it very difficult to determine ownership. J. Langdell said based on Sarah's presentation as well as the documentation from town counsel, it appears there was a problem on the owner/developer side when they were crafting the documents and that the errors started many years ago, but tracked forward.

Chairperson Langdell opened the meeting to the public; there being no comment, the public portion of the hearing was closed.

T. Sloan made a motion to grant the waiver, as follows *The Town of Milford Planning Board, finds that there is cause to grant a waiver of **Town of Milford Development Regulations** - § 5.16 to permit the Phase I portion of **Boynton Hill Road** to be laid out by the Selectmen as a public road without the requirement of a deed to the underlying fee of the road and, the Board also finds that the proposed layout corresponds ‘...in its location and lines...with a street shown on a subdivision plat approved by the planning board, ..., per RSA 674:40,(1)(b), namely the subdivision plan of Boynton Hill Subdivision, currently on record in the Hillsborough County Registry of Deeds as **Plan #32640**. P. Amato seconded. K. Bauer, BOS representative, abstained as the BOS will be considering this matter on 8/29/11. All else voted in favor and the motion carried by a vote of 6-0-1.*

Creative Investors – Mile Slip Rd – Map 45, Lot 17. Public Hearing for a proposed conventional subdivision creating three (3) new residential lots.

Abutters present:

Mark Maloon, Mile Slip Rd

Paul Amato of Spring Creek Sand & Gravel LLC, Mile Slip Rd

Chairman Langdell recognized:

Mike Plough, Fieldstone Land Consultants, PLLC

Kent Chappell, Creative Investors

Nate Ball, Creative Investors

P. Amato requested to step down as he was an abutter to this application. C. Beer made a motion that this application did not pose potential regional impact. S. Duncanson seconded and all in favor. J. Langdell noted that the application was complete according to the staff memo. S. Wilson read the abutters list into the record. C. Beer made a motion to accept the application. S. Duncanson seconded and all in favor.

M. Plough distributed and presented revised plans dated 8/12/11. He explained that the 29.7 acre parcel is to be subdivided creating three (3) new lots each with the required 200ft of frontage along Mile Slip Rd and two (2) acre minimums required by the Residential “R” district. The remaining 21.9 acre lot has frontage along Wolfer Rd, a class VI road. There will also be a proposed access easement shown on the plan on lot 17-2 for the benefit of lot 17-3 which will minimize the slope and help with the drainage from the build-out of these lots. Sheet 3 shows the proposed grading and driveway design. The proposed common driveway meets the Milford Driveway Design Standards. The driveway for lot 17-3 will come off the road at 4% for 20ft, continue up at 10% until the plateau and then flatten out at 5%. The driveway for lot 17-2 has the same start of 4% going up to 10% and the landing will be 3%. The driveway for lot 17-1 will come off at 4%, going up at 4% and then 6% right into the garage. The proposed homes will have drive under garages. The drainage design shows swales on either side of the access easement coming down to a proposed cross-culvert into an existing 24” CMP culvert. Although a bit steep, we feel the proposed driveway grading better fits the land, has great sight distance either way and meets the intent of the driveway regulations. We will be meeting with the DPW Director next week to review these plans.

S. Marchant noted that in reviewing the plans today, we just caught the fact that Mile Slip Rd is a scenic road and a scenic road hearing will be required for the placement of the driveways prior to any driveway permits being issued.

K. Bauer asked if the 10% grade met our driveway regulations. S. Marchant said 10% is the maximum grade.

S. Duncanson asked if the Fire Department had seen these proposed driveway plans. S. Marchant said no, but we can submit the plans for review. In the past, the last common driveway had to be wider than twelve (12’) ft for winter clearance and this one starts at sixteen (16’) ft which should be sufficient. J. Langdell suggested that future interdepartmental reviews include parameters for what is sufficient for fire apparatus. S. Duncanson then inquired if the ten (10’) ft turning radius was enough for the Fire Department. J. Langdell said Fire Department review can be added as a condition of approval.

J. Langdell reviewed staff comments from the memo dated 8/16/11 and a memo from Bill Parker dated 8/3/11 which discussed the remainder lot on Wolfer Rd being a non-buildable lot. It was also requested that a note be added to the plan stating such. M. Plough said that has been addressed on note #16... *Lot 45/17 shall be considered a non-buildable lot until such time as zoning relief is granted or Wolfer Road is upgraded to a Class V roadway. The improvements to Wolfer Rd will require town improvements prior to construction.*

T. Sloan suggested a note stating that there is a dedicated ROW for lot 3 across lot 2 and there should be something that pertains to the responsibilities for maintaining that shared driveway. S. Marchant said generally a common access easement is required that will be recorded with the subdivision plan. K. Bauer inquired about driveway maintenance. S. Marchant said that information will be detailed in the common driveway easement and is a private agreement between the two parties.

Chairperson Langdell opened the hearing to public comment; there being none, the public portion of the meeting was closed.

J. Langdell then reviewed staff recommendations.

C. Beer made a motion to grant conditional approval of the application; pending staff recommendations, DPW and Fire Department review, a common access agreement be provided, and a note be added to the plan referencing the ROW. S. Duncanson seconded and all in favor.

Spring Creek Sand & Gravel, LLC – Mile Slip Rd – Map 50, Lot 4-4. Public Hearing for an excavation plan amendment to revise one note on plan #SP1004-15 for the existing, approved gravel operation.

Abutters present:

Martin Sample, Mile Slip Rd

Steve & Shelly LaSalle, Mile Slip Rd

Chairman Langdell recognized:

Paul Amato, Spring Creek Sand & Gravel, LLC

Mike Plough, Fieldstone Land Consultants, PLLC

C. Beer made a motion to accept the application. K. Bauer seconded and all in favor. J. Langdell noted that the application was complete according to the staff memo. S. Wilson read the abutters list into the record.

P. Amato explained the he acquired this parcel a number of years ago from Russ Goldman of Sandy Creek Sand & Gravel. Although the market has been quiet over the past few years he continues his permit for the sand and gravel operation. The original operation used my property to access Mason Rd and now I own the operation and we still take the material out my other property, so we either need to have the note amended or removed from the original plan dated 10/18/04.

J. Langdell asked if the plan is reviewed by Staff, the Zoning Administrator and Code Enforcement with the annual issuance of the gravel permit. S. Marchant said it is reviewed by staff. Gravel removal operations are very strongly governed by State RSA and NH DES and DES has regular requirements for information submittal on the status of the operation. P. Amato added that he is submitting this current existing conditions plan prepared by Fieldstone Land Consultants to DES as part of the process. J. Langdell referenced the staff memo comments ... *the gravel excavation operation has been completed in accordance with the approved plan through phase _____, however, it has exceeded the allotted five year time frame* and asked what phase the operation was in, what the lifespan would be and what is the reclamation plan. P. Amato said He would like to think this operation will be done in the next five years, but he doesn't really know how long it will take as he can't control the economy or the building activity in the area. Phase I was completed and reclaimed prior to when he purchased the operation. A portion of phase II is done and we've just started getting into phase III, which is a large area with a lot of material to remove. He described the area and also the recent logging activity this summer.

K. Bauer brought up the staff comment from Code Enforcement to review the plan every five years. S. Marchant explained that former note #11 was unique to this plan and was not part of our gravel excavation regulations, our

