

**NEW GLOUCESTER PLANNING BOARD**  
Minutes of March 7, 2006

**Members Present:**

Jean Libby, Chairman  
Karen Asselin, Vice Chairman  
David O. Willauer, Interim Town Planner  
Ruth Waterhouse  
Laurie Brady  
Sue Robitaille  
Janet Smaldon

**Others Present:**

Rick Micklon  
Gary Sacco, Fire Chief  
Steve Chandler  
Roger Levasseur  
Wade Trudel  
Vinal Zigouras  
Chris Branch  
Debbie Parks  
Beth Fontaine

Jean introduced David O. Willauer, of the Greater Portland Council of Governments, as the Interim Town Planner.

**Motion:** To review and approve the Minutes of February 7, 2006 as written, with the following three corrections: (1) Under the heading Sabbathday Road Commercial Subdivision correct the name of the road from "Osway" to "Oz Drive;" (2) under the heading Bailey Farm Minor Subdivision correct the spelling of Doug "McIntey" to Doug "McAtee;" and (3) under Simond Trucking Site Plan Review clarification in last paragraph regarding question "if there would be any water sitting overnight," should read "if there would be any undelivered Poland Spring water sitting overnight." Ruth, second Karen. 6-0.

**Sabbathday Road Commercial Subdivision**

In review of the plan Jean made comments and still needed items: (1) Road name is fine as added; (2) Road Association Agreement is needed, Vinal Zigouras rose at this time and presented it to the Board; (3) in reviewing the Planning Board minutes Jean could not see that the Board had approved and voted on the waiver of contours as requested; she asked if Zigouras had his waivers in writing and that they had to be on the plan in writing. Jean said that whoever is doing the plan needs to add them onto the plan. Zigouras said he thought they had been faxed to the Town Office and asked for clarification of what Jean needs. Jean said waivers in writing for monuments, underground utilities, contours, and tangent between curves. (5) Jean restated that it needs to say on the plan "Notes and Conditions" not just "Notes." (6) buffer issue on Lot #3 where the buildings are, a 20' setback is needed from the line. There needs to be a no cut buffer around there. (7) Curb cut on Mayall Road was not approved by Public Works Director. Jean read a statement signed by Kevin Doyle of Public Works, "*There is not sufficient site distance for a second entrance off the Mayall Road. May also create drainage issues.*" There is also a comment by the Fire Chief "*the commercial subdivision looks fine if it holds water, the fire pond.*" Jean stated we have no way of knowing whether it will or not.

Karen said that the Road Maintenance Agreement was well done, but would suggest on the remedies for when someone does not pay adding that there would be the "ability to attach a lien on the parcels" so when they transition to the next sale. Jean asked if the Fire Easement was the Town of New Gloucester's or if it was from some other source. Zigouras said his attorney drew it up. Sacco said they need to use the form that was generated by the Town. Zigouras needs to pick up the form at the Town Office.

On the outstanding issue of the buffering, Jean explained that it needs to be added on the plan that Lot #3 needs a 20 foot no cut buffer around the abutting property. It is in the RC Zone and it is required. That is the only lot at the moment that needs this because of the buildings. The other lots will be addressed as they are sold.

Jean reviewed the remaining issues: (1) need to add to the plan buffering of Lot #3; (2) waivers that will be voted on tonight need to be written on the plan, the four waivers are stone monuments, underground utilities, contours, and the minimum length of tangents between curves in the roadway; (3) curb cut shown on the plan needs to be deleted as it was not approved by Public Works Director; (4) needs General Notes and Conditions headed correctly; (5) the fire pond easement requires the Town's form; (6) Road Association Agreement has been turned in, this needs to be done as condition of approval. After a short discussion of the fire pond holding water, Sacco made clear that it was not just this project, but everyone's feeling that a fire pond should have water in it.

**Motion:** To waive requirement for stone monuments and to have capped rebars instead; to waive underground utilities; to waive requirement for contours at 2 foot intervals; and to waive the minimum length of tangents between the curves in the roadway.  
Karen, second Ruth. 6-0.

Jean asked if Zigouras had these written down as they need to be added to the Plan. He said that he did.

**Motion:** Application deemed complete subject to receipt of the Fire Pond Easement Form in the format required by the Town. Karen, second Laurie. 6-0.

Jean asked if a public hearing should be scheduled. Karen said yes. Jean said it will be scheduled for the next Planning Board Meeting.

**Motion:** Move to have Public Hearing set for Tuesday, March 21<sup>st</sup>. Karen, second Ruth. 6-0.

Jean advised Zigouras to contact Debby Parks to review the list of abutters and the wording of the public hearing which needs to be approved by the Code Enforcement Officer. This needs to be put in the paper twice. As long as it is 7 days prior to the Public Hearing it can go in two days in a row.

Karen suggested that a copy of the Road Association Agreement be made for each Planning Board member to review before next meeting and make comments. Jean said at the next meeting they will be acting on this for approval after the Public Hearing. The conditions may not have to be there if the Fire Easement is signed and the plan is corrected to add conditions and waivers.

### **Bailey Farm Minor Subdivision**

Jean asked for discussion regarding the site walk taken by Sue, Janet, Ruth, Karen and Jean. Everyone agreed that it was wet. Karen added that there is a need for buffering on the side where the house was. Jean said that something will need to go in that will take hold fast. Jean was unsure about the septic system designation A and B. Trudel said he would clarify it and get back to the Board. Jean said that something needs to confirm that there is water there for a well. The plan needs to show the buildings on Lot 20-D where the mobile home is. The Ordinance asks for location of buildings and any wells on the plan.

Jean raised a discussion of contour lines, David and Jean reviewed them on the plan and the contour lines appeared to be shown.

Jean said the neighbors are concerned with run-off from the property and she said that the Town is concerned about the drainage there. Trudel said he met with Kevin Doyle of the Public Works and they discussed this issue and concerns with the culverts. David asked if they need a phosphorus study here because of the way the water comes over the hill. Trudel said he will address this property with the engineer John Seavey, who is a hydrologist. Trudel said he came tonight to discuss the comments and concerns resulting from the site walk.

Jean asked how much the wetlands will be altered. Trudel said he needs to discuss that with Seavey. Jean asked if this property will be sold. Trudel said he will do a complete site plan if it comes to that, but now he

is taking one step at a time. Jean asked if he had reviewed the Ordinance for what is permissible on that piece of land as there are definite limitations. She advised Trudel to look at this list as he goes along. Jean advised Trudel to contact the Code Enforcement Officer to obtain a copy of Doyle's memo as to the drainage issues.

Jean asked if abutters have been notified. Trudel said they all had been. Jean asked if curb cut was submitted. Trudel said yes. There was a note from Fire Chief regarding the fire pond stating "*No area showing that there was a fire pond.*" Jean clarified that no one has indicated where the fire pond will be. She continued to say that if a fire pond was put in the wetlands it may work, but it may also fill up and go over the road quicker. If a flood drains into a fire pond it may contain the water for an amount of time but a large storm may top the pond and go back to the same problem. In other words, the pond could help unless there is a big rain and if it goes over the road again there is a big problem and that needs to be addressed now.

Trudel said that some of these issues may be determined when he meets with Seavey. It may depend what the flow is there. Jean said the way the land has been stripped at this point adds to the problem, because everything washes down with nothing to stop it. Trudel clarified that he was not involved in that clearing process.

Trudel clarified that the following is what he needs to address: (1) buffering, (2) septic design designation, (2) water certification for a well, (3) show the building on the plan for Lot 3, (4) the building envelope needs to be shown, and (5) the proposed location of fire pond.

Jean said also any waivers he is considering need to be on the plan.

David asked about the deed and Jean said that Trudel is working on the Purchase and Sale Agreement at this time and wants to find out what he is getting into before he purchases the property, after which time he will provide a deed as a condition for approval.

#### **Gordon Simpson Residence on Sabbathday Lake**

Jean said that this was a site plan review. She explained there had been a site walk a year ago. Rick Micklon of Maine Building & Development representing Gordon Simpson addressed the Board. He will be the builder and general contractor for this project.

Jean asked for discussion on what was presented. Micklon offered some input which may answer potential questions. Jean asked if he received the letter from Cumberland County and Micklon said he will address that also in his comments. Micklon submitted an updated site plan showing a north arrow on the upper center right, he has added the new leach field, located the CMP pole showing existing power, located existing well which is on lake side of property and noted that the well was drilled in 2004 and has a 5 gallon per minute recovery rate. Micklon has talked with Wayne Wood and asked him about the title block, Wood said his title block was on the left side of plan. Micklon has a stamped original of the plan for the Board. Jean said the Ordinance says the title block has to be in the lower right corner. Micklon said regarding the letter from the Soil & Water Conservation District, he has supplied the Board with a copy of his certification for DEP Certification in Soil and Erosion Control, York County Soil and Water Conservation District. He is not opposed to obtaining a letter above his certification, but he will submit a written soil and erosion control program. If the Town wants a letter he will also obtain that. He assured the Board that he will do a nice job of soil and erosion control on this very sensitive site. He will have a written plan prior to construction that will show temporary measures prior to construction, during construction and following construction for permanent measures. DEP approved stump grinding. He also plans on having DEP come to the site. Jean said the Board will need to discuss that.

Jean said they did not get a Cumberland County Soil Map or tax location map which the Town provides. They are needed as part of the package. David said he could help with the soil map and Debby Parks will get the tax map.

Micklon said there were no other physical features other than what had been submitted. Jean asked if there will be a lot of changes to landscaping. Micklon said there were not. He said Wayne Wood is contracted to pin the foundation prior to the start of construction with offsets. We'll excavate the site, Wood will come back in and will relocate the corners of the foundation for footing placement and then he will come back in prior to the pouring of concrete. Micklon said that Mr. Simpson is maximizing his building envelope. Jean said the Town has taken a lot of pride in protecting Sabbathday Lake.

Karen asked for clarification of an Entrance Permit being required. Micklon said they have an entrance now and it is over Old Route 26. It is a Maine DOT permit.

Karen asked about abutters. Micklon said he got a list from Debby Parks and now has a complete list. Karen asked if they have been notified and he said that they have not been notified yet, except for the adjacent abutters. He asked if all the abutters within 250' need to be notified. Jean said if there is a public hearing all need to be notified. Micklon asked if a public hearing is necessary for a single family home. Karen said it could be necessary due to the fact it is on the Lake. Jean said a site walk was optional at this point. Micklon said nothing has been done on the site since the last site walk.

Jean reviewed what had been discussed to this point. Regarding the Erosion & Sediment endorsed by Cumberland County, they need to decide on what to do about that. She then read from the Ordinances "*submission shall contain the following items unless waived by specific vote of the Planning Board under Section 7.3.1c. General Regulations under Section 7.3.1b.*" The title block moved over, the Erosion Sediment endorsement by Cumberland County, Jean said something is needed as part of the package if it is from Micklon or Cumberland County. Micklon said he will submit whatever the Planning Board requests.

Ruth asked about the size of the building compared to the site. Micklon assured that it will fit. Debby Parks spoke and said she has been to the site and that the building envelope has been marked off and the building envelope is correct. All precautions have been taken that it will fit in there correctly. She is comfortable with it.

**Motion:** Application deemed complete subject to receipt of Soil Map, Tax Location Map and Rick Micklon's written statement as to practices to be followed according to soil erosion. Karen, second Ruth. 6-0

**Motion:** To waive public hearing. Karen, second Laurie. 6-0.

**Motion:** To approve application subject to changing placement of title block from left corner to right corner and also subject to following any recommendations that may be made by Cumberland County Soil in response to what Micklon puts together. Karen, second Laurie. 6-0.

### **Tobey Pines Subdivision**

Jean stated that this was a preliminary review of Tobey Pines. Chris Branch of Technical Services in Auburn addressed the Board. Jean said she knew that the abutters had been notified, but the Town of Poland also needs to be notified. Jean quoted that "*When a subdivision is located within 500 feet of a municipal boundary and a public hearing is to be held, the Board shall notify the Clerk and the Planning Board of the adjacent municipality involved in at least 10 days prior to the hearing.*"

Karen questioned the waivers for the setback of the wetlands for some of the lots. Branch agreed and said also requesting waiver for underground utilities. Jean asked about stone monuments and Branch said he will have to check on that. Karen asked if Lot 3 has any setback. Branch said there is a small area of wetland

and it is located within the building. David asked for a more updated plan showing building envelopes. Branch said it was in the packet submitted.

Jean said there have been concerns addressed in an e-mail which she has submitted to the Town concerning the right-of-way and that we will need a legal opinion from our attorney. To address the issues the lawyer will have to review this. The applicant needs to bear the costs of the peer review according to the Ordinance. Mr. Hale needs to receive that information. Branch asked for name of the Town's attorney, which is Pat Scully of Bernstein, Shur, Sawyer & Nelson. The issue is location. The right-of-way comes in across another owner's land. It needs to be addressed so everyone is clear. The right-of-way is not shown on the town map. Branch asked for a copy of the e-mail expressing concern and Jean advised it was in the Town files and he could obtain a copy. It was questioning a range way. Jean said that New Gloucester handles range ways differently than other towns, but this was not considered a range way. However, because the question has been raised it needs to be addressed.

Branch asked how long it would take to get the legal opinion. Debby Parks said the attorney usually replies within a day. Jean asked Debby to call Scully tomorrow, Wednesday March 8th.

Karen referred back to waivers on the wetlands. Jean said there may need to be further peer review when road profile stage arises at the next stage. Branch said that earlier it was said it was not needed. Jean said that now it does need to be addressed because of the questions of whether it was built to private road standards. How near the beaver pond is to edge of the road. The Code Enforcement Officer has been down to look at the road and it has raised questions.

Branch said that it does meet DEP and Army Corps Standards. Jean said David could check that part of it in his capacity in the Greater Portland Council of Governments. Branch asked for clarification of issues with the road. Jean said we need something to show the culverts are the right size for the area. Branch asked if this was drainage study? Jean said culvert size, drainage ways, etc. There is also a memo from the Fire Chief which states he has *"gone down this road after a heavy rain period near the bog, it was washed out and passable by one vehicle only. Has this problem been corrected?"* Branch said as far as he knows it has.

Jean said we need a Road Association Agreement. Branch submitted one to the Board at this time.

Discussion of the location of Beaver Dam. Branch said the Beaver Dam is located in the wetland area to the north of the property. Jean said in the final plan we will need the performance guarantee. Ruth said there were no "conditions" on the plan. Branch said he noted that tonight from previous discussions; also the need to put on the note regarding the private roads, and also obtaining a fire pond easement form.

Branch said they will notify the Town of Poland. Branch said there was a contour map included in the packet and that they were two foot contours.

Karen suggested changing the language in the Road Maintenance Agreement from "shall be assumed by the Town" to "if assumed by the Town." Jean confirmed that private road language will be added to the plan. Ruth raised a discussion of naming the right-of-way; Jean said it was necessary for 911. Branch said it was private road access into Tobey Road. Branch said the two homes on the right-of-way are not required to pay into road maintenance as they are providing access over their land. Jean asked if this road is used by anyone else for any other purpose. Branch said he was not aware of any licensed vehicle use although it is used by snowmobiles. Branch said if there was anyone who needed to use this road they should contact Mr. Hale and it will be discussed. Jean said the access needs to be protected. If anyone has a question about being able to use the right-of-way they should contact the Code Enforcement Officer and she will contact Mr. Hale.

Jean said this is just a preliminary application and looks fairly complete.

Jean said there needs to be a road profile on the final. The right-of-way question needs to be addressed. Waivers requested are for stone monuments, and underground utilities.

**Motion:** Preliminary application is deemed complete. Janet, second Karen. 6-0

Jean said abutters within 500' need to be notified. A public hearing can be set for April 4<sup>th</sup>.

**Motion:** Move to have Public Hearing set for April 4<sup>th</sup> meeting. Karen, second Ruth. 6-0.

In review Jean stated two outstanding issues are easement to be picked up at Debby Park's office and the performance guarantee can be checked in the ordinance for what needs to be done. The drainage issue on the road will be answered on final road profile. David will check the wetland setback issue. Ruth asked if this will remain a private road and Branch said the owner has no plans to do this as a public road. Over 15 lots require DEP approval. Jean confirmed that Mr. Hale knows that after 15 lots it needs DEP review.

**Other Business**

Amendments for Selectmen for Fire Protection Standards. Jean reviewed Planning Board changes to the following sections: Fire Protection; Fire Pond Discontinuance; Performance Guarantee; Residential Sprinklers; and Certificate of Occupancy.

**Motion:** To pass the new Amendment to Fire Protection Ordinance and those changes to Zoning Ordinance regarding Accessory Apartments to the Selectmen. Janet, second Sue. 6-0.

Request for a vote to hold a public hearing on March 21st for the two amendments at Planning Board Meeting.

**Motion:** Move to have Public Hearing set for Tuesday, March 21<sup>st</sup> on the two amendments. Janet, second Ruth. 6-0.

Jean will draft a memo and e-mail it to the Town Manager for the Selectmen. Jean asked for other business.

Gary Sacco addressed the Board regarding a Residential Sprinkler Workshop to be held on Thursday, March 30, 2006.

Rick Micklon addressed the Board as a professional courtesy from experience with his Planning Board regarding minor and major subdivisions being deemed complete. They created a checklist that matched their Ordinances section for section and letter to letter. He offered to send a copy to the Board as an example. Second issue that they have checked with their legal authority that motions, seconds and votes cannot be grouped together for waivers. Each waiver has to be addressed separately.

Jean said she would have David check on that for New Gloucester and it could be easily remedied.

**Motion:** To adjourn the meeting at 9:15 p.m. Laurie, second Janet. 6-0.

Minutes prepared by \_\_\_\_\_  
Beth Fontaine

Signed and acknowledged by \_\_\_\_\_  
Jean Libby, Board Chair