

Planning Board
Minutes
January 16, 2024

Date: 1/16/2024

Place: Sandown Town Hall

Members Present: John White, Chairman - George Grivas, Ernie Brown, Doug Martin (for Jon Sheats, Alternate), Tom Tombarello, Selectman, Tom Perkins, Coordinator. Jenn Rowden RPC

Members Absent: Jon Sheats, Alice Major (alt), Ed Mencis, Tricia Edris

Opening: Mr. White called the meeting to order at 6:30 p.m.

Pledge of Allegiance

Review of Minutes.

Mr. Tombarello made a motion to approve the 12/19/23 minutes as amended. Seconded by Mr. Grivas. All in favor 4-1-0

Mr. Tombarello made a motion to approve the 1/2/24 minutes as amended. Seconded by Mr. Brown. All in favor 4-1-0

Continued Public Hearing for a **Site Plan Review** for a 12 Unit Elderly Housing Development submitted by Granite Engineering on behalf of their client Hersey Road Development Group. The subject property is located at the end of **Snow Lane** and is identified as Tax Map 8, Lot 14

Mr. Jeff Merritt, Granite Engineering, presenting with his clients present.

Mr. Merritt stated that he believed all legal reviews of documents were completed by Town Counsel. Mr. Keach confirmed.

Additionally, Mr. Merritt stated that regarding Mr. Keach's report, they were in a position to receive a conditional approval, with more work to do with the Fire Chief based on the turnaround.

At this time Mr. White asked Mr. Keach to go over his report:

As you may recall, on October 17 and November 14, 2022 we issued letter reports in response to the subject application. Within each report we offered a series of comments and recommendations generated upon consideration and review of project plans and supporting information received through each date. On February 8th we received a subsequent submittal from the applicant's consultant consisting of copies of the following documents:

- A cover letter, addressed to the Planning Board, prepared by the applicant's consultant on February 08, 2023.
- Project plans consisting of 25 civil/site drawings (dated September 27, 2022 and last revised February 07, 2023); 6 landscape architectural drawings (dated November 03, 2022 and/or February 07, 2023); and one architectural drawing (dated March 05, 2022).
- Draft condominium declaration and easement deed documents, undated.
- A NHDES Alteration of Terrain Permit issued January 04, 2023.

Based upon our careful consideration and review of the cited information we are pleased to advise that the applicant's consultants were able to satisfactorily address many of our prior remarks. Accordingly, our remaining comments and recommendations are limited to the following:

General Comments

1. The following state agency permits are required: (a) NHDES Subdivision Approval; (b) a NHDES Alteration of Terrain Permit (*issued January 04, 2023*); and (c) NHDES Construction Approval for a planned subsurface wastewater disposal (septic) system. We recommend receipt of each permit prior to or as a condition of application approval. We further recommend acknowledgment of permit receipt on the final site plan drawings.
2. In addition to various state agency permits noted above, the applicant must also obtain a local driveway permit from the Sandown Highway Department prior to construction of the planned site entrance.
3. We recommend any approval granted to this application be conditional upon the applicant furnishing a performance guarantee, in an amount and form acceptable to municipal officials, to serve as a financial guarantee for implementation and maintenance of required erosion controls throughout the

80 course of construction; site restoration in the event of abandonment; and full
81 and final completion of off-site public improvements.

82
83 4. Pursuant to requirements of Section III.1 of the Site Plan Review
84 Regulations (SPRR's) and Section 9.6 of the Land Subdivision Control
85 Regulations (SDR's), we understand the Sandown Fire Department
86 previously reviewed and commented on this application. We recommend
87 application approval occur subsequent or conditional upon receipt of a
88 favorable recommendation from the Fire Department.

89
90 5. In our letter report of November 14, 2022, we offered the following
91 remark:

92 *This writer recently revisited Snow Lane with Public Works Director, Arthur*
93 *Genualdo. Recall that since 2009 Mr. Genualdo and this office have*
94 *collaborated on the development and implementation of a program for*
95 *completion of systematic improvements to the Town's Class V public*
96 *highway system. As a result of these efforts, a short-term need for*
97 *reconstruction of the westerly segment of Snow Lane, commencing at*
98 *Chestnut Hill Drive and extending approximately 800 to the east, was*
99 *previously identified. The variety and extent of pavement distresses observed*
100 *at this location are indicative of poor roadway base conditions and*
101 *sufficient to warrant reclaimed stabilized base reconstruction prior to*
102 *resurfacing. Although need for reconstruction of this 800+ foot segment of*
103 *Snow Lane exists with or without the modest incremental traffic demand*
104 *imposed by the currently planned residential development, we recommend*
105 *any approval granted to this application be conditional upon the applicant*
106 *contributing a fare-share of the municipality's anticipated future cost of*
107 *reconstruction. In keeping with applicable law, the fare-share sum*
108 *contributed by the applicant must be being limited to that which bears a*
109 *rational nexus to needs created by, and special benefits conferred upon,*
110 *future residents of the planned Hersey Highlands elderly housing*
111 *development, who will ultimately be dependent on Snow Lane for street*
112 *access.*

113 Subsequent to November 14th we again evaluated the condition of Snow
114 Lane as well as the 450+ foot segment of Chestnut Hill Drive extending
115 from Main Street to the Snow Lane intersection. As a result, the Public
116 Works Director and this writer confirmed the need and intent to pursue
117 reconstruction of segments of both Snow Lane and Chestnut Hill Drive
118 under the town's annual roadway improvement program. We also confirmed
119 these future improvements will be performed using reclaimed stabilized base

technology. Based on current construction cost projections, we estimate the total cost of reconstructing the two segments of Class 5 public street discussed above to be approximately \$125,000. Application of Rational Nexus based apportionment methodology suggests the applicant's fare-share portion of overall cost of these improvements is \$30,735. Correspondingly, we recommend any approval granted to this application be conditional upon the applicant's contribution of that sum prior to signature and recording of the final site plan.

Zoning Matters

1. As shown on Sheet 6 of the site plan drawings the owner/applicant plans to acquire a certain "proposed 30' wide buffer and grading easement" from the owner of abutting Map 7 – Lot 19-9 for the purposes of satisfying perimeter buffering requirements imposed under Article II – Part F – Section 4.D of the Zoning Ordinance. Accordingly, we previously recommended application approval occur subsequent, or conditional upon, execution and recording of a final draft of a deed for conveyance of easement rights to the applicant. Although a draft of this easement deed has been submitted, and presumably forwarded to town counsel for review and comment, at present we are unaware of the outcome of that review. Based upon our own review of the text of the draft easement deed, we note "a certain *no-cut buffer easement* thirty (30) feet wide ..." is contemplated and described. We note several site plan drawings, including Sheets 4, 8 and LA101, specify intent to perform land clearing, site grading and installation of certain landscape improvements within the easement area. The intent to perform this variety of work within the easement appears to conflict with specified terms and conditions of the draft of the easement deed, which generally precludes tree removal. We recommend reconciliation of the site plan and easement deed to resolve these discrepancies.

2. To satisfy requirements of Article II – Part F - Section 4.K of the Zoning Ordinance we previously recommended the owner/applicant submit a draft of those covenants, easements and restrictions, together with a draft declaration of condominium for consideration and review by town counsel. Although we are aware that one or more drafts of the required documents were previously submitted and forwarded on to town counsel for review and comment, we are presently unaware of the outcome of those review efforts. That said we recommend application approval occur subsequent or

conditional upon receipt of satisfactory review of a final draft of all required legal documents and instruments by town counsel.

Planning/Design Matters

1. We previously recommended the applicant address requirements of Section 9.23.1 of the Subdivision Regulations pertaining to recreational accommodations for future residents. In response, the applicant has acknowledged intent to provide accommodations for a **community garden** area, as well as construction of trail head access to **existing recreational trails** situated on both the subject parcel and adjoining public lands. We recommend the Planning Board make a final determination as to the appropriateness of this proposal.

Mr. White polled the Board to seek approval regarding the recreation component. All members were ok with the proposal. Mr. Tombarello was more concerned about the proposed turnaround for the fire apparatus. Mr. Keach explained that the supplied sketch was not done using technical software and is not an accurate reference. He is confident that Mr. Merritt and Chief Devine can work together on a compromise.

Chief Devine came forward and stated that he was satisfied with all of the fire suppression recommendations and was willing to work with Mr. Merritt on the turnaround aspect of the project.

Mr. White questioned whether to wait until completed prior to moving forward.

Mr. Drowne, property owner, addressed the Board and asked specifically for conditional approval as this project has taken considerable time already.

Mr. White opened the hearing up for public comment – no one wished to speak. Mr. White closed public comment.

Mr. White polled the Board on Conditional approval. Majority in favor.

Mr. Keach advised that first the Board should vote a Finding of Appropriateness regarding the Recreation Component.

Mr. Martin motioned for a Finding of Appropriateness to approve a community garden and a recreational trail as the recreation component for said project. Mr. Tombarello seconded the motion. All in favor 5-0-0

Mr. Keach suggested a compliance hearing as a condition of approval regarding the fire apparatus turnaround component.

At this time, Mr. Kevin Major asked to address the Board by way of public comment. Mr. White advised that he had closed public comment. Mr. Major explained that at that time it appeared the Board would not be issuing conditional approval. As it seems that now they may, he asked for an exception. Mr. White granted the request.

Mr. Major went through a detailed report including photographs of test pits full of water at different times throughout the year. (to be added to file) He explained this report has been forwarded to the Department of Environmental Services for review. His concern is that this property is far too wet to build on and that if properly re-checked, there is no way it passes a perk test.

Mr. Keach advised that testing and permit issuing is under the purview of DES and that the Sandown Planning Board would not have jurisdiction over that matter. Mr. Keach did state that the report Mr. Major presented was very detailed and well done. In his opinion, DES will likely take another look at test pits in question before issuing a permit. As that permit is a condition of the proposed Conditional Issuance, the project cannot move forward without it.

After asking if anyone else wished to speak, Mr. White again closed public comment.

Based on that premise, Mr. White called for a motion to conditionally approve a **Site Plan Review** for a 12 Unit Elderly Housing Development submitted by Granite Engineering on behalf of their client Hersey Road Development Group. The subject property is located at the end of **Snow Lane** and is identified as Tax Map 8, Lot 14

Mr. Tombarello motioned to conditionally approve a **Site Plan Review** for a 12 Unit Elderly Housing Development submitted by Granite Engineering on

236 behalf of their client Hersey Road Development Group. The subject property
237 is located at the end of **Snow Lane** and is identified as Tax Map 8, Lot 14
238 Said conditions to be:

- 239
- 240 1. Receipt of NHDES Subdivision Approval.
- 241 2. Receipt of NHDES Construction Approval for septic system
242 installation.
- 243 3. Receipt of a local (Town of Sandown Highway Department)
244 Driveway Permit.
- 245 4. Receipt of a performance guarantee, in an amount recommended by
246 Town Engineer, and in a form acceptable to Town of Sandown, to serve as
247 financial surety for installation and maintenance of erosion and
248 sedimentation controls during construction; site restoration in the event of
249 abandonment; and full and final completion of off-site public improvements.
- 250 5. Receipt of a favorable recommendation from Sandown Fire
251 Department. To be reviewed at a Compliance Hearing.
- 252 6. Receipt of \$30,735 in funds representing the applicant's calculated
253 fare-share of the municipality's future cost of improvements to Chestnut Hill
254 Drive and Snow Lane based on needs created by and special benefits
255 conferred upon future residents of the planned elderly housing community.
- 256 7. Receipt of favorable review of easement, covenant, restriction and
257 condominium declaration documents from town counsel.
- 258 8. Receipt of correspondence from Town Engineer acknowledging
259 comments and recommendations, offered in correspondence dated February
260 21, 2023, have been resolved to his satisfaction.
- 261 9. Maintenance of a positive PREA account balance through project
262 duration.

263 Mr. Brown seconded the motion. All in favor 4-1-0 Motion approved.

264 Mr. White then indicated that this application was approved based on the
265 following findings:

- 266 • Upon fulfillment of specified approval conditions, the Planning Board
267 believes this proposal will satisfy all applicable requirements of land use
268 ordinances and regulations adopted by the Town of Sandown.
- 269 • Upon fulfillment of specified approval conditions, the applicant will
270 have obtained each state agency permit required for construction.
- 271 • Project buildout is anticipated to provide quality housing opportunities
272 for senior residents consistent with objectives of Article II – Part F of the
273 Sandown Zoning Ordinance.
- 274 • The applicant is committed to contribute a fare-share of funds needed
275 for future public improvement of existing streets providing resident access.

Continued Public Hearing for an Excavation Application submitted by Civil Design Consultants, Inc. on behalf of their client Hasago LLC. The subject property is located at 2 Showell Pond Road and is identified as Tax Map 2, Lot 34

Mr. Busby came before the Board to ask for a continuation but did want to give a progress report. Mr. White granted the continuation and Mr. Busby explained that after several months of trying to come to an agreement for mitigation, it seems to have been time wasted as DES is not interested. As a result he will likely be making a payment to the ARM fund. He hopes to be before the Board next month ready to move forward.

Continued Public hearing at Sandown Town Hall 320 Main Street, for the Sandown Planning Board to consider amendment to the Sandown Zoning Ordinance for the March 2024 Town Meeting. The proposed amendment, if approved, will remove and add new language to replace the existing Article 1, Part B, "Wetland Conservation District" ordinance and replace the Ordinance. The intent of this amendment is to increase protection of surface water resources and wetlands, and to clarify regulations for administrative and legal purposes.

Presenting: Jenn Rowland Rockingham Planning Commission

Ms. Rowden again reviewed the Proposed Wetland Amendments which is available to review on the Town's Website and attached to the Public Hearing Notice. This time noting the changes voted at the last (second) public hearing. Specifically, the setback distances now being 50 feet for critical wetlands, 50' for non-critical wetlands, and 25' for vernal pools. This updated document is available on the Planning Page of the Town Website. Ms. Rowden reviewed the document in its entirety. Copies were provided to all persons present who wanted one. At the conclusion of the update, Mr. White asked if any members of the Planning Board had anything to add. The Members praised Ms. Rowden for her hard work and giving an informative presentation.

Mr. White then asked the public if they wished to speak, giving preference to anyone who did not speak at previous meetings.

Mr. Defrancesco 17 Fremont Rd stated that whether a taxpayer or future taxpayer we all know someone who has fought for freedom. Land rights included. He objected to any group trying to take those freedoms away. Other issues such as road salt and spraying for mosquitoes are ways to mitigate water pollution. Also, Mr. Defrancesco stated that although some of the water fountains at his school have bad water, some have good water, indicating that the water source may not be the issue.

Mr. White thanked Mr. Defrancesco for coming forward.

Ms. Rowden applauded the effort as well. She added that although the intention of the wetland ordinance change is to help improve the water quality, it is not the only effort being made by the Conservation Commission. Education and outreach have occurred.

Mr. Defrancesco reiterated that the focus should also be on other contributors.

Mr. Carey 22 Rangeway Ave. Mr. Carey spoke of his service on the Sandown Conservation Commission and other municipalities. Mr. Carey read information regarding the Delaware Chesapeake Bay efforts involving wetlands and their importance and necessity. However, the ordinance proposes a filter for the filter and is unnecessary and redundant. Mr. Carey asked why vernal pools remained at 25'? and other questions to which he did not seek an answer this evening.

Ms. Rowden re-clarifies that Sundown's water quality (service water) has declined over the last 30 years.

Ms. Lavoy 17 Wood Duck Cir. Ms. Lovoy confirmed that she is opposed to any setbacks. She then asked if the motion to reduce the setbacks was legitimate due to a potential conflict of interest based on the Planning Board by laws. Ms. Lovoy inquired about Mr. Grivas being on both the Conservation Commission as well as the Planning Board.

Mr. Keach explained that being on dual Boards/Commissions is covered by Statute and Mr. Grivas being the dual member is in compliance. Additionally, it is encouraged for sharing of information.

Mr. Tombarello pointed out that he volunteered to be part of this board and confirmed that it is covered by statute.

Mr. Carey then reapproached the Board to share that the only time the Town faced legal action in his time on Conservation was defending that the Conditional Use Permit language stated that the Conservation Commission MUST give written favorable action. He further recommended such changes should occur under the "Subdivision Regulation".

Ms. Nicolaisen 14 North Danville Rd is opposed to this going forward from tonight. If it does, hopefully it fails at the ballot. Affects our land. Wanted to point out that as a taxpayer and resident, she feels this way. Nothing to do with her employment as a town employee.

Mr. Butler - Conservation Chairman, represented that he feels this is a good compromise. He reiterated that we did our research, only recommended what science supported. Left vernal pools alone because we felt that the 25 feet was adequate. Mr. Butler advised that on a personal level, even he felt like 100 was a lot. But 50' is a good fair compromise. As for spraying for mosquito spraying, personally against it, but it went to a vote by the town, and it passed. That is the way it should work. Regarding salting the roads, it is a safety issue, it needs to happen.

Mr. Tombarello wished to clarify that years ago, due to a young child dying from EEE in neighboring Danville, the spraying for mosquitos was moved to the operating budget and now happens as a matter of safety each year.

Ms. Faxton 81 Hampstead Rd My property is not directly affected but why take land away from everyone. Is the river quality only bad in Sandown?

Ms. Rowden explained that runoff comes from everywhere. The Town of Sandown is the only community in Rockingham County to not have any buffer protection.

Mr. Tammany 14 Cranberry Meadow Rd If the Town believes so strongly in this, why are they exempt. Additionally, Mr. Tammany cited examples of Supreme Court decisions he felt were appropriate.

Mr. White and Ms. Rowland expressed that this is not a taking of land it is just a use restriction which is permitted under certain statutes.

Mr. Tammany related this action to *growth control* and hopes it is defeated at the ballot.

396 Ms. Drowne 10 Phillips Rd advised that not enough proof has been shown
397 to justify the taking of use of the land. All the efforts are appreciated.

398
399 Ms. McClary 53 Megan Dr. Supports the Ordinance and I am directly
400 affected by this as I border a critical wetland. Just as spraying mosquitoes is
401 a public health concern, protecting wetlands is a public health concern.
402 Our population has tripled, it is expected to move forward from 40 years
403 ago.

404
405 Mr. Nicolaisen 14 North Danville Rd. Began by apologizing for the last
406 meeting's temperament. Wanted the Board to know he meant what he said,
407 but was not intending to be so upset when he said it.

408
409 Mr. Drowne Call the vote.

410
411 Ms. McCully 8 Preston Dr. Asked why the numbers were reduced if so
412 important. Why would both critical and non-critical be 50'.

413
414 Mr. White explained that it was just a compromise to get a vote passed this
415 to see that the entire town gets to vote on the issue.

416
417 Ms. Rowden went over the history of how the regulations got changed.

418
419 Ms. Kelley 8 Indian Hill Rd Question, are Sandown's water issues worse
420 than neighboring communities?

421
422 Ms. Rowden No, Sandown has benefited from how rural it is.

423
424 Ms. Kelley Then this change should be held to new development. Is our
425 well water good?

426
427 Ms. Rowden I do not have that direct information.

428
429 Ms. Kelley do you know how many people are actually affected by this
430 ordinance.

431
432 Ms. Rowden – (from presentation) The proposed wetland zoning district
433 and abutting properties will impact 66.7% of parcels in Sandown.

The proposed wetland zoning district and abutting properties will impact 48.46% (or 4,474.5 acres) of the land area in Sandown.

The proposed wetland zoning district without abutting properties will directly impact 51.7% of parcels in Sandown.

The proposed wetland zoning district without abutting properties will directly impact 30.6% of the land area in Sandown.

9:30 p.m. Mr. White closed the public hearing.

Mr. White gave each member a chance to speak and then called for a motion.

Mr. Tombarello and Mr. Brown were opposed to moving the issue forward, while Mr. White, Marin, & Grivas were in favor of such.

Mr. Martin made a motion to advance the proposed amendment, to remove and add new language to replace the existing Article 1, Part B, “Wetland Conservation District” ordinance and replace the Ordinance. The intent of this amendment is to increase protection of surface water resources and wetlands, and to clarify regulations for administrative and legal purposes to a warrant article for Town wide vote on the ballot in March. Mr. Grivas seconded the motion. All in favor 3-0-2

New Business

Mr. White discussed the recent legislative changes regarding dismissal of an application without prejudice. Board members discussed the implementation of said practice. Further discussion at the next meeting.

Member Jon Sheats has resigned his position with the Planning Board.

Mr. White called on Mr. Daley from the audience. Mr. Daley spoke to his concerns regarding public notification and requested that his submitted document be distributed to Board members and discussed at a later date.

9:58 p.m. Motion to adjourn the meeting by Mr. Brown, seconded by Mr. Tombarello. All in favor 5-0-0

Respectfully submitted,
Thomas C. Perkins