

**PLANNING BOARD
RINDGE, NEW HAMPSHIRE
March 5, 2019**

DATE: March 5, 2019 **TYPE:** Public Hearing **APPROVED:** 3/19/19

TIME: 7:00 pm

CALL TO ORDER: 7:00 PM

ROLL CALL MEMBERS: Jonah Ketola, Sam Bouchie, Dennis Casey, Jason Paolino

ROLL CALL ALTERNATES: Holly Koski, Cheves Walling

ABSENT: Sam Bouchie, Charlie Eicher

EX OFFICIO: Roberta Oeser

PLANNING DIRECTOR: Kirk Stenersen

APPOINTMENT OF ALTERNATES: Holly Koski for Bruce Donati, Cheves Walling for Sam Bouchie

OTHERS PRESENT: Liz Weston, John Weston, Suzanne Hepburn, Jamison VanDyke, Roniele Hamilton, Catherine Le Ray, Bob Hamilton, Paul Luibil, Sally Dunbar, Dawn Dunbar, Judy Unger-Clark, Paul Grasewicz, Deborah Opramolla

Call to order and Pledge of Allegiance

Roll call by Chairperson

Appointment of alternates

Holly Koski for Bruce Donati's seat, Cheves Walling for Sam Bouchie

Announcements and Communications

Chairman Jonah Ketola announced that Colonial Green Products has requested a continuance. That case will not be heard until March 19th.

Roberta Oeser announced that Town Meeting is next Tuesday.

Approval of Minutes

1. Approval of February 19, 2019 minutes

MOTION: Roberta Oeser moved to accept the minutes as written. Holly Koski seconded the motion. **Vote: 5-0-1** Jason Paolino abstained.

Old Business/Continued Public Hearings

1. **Continued from February 5, 2019: Consideration of** an application for Major Site Plan and Major Subdivision review submitted by Barkley Enterprises LLC. The property is located at Tax Map 2, Lot 45 on Dale Farm Road, Rindge, NH in the Residential-Agricultural District. The applicant is seeking approval for a 27 unit (4 six unit buildings and 1 triplex) Planned Unit Residential Development (PURD).

Dennis Casey recused himself from this case and left the table.

Planning Director Kirk Stenersen said that since the last meeting, the plans have been amended to show the electrical service coming to the buildings as well as submitting architectural plans. There

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has also been a well location change. Planning Director Kirk Stenersen said that he has no issues with these changes and that the application acceptance as substantially complete stands.

Planning Director Kirk Stenersen read into record a letter from Panciocco Law representing Dawn and Sally Dunbar (Tax Map 2 Lot 47-3) who are abutters to this application. (see file for letter)

Paul Grasewicz reviewed the plans before the Board and the changes made since the last meeting. He said that NH DES had asked for some changes to the well location to allow for basically virgin (natural) ground around the well for 150 feet. For that reason, the well location was moved. The new plans show the electrical service. Paul Grasewicz reviewed the frontage requirements and said that the approximate 50 feet of frontage on a Class V road is the area where the town plows. He said it may be 48 feet, it may be 52 feet which is why they said that it is approximately 50 feet. He said that they have received a variance for frontage and the Board has the ability to allow less than 100 feet per their PURD regulations (Planned Unit Residential Development). Paul Grasewicz reviewed the architectural plans with the Board which are identical to the Placid Commons buildings.

Roberta Oeser asked if these would all be two bedroom. Jamie Van Dyke said he is still considering perhaps doing some three-bedroom units. This will be a phased project and he may in the second year consider some three-bedroom units. The septic has been designed to handle 8 three-bedroom units.

Chairman Jonah Ketola opened the public hearing.

Atty. Patricia Panciocco asked if the property owner could show her where the frontage is. Paul Grasewicz said it starts at the left front corner of the Dunbar's, and goes along the road for 1400 feet. The last section is the Class V portion. The town did not discontinue this road, they just simply stopped plowing and maintaining it as there was nothing down there.

Atty Patricia Panciocco asked Paul Grasewicz if he would agree that the majority of the frontage was on a Class VI road. Paul Grasewicz said that that was true. Atty. Patricia Panciocco asked him then how does that relate to the definition of frontage in Article XX number 17 of the Zoning Ordinance.

Chairman Jonah Ketola asked Atty. Patricia Panciocco to address her questions to the Board.

Planning Director Kirk Stenersen said that the frontage does not meet the definition in Article XX, No. 17 and that is why they went for a variance.

Atty. Panciocco asked if this meets the requirements of RSA 231:22 and RSA 231:28. Has there been a warrant article to approve this road, Have abutters been notified, have the standards of this road been confirmed. Atty. Panciocco said this is a matter of public safety. In using a standard of 8 trips per day per unit, this would have over 200 cars per day pass over this road. Atty. Panciocco asked if anyone on the Board has spoken with Town Counsel about this. She said the Town is exposing themselves to liability. Roberta Oeser said the BOS received an application to upgrade the road, not to layout a new highway. It was to improve an existing Class VI road. Atty. Panciocco asked about the safety standards for this road. Paul Grasewicz said that there is information on the plan showing the proposed improvement to the Class VI road in order to access the site.

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Chairman Jonah Ketola said that the Roadway Committee and the Board of Selectmen have already reviewed the status of the road prior to this being able to come before the Planning Board. Atty. Patricia Panciocco asked if there is a NH DOT approval for the additional traffic to Route 202. Atty. Panciocco asked if a traffic study has been done. Chairman Jonah Ketola said, when the NH DOT gets involved, they will meet whatever requirements are necessary. Paul Grasewicz said if DOT wants an analysis, they will do one. They have done this on other projects. Paul Grasewicz said they will do whatever DOT requires. Atty Panciocco asked what the speed limit was on 202.

Judy Unger Clark asked if, when this land was purchased, there was a survey. Paul Grasewicz said it came with the deed. Paul Grasewicz said they did a survey and the frontage is shown on the plan. Judy Unger Clark asked if the applicant purchased the land with the understanding that it was a Class VI road. Jamie VanDyke said that he thought part of it was Class V and part of it was Class VI.

Chairman Jonah Ketola said that this property has been surveyed.

Atty. Patricia Panciocco asked if anyone from the Town of Rindge Public Works Dept. confirmed how long this portion of Class V road is. Chairman Jonah Ketola said that he doesn't know if they have a distance. Planning Director Kirk Stenersen said that they plow to the turnaround and it may vary from year to year. Planning Director Kirk Stenersen said he went out himself and measured as there had been questions, and he measured more than 50 feet.

Judy Unger Clark asked if someone would read from the PURD regulations where it says it needs to be 100 feet. She asked why it is that there is a 100 foot requirement. Roberta Oeser said that there are some hammerhead lots that were created pre-zoning. Some of these lots were large lots. The 100 foot of frontage allowed an owner to put a road into the land and not have it intrude on adjoining properties. Planning Director Kirk Stenersen said, as well as what Roberta has said, the 100 feet of frontage would allow a large corridor to access a larger piece of property. Typically, he said there is a 25 foot flare on either side of a 50 foot right of way to enter the property. That's where they got the 100 foot requirement from.

Dawn Dunbar said that there is not always 50 foot of frontage depending on the snowstorm. It is not always plowed up to 50 feet.

Panciocco said a PURD is an innovative land use ordinance. This allows for a certain type of development with more flexibility. Atty Panciocco asked where in the ordinance it says that PURDS are allowed in the Residential –Agricultural District. Planning Director Kirk Stenersen read from the Zoning Ordinance Article III, section I.

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| <p>I. The Planning Board may approve Planned Unit Residential Developments in which the density or intensity of land use and frontage may vary from the provisions of this Ordinance as provided in the Planned Unit Residential Development Regulations adopted by the Town March 24, 1987 and subsequently amended.</p> |
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Atty. Panciocco asked how that is consistent with the requirements of the Res Ag Zone.

Planning Director Kirk Stenersen said that the PURD regulations were adopted in 1987 and the Article III section I gives the Planning board the ability to approve PURDS where the density or intensity of land use and frontage may vary from the ordinance. This has been how it has been interpreted for many years. He said the last major update of the PURD regulations was to include the Workforce Housing requirement per state RSA. There was a determination back in 2016 from the Code Enforcement Officer that the PURDS are allowed.

Planning Director Kirk Stenersen said, we should be able to move on from the frontage discussions as the applicant has received a variance for frontage.

Suzanne Hepburn asked if there were any other PURD projects on Class VI roads. Roberta Oeser said there are some on private roads, but she is not sure about Class VI roads. Planning Director Kirk Stenersen said that the Board of Selectmen have approved the upgrading of the road and need to be protected from liability.

Chairman Jonah Ketola said that he will take more comments from the audience but as far as the frontage is concerned, the Planning Board has a valid Variance from the Zoning Board of Adjustment so any further comments about frontage are not valid at this time.

Judy Unger Clark said if someone were to establish a PURD, the developer would be putting in some sort of a road to meet town standards. Judy Unger Clark said that this developer is putting a development in on a Class VI road and he will be maintaining that. Judy Unger Clark said, by putting a development on a Class VI road, are we, as a town, liable?

An unnamed person asked if this could go back to the Board of Adjustment to be reconsidered. Jonah Ketola said that the 30 day appeal period has expired so this is a valid decision.

Dawn Dunbar said that at the Board of Adjustment meeting, she was not allowed to discuss what was being built. The Zoning Board of Adjustment said that they were dealing only with frontage, and not the PURD. They said that the PURD discussions would take place with the Planning Board.

Chairman Jonah Ketola asked Paul Grasewicz if Rick Donovan, Director of Life and Public Safety had weighed in on this project. Paul Grasewicz said that Rick Donovan was involved with Roadway Committee and was aware of the project.

Dr. Deborah Opramolla said she has concerns about 200 cars per day possibility for the safety of horseback riders. Dr. Deborah Opramolla said that the Planning Board should check with Town Counsel about liability. If someone on a horse gets hit by a car, she said that the town will be liable.

Attorney Patricia Panciocco said that this is a public way and the town will be exposed by allowing someone to take over responsibility for maintaining this. Pat Panciocco said that the town has an obligation to repair and accept this road as a Class V road. Roberta Oeser said that this is not a laying out of the road, they applied to upgrade the road.

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Chairman Jonah Ketola closed the public hearing.

Chairman Jonah Ketola asked for input from the members of the Board.

Jason Paolino said that he would like to continue this hearing. Jason Paolino said that he is in favor of having this reviewed by town counsel. Jason Paolino said there seems to be some contesting about the 50 feet of Class V road. He said he'd like to see some evidence of this 50 feet. He said he is not contesting the ZBA decision, but a lot hinges on the 50 feet of frontage.

Jason Paolino said that we have been down the road before where there is conflicting zoning. He also said that the concept of this is quite different from what was originally applied for. He said, with the conflicting zoning, he goes to the Master Plan and he does not feel that multi-family units are in keeping with preserving the rural character of the town.

Roberta Oeser said that the original PURD ordinance that was approved by the people did allow multi-family units, up to six units. Roberta Oeser said that per Article III, section I, PURDS are allowed in all districts.

Cheves Walling asked Jason Paolino how he sees resolving the issue of conflicting zoning language. Jason Paolino said that the Board has been talking about this for years and it needs to be addressed. Cheves Walling said he appreciates what Jason Paolino is saying, but how do we approach this particular case. Jason Paolino said that the Res Ag zoning allows for farms, and single and two family dwellings only. So when this project went to multi-unit buildings, it becomes in conflict with the Res Ag language.

Roberta Oeser said that the Board of Selectmen have heard from Town Counsel and that gates will need to be used on the road. She said that it will be necessary to add a condition to the Notice of Decision to say that the "section of Dale Farm that will be upgraded and then renamed shall not be considered to be a road in an approved subdivision". She said that it will be subject to upgrade requirements as provided by the Board of Selectmen. She said that NH DOT will require an approval process for the Route 202 intersection.

Chairman Jonah Ketola asked Planning Director Kirk Stenersen to review the suggested conditions for this application.

Planning Director Kirk Stenersen said, if the Board is satisfied at this time, and so chooses, he makes the following recommendation for conditions:

- 1) All applicable governmental permits shall be obtained, which may include, but are not limited to:
 - a. NHDES Alteration of Terrain Permit
 - b. NHDES Public Water Supply Approval
 - c. NHDES Subsurface Systems Approval for the proposed septic systems
 - d. NH DOT approval for the Dale Farm Road upgrade and Route 202 intersection
- 2) Prior, during and after recording of the decision, the applicant shall be made aware that any conditions placed on this Planned Unit Residential Development through other governmental or permitting agencies are hereby included in this approval.

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- 3) The applicant shall provide an affordable housing restrictive covenant which will need to be reviewed by Town Counsel at the expense of the applicant.
- 4) The portion of the class VI roadway that will not be upgraded will be blocked off on both ends by a means acceptable to the Board of Selectman and the Director of Public and Life Safety.
- 5) The roadway name from Route 202 to the site shall be changed to a different name for E-911 purposes. Road name approval is required from the Board of Selectman.
- 6) The project shall be phased such that occupancy permits will be granted in the following manner:

Year:	Number of Units:
1	6
2	6
3	6
4	6
5	3

- 7) The section of Dale Farm road that shall be renamed and proposed to be upgraded shall not be considered a road in an approved subdivision
- 8) Subject to upgrade requirements as needed that may be required by the Board of Selectmen.

Jason Paolino said that he would like to have the Board consider a legal review.

Roberta Oeser said that she thinks that the biggest reason for review would be the town's liability. Roberta Oeser said that the BOS has been in contact this past week regarding this project. She just received a response today which would be to put in double gates. The Town Administrator has suggested signage at both ends to discourage traffic.

Jason Paolino said that he is not sure if legal review of the 50 feet of frontage is needed, or merely more research time on this. Planning Director Kirk Stenersen said that he could check with Mike Cloutier as to what section is being maintained. Roberta Oeser said that as long as the town does some maintenance over a period of 5 years, it is considered to be maintained. It may not make sense, but that is the law. Jason Paolino said he believes that the Dunbar's have valid concerns that should be considered.

MOTION: Jason Paolino moved that the Town perform an independent legal review of the concerns outlined in the letter of March 4, 2019 from Attorney Patricia Panciocco. This review to be at the applicant's expense. Roberta Oeser seconded the motion. **Vote: 4-0-1** Jonah Ketola abstained.

Planning Director Kirk Stenersen asked Roberta Oeser how long the legal review might take. Roberta Oeser said it should be available in two weeks. The Board asked Kirk Stenersen to get some sort of written response from Mike Cloutier as to how much is being maintained.

MOTION: Roberta Oeser moved to continue this case until March 19, 2019 at 7:00 PM with the applicant's permission. Jason Paolino seconded the motion. **Vote: 5-0-0**

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2. **Continued from February 19, 2019: CONSIDERATION OF** an application for a Major Site Plan submitted by Christopher Stewart, Colonial Green Products, 1032 NH Route 119, Unit 6, Rindge NH, for property located on Route 202, Map 2 Lot 64 and Map 3, Lot 4-8 in the Business Light Industry Zoning District. The applicant is seeking approval for an office and warehouse/garage.

MOTION: Roberta Oeser moved to continue this hearing until March 19, 2019. Jason Paolino seconded the motion. Vote: 5-0-0

The Board took a 5 minute recess.

Dennis Casey returned to the table.

Chairman Jonah Ketola called the meeting back to order at 8:37PM

New Business/ Public Hearings

1. Public Hearing to adopt Site Plan Regulations

Jonah Ketola opened the public hearing. There were no comments.

Jason Paolino said that, for the record, he wanted to acknowledge the work of Kirk Stenersen, Bruce Donati, Roberta Oeser and Kelen Geiger for their work on this updated regulation.

MOTION: Cheves Walling moved to adopt the new Site Plan Regulations. Holly Koski seconded the motion. Vote: 5-0-0

Planning Office Report

Planning Director Kirk Stenersen said that the Planning office has been quite busy with inquiries and such and these last two applications have required a lot more organizing and work than normal.

Planning Director Kirk Stenersen said the School Dept. will be in at the next meeting to present their plans (conceptually) for the new school parking lots. If the Rindge warrant article to consider withdrawing from the school district passes, they may not move forward with the Rindge project.

Adjourned: 8:43 PM

Respectfully submitted,
Susan Hoyland
Planning Secretary