

DRAFT, SUBJECT TO REVIEW, CORRECTION AND APPROVAL

**DUNBARTON PLANNING BOARD
WEDNESDAY, DECEMBER 18, 2013
DUNBARTON COMMUNITY CENTER – 7:00 P.M.**

The regular monthly meeting of the Dunbarton Planning Board was held at the above time, date and place with Chairman Ken Swayze presiding. The following members were present:

Kenneth Swayze, Chairman
George Holt, Co-Chairman
Alison Vallieres, Secretary
Michael Guiney
Charles Frost
Les Hammond, Selectmen's Representative

Town Board/Staff Members:

Jon Wiggin, Fire Chief
Jeff Crosby, Road Agent
Kelly Dearborn- Luce, Planning and Zoning Department Staff

Applicants:

Tom Giovagnoli
Tom Giovagnoli's son

Ken Swayze, Chairman, called the meeting to order at 7:00 p.m. with a 6 member Planning Board present. He noted for the record that all members present would be voting members.

Ken Swayze, Chairman, confirmed with the Secretary that the meeting had been posted in two public places throughout the Town.

A. General Board Administration:

1. Approval of previous meeting minutes: Wednesday, November 20, 2013

MOTION:

George Holt made a motion to accept the minutes of the previous meeting of Wednesday, November 20, 2013 as written. Les Hammond seconded the motion. The motion passed unanimously.

2. Correspondence:

Alison Vallieres, Secretary, reported that she had received no correspondence to report.

Kelly Dearborn-Luce reported that the Building, Planning and Zoning Department budget was presented to the Board of Selectmen. At the end of November and into the month of December as of now, there have been 97 building permits issued whereas last year there were 105. We are down slightly.

Reported there have been four new homes this year as compared to two last year. Two spec homes have been already sold.

Revenue last year was \$15,000 and we are up to \$12,000 at this point.

Planning Board for 2012 had three cases. We already have seven cases as of this date. There are three more cases coming in. There are no unusual items.

Stated she had presented Planning Board meeting dates with deadlines. (attached)

3. Selectmen's Report:

Les Hammond, Selectmen's Representative, reported that he had nothing to report for the Board of Selectmen.

RECEIPT AND ACCEPTANCE OF NEW APPLICATIONS BY THE DUNBARTON PLANNING BOARD: FOR COMPLETION AND ACCEPTANCE. (NOTE: If accepted, at Planning Board's discretion, deliberations/public hearings may be allowed at this session.)

None

OLD BUSINESS:

At this point in the meeting, Ken Swayze, Chairman, stated we would be continuing the Tom Giovagnoli Proposed Site Plan Review to allow him to construct a barn to house 20,000 chickens at his property on Twist Hill Road.

PUBLIC HEARINGS:

CONTINUED PUBLIC HEARING FOR SITE PLAN REVIEW - TOM GIOVAGNOLI (D6-04-02) PROPOSED SITE PLAN REVIEW TO CONSTRUCT A 46' X 588' BUILDING TO HOUSE 20,000 LAYING HENS LOCATED AT 57 TWIST HILL ROAD IN THE LOW DENSITY DISTRICT IN DUNBARTON, NH

Ken Swayze, Chairman, noted that there is an updated Status Report as of December 16, 2013 for the Thomas Giovagnoli Request for Site Plan Review. (attached)

Ken Swayze, Chairman, announced there has been no new information received to date from the applicant or applicant's representatives.

He stated there is a request to the Planning Board for an extension for thirty (30) days to allow him to stay in the system for this meeting. This is the meeting that the Planning Board will act on the request for the 30 day extension. He suggested that the applicant should request a ninety (90) day extension instead of thirty (30) days.

At this point in the meeting, Ken Swayze, Chairman, asked Alison Vallieres, Secretary, to read a Time Frame for the Giovagnoli Request for Site Plan Review.

Alison Vallieres read the Time Frame and noted that the request for the thirty day extension would bring him to the date of this meeting (December 18) and nothing beyond. (attached) She suggested that he should probably consider requesting a ninety (90) day extension at this time instead of the thirty (30) day extension. This would give him another sixty (60) days to bring the plans up to date with items as requested by the two Consultants. (Northpoint Engineering and New Hampshire Central Regional Planning Commission)

Mr. Giovagnoli stated he only would be requesting the thirty (30) day extension because he would be requesting the Planning Board to give him a Conditional Approval this evening. He stated that Attorney Cronin had written a letter to the Planning Board stating that he would not be continuing to attend the

Planning Board meetings based on the fact that the legal and engineering costs are way beyond budget, etc. (attached)

MOTION:

Les Hammond made a motion that the Dunbarton Planning Board grant the request for a thirty (30) day extension as requested by the applicant, Tom Giovagnoli. George Holt seconded the motion.

Board Discussion:

At this point in the meeting, George Holt stated that just as a matter of information to the applicant, we have requested a number of items that have not been put on the plan. Would strongly suggest that they seek a ninety (90) day extension. If we were forced to vote at this time, it would be denied. That is only my opinion.

Charles Frost stated he agreed with George Holt. We have had two studies done and a lot of points have been made. They were just delivered at the last meeting. They have asked for certain changes on the plan. Other examples were increasing the buffer from 60' to 100'. Where are the chickens going to be when they are outside? These questions need to be answered and also put on the plan as recommended by the consultants.

Alison Vallieres stated she agreed with both George and Charles Frost. We need a complete plan with all the changes incorporated on it before we can vote on it. We have an obligation to the concerned abutters that we have addressed all these concerns/recommendations. When the final plan is recorded, we need all the information on the plan, not just what we have so far. We need a complete plan to be recorded at the Registry..

The motion passed unanimously.

Tom Giovagnoli stated he was requesting the Dunbarton Planning Board give him a Conditional Approval this evening. He stated he could not continue to pay the engineering company, surveyor, and lawyer, etc. for every meeting. He stated that Attorney Cronin's letter explains this. Stated the Planning Board needs to look and make a list of conditions that you feel need to be put on the final plan and make a Conditional Approval this evening. Stated he was not going to prepare new plans. You keep asking for more. Stated that he has given the Planning Board reports from various agencies that address these items. State Department of Agriculture, Merrimack County Extension Service, etc. Will have to spend another \$20,000 to get these things on the plan the way the Planning Board wants it.

George Holt stated that the outdoor management of the chickens does not appear on the plan. How is this going to be managed?

Ken Swayze, Chairman, stated that we are not prepared to give a Conditional Approval. The plans that have been presented are not acceptable yet.

There was considerable discussion as to why Mr. Giovagnoli needed to have a Site Plan Review. He presented Ken Swayze a copy of the Site Plan Review Regulations and told him to point out where it states this is required.

Ken Swayze read the following sections of the Site Plan Review Regulations:

Page 1, SECTION II. PURPOSE

"The purpose of the Site Plan Review process is to protect the public health, safety and welfare; to promote balanced growth; to promote the timing of development to prevent premature and uncoordinated development of land without the adequate provision of public services and facilities; to ensure sound site utilization; to avoid development which may result in negative environmental impacts; and to guide the character of development. "

Page 4, Section IV. SCOPE OF REVIEW as follows:

"Any proposed residential or non-residential development, or proposed change or expansion of an existing use of a site, or any changes that are proposed that differ from an existing site plan as previously approved by the Planning Board, prior to construction, land clearing, building construction or alternation and before any permit for the erection of any building or authorization for development on such site shall be granted, shall require the owner of the property to apply for and secure from the Board approval of such proposed site development in accordance with procedures outlined in these Regulations. The Board shall have the responsibility for making the final decision as to the necessity of Site Plan Review. "

"A. Applicability

The Planning Board or its designee shall use the following criteria to propose whether the activity requires site plan approval:

- 1. If the proposal involves new construction of non-residential or multi--family development.*
- 2. If the proposal involves a change of use category, e.g., from residential to commercial, or from single family to multi-family.*
- 3. If the proposal involves external modifications or construction, including parking lots (except for single family or duplex housing).*
- 4. If the proposal involves a property that has never received Site Plan Review approval from the Planning Board for previous non-residential or multifamily residential use.*
- 5. If the proposal involves an increase in the level of activity. "*

Tom Giovagnoli stated there are other large barns in the area that did not have to get Site Plan Review. Why do I have to? Stated there is a large barn on Twist Hill Road that did not get Site Plan Review. Where in the Site Plan Review Regulations is it required for an Agricultural Use.

At this point in the meeting, Ken Swayze asked Alison Vallieres to explain. She stated that these barns are for personal use and not a business. If a barn rents out stalls, gives riding lessons, it is a business and would require Site Plan Review. Regarding Cater Stables, this was built in 2007, two years before Site Plan Review came into being.

Charles Frost stated that there are many unanswered questions from the two consultants' reports. Don't see how we can approve any plan. These questions have to be answered and put on the final plan before we can vote.

Ken Swayze stated in the beginning the Board suggested the applicant get some top heavy professionals from UNH, Department of Agriculture, USDA and NRCS along with Soil Management people. I don't know what else to do.

Les Hammond stated he had nothing to say at this point. We could lay it out and go through the minutes and see what needs to be added. A lot of money has been spent on this. Maybe we have got to pick out what we need by going through the minutes , etc. Stated the items have to be put on the plan. He has a bit of a way to go but don't think it is a long way. Suggested that he ask for a 90 day extension and put the items on the plan.

George Holt asked Mr. Giovagnoli if he would request another 90 day extension.

Tom Giovagnoli stated that he would not request another extension. He stated he cannot spend another \$50,000.

At this point in the meeting, Ken Swayze, Chairman, opened up the Public Hearing for the public to speak. Stated we have heard enough about manure management and why a chicken farm should not be in Dunbarton. Would like to hear from anyone who is in favor of this project.

Mike Bergeron - Stated you are saying there are 50 items that should be on the final plan. Where does the buck stop? How many things does he have to come in with? Tell him what he needs to do and where does it end.

Jayne Rancourt - Mr. Giovagnoli doesn't have to be either residential or non-residential. This is a proposed change of use or business or any changes that are business. It just doesn't have to be classified as residential.

Richard Urbans - Stated I am just appalled at the time span that Tom has been trying to get a barn built in Dunbarton. All he wants to do is grow some eggs. I don't see the big issue. You are punishing this man month after month.

Gordon Young - Stated he agrees with this gentleman.

David Bishop - What are the questions? What makes what he is proposing any different from all the other barns.

Ann West - You are asking how is this barn different from the others. None of the other barns have chickens. They are horse barns that are for personal use only. One barn was built before the Site Plan Review Regulations. That is a very large operation. That is one of the reasons we did the Site Plan Review process.

Mel Gendron - Asked if there is going to be a generator on site. If you lose electricity which we do all the time, what happens to the chickens? What happens to the 20,000 eggs? What about the automatic manure, disposal etc.? I am sure something is going to break. What are you going to do with 20,000 eggs per day?

Mr. Giovagnoli stated he will have a generator on site. Someone will be taking care of the chickens.

Bob Dufrene, Twist Hill Road - This isn't just a barn going up. There is public concern for health, air quality and water quality. Most of the people came here at a time when the property was not being operated as a farm. A lot of people have built houses in this area. This is a farm area. I am concerned about who checks the water quality. Is Mr. Giovagnoli responsible? Who checks to see because we are all going to be affected.

Tom Giovagnoli stated that if his existing barn was filled with chickens, it would be a lot smaller than what he is going to build. If these birds were not certified as organic, he could put in 40,000 chickens in his existing barn. He stated he would not have to apply for Site Plan Review.

Merle Chapman - Stated he has sat through many Planning Board meetings in other towns. This is the process that you have to go through. This is part of the process and it depends on how well it is presented. Everything is not on the plan that is requested by the Board.

Town Officials:

Jeff Crosby, Road Agent - Ken Swayze asked Jeff Crosby, Road Agent, if the driveway entrance has been addressed satisfactorily on the plan at this point. Do you feel the information given is workable? Jeff Crosby stated that we need to show the driveway entrance on the plan. As yet he has not gotten an answer.

Jon Wiggin, Fire Chief - Stated he had asked that the roadway into the barn be widened. He is going to have to maintain the road. If he doesn't maintain it, the tractors and trailers are not going to get in there. There are no life safety hazards.

At this point Tom Giovagnoli asked what makes his barn any different than any other barn. There is a large barn on Twist Hill Road that I can see from 1/2 mile from my house. How is my barn different than this one?

Ken Swayze noted that Carroll Street Auto and other applicants went through Site Plan Review.

Craig West - Stated that the Giovagnoli barn is a Commercial/Industrial Use.

Tom Giovagnoli questioned the large barn down the street from him.

At this point in the meeting, Kelly Dearborn-Luce noted the following:

Yuki Igari, 227 Twist Hill Road - 12,800 square foot barn for an indoor riding rink for personal use. Had all inspections.

Cater Stables - Built barn in 2007 prior to Site Plan Review

Patricia Shearin - Stark Highway North - 9,108 square feet for personal use.

Tom Giovagnoli asked what sets my barn apart from the rest of the barns. The Zoning Ordinance clearly states what agricultural uses have to get Site Plan Review and the only one is a Veterinary Clinic.

Board Discussion:

Les Hammond stated he really felt that Mr. Giovagnoli should get an extension and have his engineer go through it and make the changes. If what the Board is doing is illegal, Mr. Giovagnoli's Attorney would have picked it up. All the information has to be on the plan. He stated there are no guarantees.

Board members agreed that they would not grant a Conditional Approval. They noted they do not even do it for small projects.

MOTION:

George Holt made a motion that the Dunbarton Planning Board deny the Giovagnoli Proposed Plan for Site Plan Review on the basis that the applicant has not provided the Dunbarton Planning Board a complete final plan with information necessary to consider this plan complete. The Dunbarton Planning Board has provided information to the applicant that would give him enough information to develop the plan to a point where the Planning Board could bring it to vote but it has not been provided. Information has been provided to the applicant i.e. engineering studies and Planning Board minutes from the last meeting which are specific as to the information that is required. Alison Vallieres seconded the motion. The motion passed unanimously.

There being no further discussion, the Chairman closed the Public Hearing.

The following motion was made to adjourn the meeting:

MOTION:

Charles Frost made a motion to adjourn the meeting at 8:15 p.m. Les Hammond seconded the motion. The motion passed unanimously.

Respectfully submitted,

Alison R. Vallieres, Secretary