

TOWN OF WATERBORO
PLANNING BOARD
MEETING MINUTES
March 16, 2022
6:30 p.m.

I. ROLL CALL

Present: Lori Anthony Clyde Smith Rebekah Higgins Diane Gray Edward Zelmanow

Others: David Lowe Angela Chute Dennis Abbott Lee Jay Feldman Hillel Weisel, Fabian Oil
Michael Gilpatrick Roger Lauzier Dwayne Prescott Doug Foglio Sr.
Elaine Beattie & Victor Schultz (ZOOM) Jacqueline Prescott Meyers (ZOOM)
Brad Prescott (ZOOM) Laura Prescott (ZOOM) Paul Prescott (ZOOM)
Dana Prescott (ZOOM) Kimberly Prescott (ZOOM)

Edward Zelmanow called the meeting to order at 6:40pm and stated a quorum was met with members present.

II. MINUTES

III. PUBLIC HEARINGS

- E23 LLC – Hillel Weisel, Fabian Oil – 30,000 gallon propane storage tank
1120 Sokokis Trail, N. Waterboro

Public Hearing opened at 6:40pm due to technological issues.

Dwayne Prescott, 1094 Sokokis Trail, N. Waterboro –

Questions the legality of the amendment to the Zoning Ordinance as it contests the towns comprehensive plan. There's a lot of wetland, fresh water out there with no protections. 250' off high water mark extends to Kim Prescott's property and there is no stormwater management plan for this project. There is no signature on the survey, there is no proof of setbacks on the survey and again there are a lot of state laws protecting waters. Section 2.09 Site Plan Review E regarding Abutter Notices. Mr. Prescott feels the Board should have also followed Section 2.11 Administration (A) which also pertains to abutter notices. This project will devalue abutting properties and 3 existing residences. The ordinances and Charter are stern about protecting people. Section 2.10, this project will have detrimental effects due to noise, dust, glares, etc. Deer Pond never fueled there, this is a change of use not a conditional use. The project is considered a nuisance and should not be in the middle of houses. Section 1.03 regarding Intent, this project will drop property value. Still a chance of something going bang. There has never been any intent for it to be near a house and what is the distance from a school. As abutters, they can no longer have campfires in their yards. The state ratified our Comprehensive Plan. This is going to be a truck stop, there will be trucks in and out of there fueling all the time and it will be very active.

Brad Prescott, 2 Lots South of proposed project –

Sent his letter in ahead of time and thanks the Board for their service. Doesn't claim to be an expert but noticed the zoning was changed October 5, 2021 with no proper notice to the public regarding the rezoning. The change in zone was clearly for this project and as abutters they should have been notified. This is an offensive location for this project and disturbing to have it this close to future homes. A wildlife study has not been satisfied nor a wetlands study. Even with the best tank and line installation there's still concern and Fabian doesn't have a good track record regarding safety and maintenance. Response time for fire department is worrisome

looking at average response times and how long before they get there and get water on the tank. The chemicals used to put out a fire are really dangerous, causing cancer and would be near water sources. Understands there could be a possible conditional approval but reinforces his vote against but in the event it gets approved requests:

1. Proper onsite water storage, cistern etc.
2. Require applicant to have no vegetation within 100' of tank
3. Fire Department is fully on board with crews and public safety and containment of any materials used to put out a fire should it happen.
4. The cul-de-sac is a concern regarding noise. In the evening with headlights shining into property or windows, have them place visual screening from abutting properties.
5. If there is going to be lighting, limit it to 15' shielded lights.

David Boudreau, Hansel Dr. –

Has lived there for 12 years and the use of the property has drastically changed. Concerned his property value will change, questions the setbacks of the proposed tank, additional traffic and a traffic study, states he maintains the road. There are already 4 tankers and 1 up by his residence and always lights in his driveway. There is always water running down the road and the culvert was crushed causing the water to cross Route 5 and the trucks carrying dirt out onto Route 5. Hansel Drive is a ROW / Private Road with no ditching. Recently a truck crushed his mailbox to which he paid for the repair. When the trucks start it sounds like they're in the yard. He strongly opposes the project, Deer Pond were great neighbors but Fabian is not so much.

Kimberly Prescott, Lot directly next to Fabian –

Also sent her letter objecting to the project. Her lot is directly next to Fabian Oil and the 30,000 gallon tank would always be in her view and all the noises that went along with it. Her goal is to rebuild her family farmhouse from generations ago. Neighborhoods with homes are not the place for these tanks and this is completely inappropriate. In January a firefighter was killed from a propane explosion. Please vote no on this project as there are plenty of other locations away from people and homes.

Doug Foglio Sr., Main Street –

Confused on how the public hearing was being run due to the fact there was no introduction to the project or nothing on the screen for people to view. Deer Pond said they'd never have storage of fuels at that site. This sits on one of the biggest aquifers in the town. He opposes the above ground tanks of this size and that they should be underground. There is a lot of hunting in the area and if someone misses and penetrates that tank then there's a problem. This tank should be 250' off their property line and not someone else's and surrounded by a fence. Limerick went through this several years ago and through lawsuits etc. and ultimately the tanks were moved to the industrial park underground. Has there been a groundwater study? Urges the Board to look this over and take their time. A buffer should be required to ensure neighbors are not disturbed and what measures for additional safety precautions will be taken. What is the safety record for Fabian?

Paul Prescott, co-owner to lot w/ relative –

Thanked the Board for their time and dedication and voiced his opposition to the project. He too sent in his letter ahead of this evenings public hearing. What is the the risk – reward ratio of the decision if this tank goes in?

Marie Prescott – co-owner to lot w/ relative – sent an email that was read and will be entered into record with the minutes.

Public Hearing closed at 8:35

IV. NEW BUSINESS

➤ Alden Pines Subdivision Revision – Doug Foglio Jr.

Lee Jay stated the applicant is seeking a very simple straight forward amendment. The number of units would be dropping from 20 down to 12. The infrastructure is already in place as well as the retention for fire suppression. Natalie Burns the Town Attorney has reviewed the requested amendment and stated the fire retention pond will meet requirements as it was built prior to Subdivision Ordinance Amendments requiring residential sprinklers.

Doug Foglio Jr. stated the original plan was for 20 units and is now decreased to 12 units. The new plan is for building footprint at fits in the building area. Systems now accommodate 3 bedroom units. There will be 10 single family units and 1 existing duplex unit. The name will also change to Alden Pine Community. Final plan will have signature block.

Board discussion regarding existing infrastructure vs. what is left to go in. Will hammerheads still be there? Notes on plans changed?

Lee Jay stated there is no need for notes, Angela will do the findings of facts and can be approved.

Lori Anthony made a motion to approve the Alden Pines amendment, second by Clyde Smith.

Vote: 5-0, motion passes to approve Alden Pines amendment.

➤ Waterboro Safe Storage – Dana Libby

Lee Jay introduced the project per his memo. Stated building details as seen meet the design standards for the buildings facing Route 5 and Clarks Bridge Road. All other buildings will be screened by the front buildings.

Dana Libby along with Paul from Sebago Technics presented the project. Dana stated there have been some minor changes based on staff review including removing pavement in the front of the building. DEP permit is approximately 1 month out as well as Stormwater being 1 month out. Additional drainage spacing has been provided.

Edward questioned whether there would be vegetative screening and/or re-plantings?

Dana explained the green belt is existing and there would be new plantings along Route 5 and Clarks Bridge Road. A security fence will surround the premises with knox box access per fire department requirement.

Lori asked how far from the building would it be before lighting got to 0 candle to which Dana explained it will be full cut off lighting so not far out before it gets to 0 candle. The plans aren't showing photometrics but they're all wall packs.

Lori Anthony made a motion to find the application complete, second by Clyde Smith.

Vote: 5-0, motion passes finding application complete.

Public Hearing set for April 6, 2022 at 6:30pm, no site walk required.

- Edward Zelmanow proposed that due to the time that the Mobile Vending Amendment be a workshop on April 6, 2022.

Diane Gray made a motion to postpone the Mobile Vending Amendment to April 6, 2022 for a workshop, second by Clyde Smith.

Vote: 5-0, motion passes to table Mobile Vending Amendment to workshop.

V. OLD BUSINESS

- Hillel Weisel – Fabian Oil

Retail filling is not included, there will be no retail, no walk in to the facility for filling purposes. Cannot fill automobiles as this is not an auto gas station. Fire Department access has been adjusted per their requirements. Regarding Hansel Drive, the ROW is owned by Fabian. He offered to repair the mailbox that was hit as it was one of their contractors cleaning the property that hit the mailbox. The homeowner had already fixed the mailbox and declined reimbursement but he was over there within minutes of find out it happened. The zoning change was a product change and there are no intentions for oil at this site. Propane is a green alternative fuel. They didn't address the groundwater as propane doesn't spill and doesn't contaminate water. Time of response is dictated by NFPA 58 and must be abided by. The fire department has participated in every aspect of the Fire Safety Analysis. The width of the road has been approved by the fire department and the curvature of the road turning onto Hansel Drive has been adjusted per Department of Public Works. Regarding the lights, the elevation change from Mr. Boudreau's property prevents the lights from infringing. Per NFPA 58 there will be a 6' fence around the tank. Traveling NE you will not see the tank due to trees buffering the vision. Traveling SE the buildings will block the sight of the tank. Headlights and truck traffic, their business hours are 8am-4pm Monday – Friday, the drivers are starting trucks on a normal day at approximately 6:30am and ending at approximately 4:00pm unless in the case of an emergency. NFPA 58 also sets all standards for spark arresters. The tank is 126' from the property line and 535' from the house across the street. A light plan can be approved but most operations will happen during the day. There will be no site work, no digging, there will be piers only with no cutting of trees. They are utilizing the least destructive way to construct. With regards to their safety record, back in 2011, 11 years ago they were fined. A retail customer drove away with a hose the coupling failed which pulled the pump over. 25 gallons of gasoline were spilled. The spill prevention plan was a couple of months outdated and they received a \$60,000.00 fine. Weekly inspections are performed and there have been no fines or violations since. Fabian pulls their trucks off the roads even in flurries as they don't want the risk. The State Fuel Board oversees the handling of this site and will have to sign off on it. There is currently 1 propane truck there now they hope to have a 2nd truck and maybe a total of 4 down the road. The 30,000 gallon tank may be filled once a day.

Additional comments from abutters included screening for headlights, hours of operation, privacy fence from Route 5 back to the wetlands. If you are selling do you have to disclose there is a tank of that nature next to your property?

Board discussion regarding hours of operation, why these tanks are not buried, water supply on site, Hansel Drive and ownership, property line setbacks, whether the project triggers impact studies, small in the air during the tank being filled, abutting property values, abutter notifications, and zoning amendment as well as if it is considered detrimental to property value.

Michael Gilpatrick stated it really doesn't have any bearing on the project and it would be very difficult to get an assessor or realtor to verify that information.

Lee Jay stated the project went through staff review prior to reaching Planning Board and nothing triggers the impact studies. Comprehensive Plan establishes big picture “wish list.” Waterboro’s plan was never submitted to the state or found inconsistent by the state. Wetlands are 500’ from the location and an aquifer does run through the area but does not encumber the project. If the Board needs more time that is fine and if needed, he can develop a list to review even though he knows the applicant would like approval. He also stated that anyone can go to a realtor and ask about depreciation in value but an appraiser or the markets are the only things that can determine that.

Diane Gray stated that even appraisers aren’t going to weigh in on that and regarding disclosures you only have to disclose what is on your property.

Edward Zelmanow addressed the Board as to whether they are ready for a vote or need additional time. Lori Anthony stated she personally would like additional time with the remaining Board Members all agreeing.

Lori Anthony made a motion to table the E23 LLC application to the next meeting on April 6, 2022, Clyde Smith second the motion.

Vote 5-0, motion passed, application tabled to the April 6, 2022 meeting.

VI. COMMUNICATION

VII. MISCELLANEOUS

VII. ADJOURNMENT

- Lori Anthony made the motion to adjourn. Clyde Smith seconded the motion. No discussion.

Vote: 5-0, motion passes, meeting adjourned 9:00pm.

VIII. ITEMS NEEDING SIGNATURE