

TOWN OF SUTTON
Planning Board
Pillsbury Memorial Hall
Meeting Minutes
November 26, 2013

Present: Planning Board Members: Carrie Thomas and David Burnham, Co-Chairpersons; Peter Blakeman, Roger Wells, Members; Carole O'Connell, Alternate and Dan Sundquist, Ex-Officio; (Julie McCarthy and Bob DeFelice, Members were absent); and Laurie Hayward, Land Use Coordinator (LUC).

The meeting was called to order at 7:00 PM, by Carrie Thomas, Co-Chairman.

Administrative:

Correspondence: The LUC explained that the only correspondence she had was directly connected to either the Kuhlman or the ITW case.

Old Business: Kuhlman Home Business - The Board took up the issue of continuing complaints by abutters about the Dr. Kuhlman home business. It was noted that complaints have been about both the sign and the fact that there are two doctors working from the location. It was agreed that there was no issue with the sign as Dr. Kuhlman has agreed to a new sign which will meet the Zoning Ordinance requirements.

Regarding the concerns about two doctors, members also felt that Dr. Kuhlman was meeting Zoning Ordinances and the intent of the original decision. They noted that when Dr. Kuhlman appeared before the Board, she explained that the two doctors did not work during the same hours and the hours were not expanded beyond the original conditions; rather one or the other doctor would work at any one time. The question was asked what the Zoning Ordinance permitted for a home business. The LUC read from the Zoning Ordinance:

“Article IV.A. The following uses shall be deemed Residential uses and shall be permitted in the Residential District:

3. Customary home occupations and farm stands by a person residing in the premises, such as the practice of medicine, dentistry or other learned professions, insurance or real estate sales; a workshop or studio of an interior decorator, seamstress, artist, or arts and crafts specialist; or a similar office, studio, or workshop accommodating an occupation customarily conducted in a dwelling or building accessory thereto, provided that: ...b. The number of persons employed at any such location shall be no more than two permanent on-site employees in addition to the owner or tenant;”

After a brief discussion about the abutter complaints and how to address them, it was noted that abutters seemed to think that there were special ordinances regarding “scenic roads” and that they likely did not know that the designation “scenic road” has more to do with tree trimming and does not limit or change town ordinances.

Board members agreed that Dr. Kuhlman’s business did meet the Zoning Ordinance with the other doctor and the single office staff person as the two on-site employees in addition to the owner. There would be only one doctor at a time. The LUC explained that she had a discussion with town counsel about the complaints. Board members agreed that there needed to be clarification about the Zoning Ordinance and why Dr. Kuhlman is in compliance with zoning requirements. There was a discussion about the issues and how the information should be conveyed to those complaining that the Planning Board agreed that the Zoning Ordinance is met in this case.

Sundquist offered a suggestion, stating that the issue began with letters to the Select Board and it makes sense to have the Select Board write back explaining in detail all of the steps that had been taken even down to the detail that the Planning Board had research to make certain that the septic system was upgraded (which it was). It was agreed that Sundquist would take this to the Board of Selectmen and suggest that they write a letter to be sent to concerned members of the public, explaining that their concerns had been addressed and the sign would be changed to meet the Ordinance and that once that was done, the owner was meeting Sutton Zoning Ordinances. It would be hoped that an explanation would be enough so that abutters would understand that their issues had been fully addressed and that Dr. Kuhlman is in compliance with the Sutton Town Zoning Ordinance.

Sundquist asked the LUC to pick through the letters and come up with a bullet point list of issues noted by abutters and he will put together a letter.

ITW cell tower Site Plan Review - The LUC told members that they have in their packet for tonight a letter from Mark Moser regarding the issues he saw in the documentation and from the site walk. The LUC then reminded the members who were at the Site Walk that at a point in the visit, Kevin Fadden had stated that he did not know whether ITW would approve an extension. Fadden further stated that he felt that the LUC letter requesting the extension referenced an incorrect RSA. And, Fadden stated that ITW might prefer that the Board simply approve, approve with conditions, or deny the application rather than to give an extension. The LUC told members that, in their folders, there was a draft of a letter from the LUC which refutes Fadden's claim regarding the RSA in question, reiterates the request for an extension agreement, and requests an original W-9 form to replace the "copy with pink signature" that Fadden gave the LUC with an original signed in Blue or black. Board members agreed that the LUC should run the letter past town counsel and if town counsel had no concerns, send it to ITW.

The question came up whether the next hearing even be held as they have not complied with requirement to pay. It was agreed that they should hold the continuance meeting on December 10th. The Chair expressed her surprise at the fact that this did not seem at all like what Fadden had expressed at the last meeting. There was an extended discussion about the time limitations on the Planning Board regarding making a decision and about the issues that they felt existed with the application and documentation and agreement that they needed to have town counsel involved going forward. They asked the LUC to request that town counsel be at the hearing on December 10th.

There was a question about the showing of easements on plats and it was agreed that regulations require that all easements be shown.

There was a discussion about the road and where the responsibility for the road is placed. The LUC noted that the representatives from ITW had on various occasions stated that the owner, Blaney, would be responsible for maintaining the road. This leads to a number of questions including what happens when the landowner has the lump payment that ITW has told Board members that she will get and then she sells the property. There was a brief discussion of options such as requesting a 99 year bond paid by ITW to benefit the town of Sutton. It was decided that the board members would separately create lists of questions for town counsel. Wells asked what legitimate power does the town have to dictate how and who will manage the maintenance of the access road. Sundquist stated that he was concerned that there might not be an adequate and durably stable road. He was also concerned that there would be damage to a neighboring property from the road if it is not properly maintained.

At this point Sundquist had to leave the meeting.

Wells asked members to look at the Site Plan Review Regulations. Wells read Article VI General Submission Standards: "In the review of any site plan conducted under these regulations, the Planning Board shall

ascertain that adequate provisions have been made by the owner or his authorized agent for the following:

1. Traffic circulation and access including adequacy of streets, entrances and exits, traffic flow, sight distances, curb cuts, turning lanes and existing or recommended traffic signalization.
2. Pedestrian and bicycle safety access.
3. Off-street parking and loading.
4. Emergency vehicle access, including review by the Fire, Police and Highway Departments.
5. Storm water drainage, based upon a ten (10) year storm intensity occurrence, utilizing on site absorption wherever practical and taking into account the contour of the land.
6. Water supply, wastewater disposal and solid waste disposal.
7. Environmental factors such as pollution, noise, odor and protection of natural land features.
8. A landscaping plan in keeping with the general character of the surrounding area.
9. Signing and exterior lighting.
10. Conformance with all existing codes.
11. Compliance with provisions of the Zoning Ordinance Building Code, and any other applicable state or local ordinances.”

Wells also read Article VIII Submission requirement, calling attention to language that covers requirements for detail especially connected to location of existing and proposed easements and storm water drainage mitigation efforts.

Burnham noted that the proposal does not show any erosion control. Wells questioned whether that was a requirement and Burnham said that there is a requirement that they address erosion mitigation efforts. Board members agreed that a primary consideration was the abutter's property in a significant storm.

There was a discussion about access and about what is the town's obligation in connection to this proposed access road and what is or should be ITW's obligation. Wells stated that it is the Board responsibility to do everything it can to determine that the applicant intends to build an adequate road that does not present a hazard to the public- no different whether it is a resident or a business. Burnham noted that the Planning Board has a right and a duty to do what it can to ensure that no harm comes to an abutter's property as a consequence of a Site Plan Review that it approves. There is also a responsibility to ensure safety for any vehicles or persons that use the driveway, especially in an emergency. It was noted that in this case, there are no residents living just above the work site. O'Connell asked what abiding interest the landowner has in maintaining the road. Blakeman agreed that he is concerned about just that. Wells noted that he did not see proper drainage ditches or a properly graded road on the site visit. The Chair stated that what she is concerned about is town liability.

The question came up how old the road was. It was noted that the owner had applied for a subdivision in late 2007 and it is likely that the road was put in after that. The LUC also noted that she read the file and found a denial of a request for a driveway that NHDOT issued as a result of issues with the wetlands; the owner was refused a second curb cut.

The LUC confirmed with board Members that it was agreed that they would each put together questions for town counsel and forward them to her and she would get them to town counsel. Blakeman asked when the next meeting was. The LUC explained that the next meeting was to be held December 10th and that would include the continuance public hearing on the ITW application. She further noted that would be the last opportunity to get an extension in place for the ITW Site Plan Review as the 65 days would expire two days from that.

Wells asked another question regarding how long the Board has if a plat is approved with conditions. The Chair said that she thinks the clock starts again once the approval is made. The LUC said that she

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discussed time and how it applies with town counsel and town counsel is reviewing state and federal requirements.

There was also discussion about how to verify that the road was built correctly. It was agreed that Mark Moser would make site inspections as the work is done. Wells asked if Moser was going to provide any more detailed report than the letter already in hand. The LUC said that she would contact Moser and ask that question. Wells also noted that he is most concerned that if there is run-off that he wants to be reassured that it will be slowed down and control as to quantity and quality as it leaves the site. Burnham read from town regulations and emphasized that the Board is allowed to consider and ask for improved absorption or infiltration of drainage waters. Blakeman and Wells looking at the plans agreed that improving the road with a better surface would likely increase the speed of run-off and for that reason it might be a good idea to have a basin to catch some of this increased run-off, reducing the amount of storm water to go beyond the site.

The board also discussed that the documentation did not seem to meet usual professional standards and did have some errors. Blakeman said that it did not seem that the preparer had actually been to the site.

Wells also said that questions being dealt with highlighted places where they could improve regulations and ordinances.

Other Business: The LUC explained that there would also be a public hearing on a lot line adjustment on December 10th and the application from Evelyn and Clark Davis and their neighbors the Heberts was included in their folders.

It was agreed that the Board would not take up the revision of the Regulations this evening

Next regular meeting is scheduled to include Public Hearing and will be on December 10, 2013 at 7:00 PM.

There being no further business, the meeting was adjourned at 8: 41 PM.

Respectfully submitted,

Laurie Hayward
Land Use Coordinator