

Approved

**Town of Pownal
Planning Board Minutes**

**Wednesday, December 15, 2021
6:00 PM – Mallett Hall**

Members Present: Matt Altieri, Jesse Peters, Secretary Christine Watson, Todd Mellin, Brian Stornelli, Alternates: Orion Breen, Marcia Bowen, Town Planning Consultant: Ben Smith with North Star Planning, Recording Secretary: Alison Purinton

Guests: Selectboard Members – Andy O’Brien, Jim Fisher and Bill Gerrish of Northeast Civil Solutions, Susan Peters, Matthew W. Senecal, Diane Epstein, Dave Perkins, Jennifer Elgaen, Tierney Lynch, Joe Tucci and Alan Curry.

Call to Order at: 6:00 pm by Matt Altieri

Secretary’s Report:

Regular Meeting minutes of October 20, 2021 on a motion by Jesse Peters to accept minutes as amended and corrected, seconded by Christine Watson. Discussion: None, Vote: Yes (5) No-0 Approved with name correction of Jessie to Jesse.

Formal Meeting:

Matt Altieri- Welcomes Marcia Bowen previously from the Comprehensive Plan Committee and introductions made.

Old Business:

Matt Altieri- Welcomes all members of the public for the discussion of the Narrow Swath Steading Subdivision. The preliminary application has been submitted. The board received 51 or more submissions from abutters and members of the public. While the board finds these responses helpful it is especially useful when specific language regarding ordinances is related to cluster subdivision and subdivisions. The Planning Board is not a policy making board but consists of volunteers. It is critical that we not look beyond the ordinance instead consider each applicant has satisfied its burden that of demonstrating its application is within compliance of the ordinance. We value those concerns and correspondence. This is the first step of a many steps process. We would appreciate submitting comments in a group led by a stakeholder especially during a public hearing phase which we may get to in a future meeting.

In front of us we need to consider whether the application is complete. We have received memorandum from Ben Smith with North Star that it appears to be complete. We also have a written request for a road waiver. The written request is not accompanied as to a reason for why. Therefore, I would deem to the board this is incomplete until we can determine why it is warranted.

Orion Breen- During the last meeting the public brought up issues with the water table. What does it mean that the application is complete?

Approved

Ben Smith- The board needs to decide based on the submission list of paperwork. It is more of an administrative checklist. Once submission occurs, the board always has the right to ask questions, example maybe to provide information on test pits, or how bright the streetlights will be. Today is really, just a finding of completeness; do we have enough information to move forward. This is not an endorsement but rather a clerical checklist.

Jesse Peters- Page 4 bottom of page “Conclusions of law”. What does it mean will/will not?

Ben Smith- Those are the questions that will need to be answered by the board. We are at the preliminary stage. The board has not made any determination. To date we have had an informal workshop in August and a sketch plan in September. Informal discussions to present more detail. They submitted a preliminary plan based on feedback from the two previous meetings. Feedback on preliminary plan includes some engineered features and more detail around road and septic. It is not a finalized plan and is not fully set. It does have some formal requirements around it. In our review we went thru the checklist, and we have some questions, and we are sure the board will have questions. From a paperwork standpoint the checklist items have been submitted

Jesse Peters- Is the road length the only waiver they are asking.

Ben Smith – Responds that is a question for the applicant to answer.

Marcia Bowen- Asked about finding of fact vs conclusion on how it measures up to the standard of ordinance. For example, will this project have sufficient water? Is that a conclusion?

Ben Smith – This is a not definite conclusion. Findings of fact are what we will build thru the process. Presentation and learning from the applicant as we go thru. Conclusion is how they measure up against the standards of the ordinance that is where we ask do this have sufficient water? Those are not applicable for tonight’s meeting. A public hearing needs to be held in order to vote on a preliminary plan. The 1st thing the board needs to determine is finding the application complete. If it is we can move forward with public hearing, if not then the board needs to be clear to the applicant why not?

Matt Altieri- The submission that NorthStar makes are recommendations, they are helpful and informative to use. The question is: What do we require for waiver request? There may not be enough to vote on for a waiver request. Does the ordinance support this request? If allowed by ordinance, is it warranted? I believe the application is incomplete because it does not spell out as to why the waiver is necessary. I also think we can give the applicant more guidance. Question 1. Is the waiver as written sufficient?

Christine Watson- Questions the applicant on what you are looking for. On the first page you have listed 1140 foot dead end road. In a letter you indicate 1200 foot road. What is the footage you want the waiver for?

Bill Gerrish- Responds the 1140 foot road is more accurate, the 1200 foot is a round number.

Approved

Matt Altieri - Are there more waivers you will be requesting information for?

Jim Fisher- Not at this time.

Christine Watson – The abutters list is not correct. It needs to be updated to include all the abutters.

Ben Smith- Reminded the chair that there maybe people in the audience that this is their first meeting.

Matt – Thanks Ben for the reminder and welcomes the applicant to speak.

Jim Fisher- Explains the cluster subdivision encompasses 18 ½ acre parcel with the overall 55 acres. Actual length of road would be 1140 feet long. From an environmental standpoint it makes sense to have 1 road for 8 total lots rather than 2 600-foot roads with each road having 2 turn outs. The cluster subdivision is a challenge from a town meeting many years ago when it was voted 75 feet vs. 75 percent therefore limiting the road frontage from 300 feet to 225 feet. That is not a cluster subdivision. It doesn't give you any more lots. The essence of a cluster is more lots and more open space. You can never get anymore lots in a subdivision vs a cluster subdivision. In this plan Steve Napoli would still like to move forward because wants to show a plan that will not be developed. The waiver that we address the request from 600 feet to 1200 feet it can be 1140 feet. Makes more sense environmental to have 1 road vs 2. This is a development off Merrill Road, and information in your packets refer to a traffic assessment. Site distances are very straight and far exceeds the state and local ordinances. The fire cistern typically would be in the subdivision itself, however in the previous two meetings it was discussed to have the fire cistern along Merrill Road for ease of the community. We can certainly put the cistern halfway down in the development and the fire department can drive into the development to gain water, however it would be more conducive to put it on Merrill Road. That is a decision for the board. At the last meeting there was mention of having more conservation in the front. We come up with a conceptual plan. If we shift to an extra 50 feet along Merrill Road it would push the infrastructure towards the back. We can certainly do this however from an environmental impact makes sense to keep road at a minimum and the two front lots would have easements. These lots range from 1 ½ acres to 2 ½ acres. Frontage of each lot is about the length of a football field. What is not in your packets are concerns with school impact. We have spoken with Dr. Becky Foley, Superintendent of RSU5. She is fully aware of the situation and is busy however indicates she will have something to me shortly via email. I would like to introduce Dave Perkins. He is here to represent Steve Napoli as he could not be here tonight. Bill Gerrish an engineer for NCS as well as Matthew W. Senecal the home builder. He can provide a better explanation of what the homes will look like.

Matt Altieri- Requests the builder to hold off until we decide if the application is complete. Secondly does the ordinance allow the waiver. If time allows, we will welcome a description of homes.

Approved

Jim Fisher- As Ben mentioned the application is complete. It does not mean that it meets all the criteria. It means we have addressed the issue. The road length states 600 feet, and we are asking for 1200 feet because of the reasons given.

Matt Altieri- Asks the board to comment. If we deny the waiver the application changes significantly. If denied your road will change significantly. We have asked others in the past to spell out why the waiver should be warranted under our ordinances. I would like to follow that precedence and follow that standard.

Todd Mellin- The application within itself says it seeks a waiver but no justification as to why? Should there be an addendum to the application? In my view this is a deviation?

Matt Altieri- Agrees this is a significant deviation.

Orion Breen- I would want to know if we are allowed to make that decision before we say the application is complete or not. If we are not allowed to say it can be an 8 unit to authorize than why not address that issue.

Matt Altieri- Does the ordinance allow this on what has been received? If we say it is permitted, then I would say we need more info on why its justified? I have prepared a memorandum of what I feel are applicable standards. Article 3 Section 10 Special Provisions for Cluster Subdivision Performance Standards. I relate this to provisions to space and bulk. I don't view this ordinance as speaking to road length. The cluster subdivision does not address this at all. For this preliminary stage we need to figure out the waiver.

Ben Smith- The standard does allow different lots size with a goal of projects to fit in the environments. Town of Pownal deals with space, roads, paths, service, and parking areas. It is really landscaping around those infrastructure features. Cluster is about lot size and organization. It does not speak to roads.

Matt Altieri- Article 6 section 9, We recognize we are in the process of rewriting these. I recognize that we suggested in August that we would be open to this. The planning board may waive the standards for minor dead-end streets as long as the planning board determines that the public health and safety would be met by the modified standards. To be more specific please refer to Article 8 section 7B- The Planning Board may allow minor modification to the minor dead end to accommodate aesthetics and topography. This road waiver is not minor, it is double in size.

Bill Gerrish- Significant soils and septic go back to create a tighter cluster.

Christine Watson- Are we making a motion on this application?

Matt Altieri- We will not be making a motion. We need to determine if a waiver is warranted?

Orion Breen- Wants to respect the fact the applicant has spent time and money for an 8 lot and how North Star interprets this and why it wasn't caught before.

Approved

Ben Smith- Going back to the initial workshop. If you look at the overall property. The development potential is more than 8 house lots and they are coming in with a project for 8 house lots. One of the key reasons to have the workshop was the possibility of those 8 lots in a horseshoe shaped road, vs two dead end roads, vs one road that does not meet the existing road standard. But would allow for the development of the number of lots. The applicant believes the less environmental standard is to have one road. Do we agree this direction is the proper direction? This is the point in which it is appropriate to say yes and we will consider a waiver or no this is not the best alternative in order to meet the road than other road way options need to be considered.

Orion Breen- The argument of why we put 8 lots on one road is potential a better environment impact of 8 lots on two roads of 600 feet. We could allow a waiver to extend for public health and safety? But does one less road meet the criteria? Does one less road qualify?

Matt Altieri - My view is this might be a justification for waiver if it is permitted under the ordinance. Under the ordinance it is not permitted because there are only 4 lots permitted on a 600 foot road. There are other things in the ordinance this is somewhere near double so therefore it is not a minor modification. The road length is double and therefore not a minor modification.

Bill Gerrish- Refers to the survey map and points out the wetlands.

Todd Mellin- My interruption is if we don't allow this are they going to do that. This is not how the board should operate under that circumstance.

Matt Altieri- Calls on Jim or Dave Perkins and asks” Do you think the ordinance permits the 8 lots to be built because of this waiver?”

Jim Fisher responds – If the waivers are not to be considered and we have asked this at the first meeting and the board was receptive to that which is why we have continued to march as we have. To change now and flip it on its head is sort of predeceous to Mr. Napoli. Going beyond the way the ordinance is written now based on the 75 percent to 75 feet I understand this was the result of a town vote. Everything else can be waived it doesn't mean it has too, but it can. If the waiver ability is not going to be considered for this or any other project you might as well toss the Cluster subdivision out the window.

Todd Mellin- Disagrees, so say the idea of a cluster subdivision with in the first sentence refers to an “innovative approach”. You have 4 lots here, well off the road, protected with more open space. Creating a nice cluster.

Matt Altieri- Is there anything further from the applicant with respect to the ordinance?

Jim Fisher- There is no language in the ordinance that says you can't. There is guidance but that is up to the board to look at. You can waive as long as the board see fit. From an ordinance standpoint there is no incentive for anyone. No incentive meant to say save your money.

Approved

Dave Perkins spoke subdivision Section 9 B3 there is broad authority for you to waive the 600-foot requirement. Typically, the issue with road length are welfare safety issues. Under that section I do believe you do have the authority.

Matt Altieri - Opens the floor for the board to deliberate about whether Article 8 Section 7B permits a waiver of these 8 lots requested. I think we have discussed this sufficiently. I will not make the motion; however, I suggest that it be something like “The board concludes that Article 8 Section 7 Sub section B, Does not permit the waiver requested here because there are 8 lots being proposed and the ordinance limits the number of lots to 4”.

Orion Breen – Should we address that doubling the road size is not a minor modification but a major one.

Jesse Peters- I move that the board denies the waiver request for the extended road length based on the facts the ordinance says we cannot allow more than 4 lots as this is a major modification not a minor modification.

Jim Fisher- Requests to speak with the board as this is the first, we are hearing this info from the board. We would like to table the meeting and take a closer look at this.

Matt Altieri - Under the circumstances it is entirely appropriate to table this discussion and allow the applicant time to respond and help us understand. Therefore, we will treat this as an incomplete submission.

Jesse Peters- Withdraws this previous motion. I motion the application incomplete as it does not have a written explanation of the waiver request not being complete.

Orion Been-Do you want us to ask applicant if they want us to vote if incomplete or to withdraw.

Matt Altieri- I don't see any significant difference. I would like to see if the applicant has any thought on that.

Jim Fisher- No

Matt Altieri- I second- All in favor (5-0). Motion passes

Jim Fisher- Are there any other things we need to consider?

Matt Altieri- So we have discussed and observed there are minor modifications needs to be minor and is intended to accommodate esthetics and topography. Those are the justification that I see.

Jim Fisher- Is there anything else. We would always like to get more information.

Jesse Peters- Has concerns around septic. If a lot cannot pass a soil test how is it a buildable lot?

Approved

Matt Altieri- You have been provided with material from abutters. Please note the board is inclined to hire independent consultants to the cost of the applicant. This could include environmental engineers to review the work that has already been done. We would also like someone that can address the safety of Merrill Road.

Jim Fisher- You typically want a soil scientist to review soil scientist work.

Orion Breen – There was also public comment about the water table.

Matt Altieri- We would probably want someone to review a hydrology report as well and in all likely hood not conduct an independent survey, just review the information. In additional vernal pools were a concern and be the way things appear it looks like the site walk would be in late winter/ early spring.

Jim Fisher- The licensed scientist that doesn't work for us said there are no vernal pools. Vernal pools have a window of late spring typically, we don't want to delay this until June. The Planning Board can give a conditional approval.

Matt Altieri- Given the timing it is likely that a final decision won't be made withing that time frame.

Ben Smith- It is hard to say what the time frame would be. We will need to get information from the licensed professionals that the board can lean on. Stamped plans from licensed soil evaluators, etc. There may be times when a peer review is necessary for those instances where there are unique features. I looked at what has been submitted and haven't seen anything so far and have some outstanding questions but necessary related to the accuracy of wetlands delineations.

Marcia Bowen- Unsure on whether we would consider a subdivision, for more than 4 lots. We talked about the road this would be important for them to know going forward.

Matt Altieri- Does anyone have any insight into that?

Orion Breen- Sounds like the 4 lot limit is based on the dead end road. So, if you had a road that was connecting two roads or a looped road then you could have more than 4 lots. However a dead end road than the ordinance may limit to 4 lots.

Jim Fisher- Do you or the board members have any other questions or comments about other than the road?

Christine Watson - Can we get a correct abutters list? The ones that you submitted was the original application in September and is not correct. You are missing some abutters there. Matt Altieri asked which abutters are missing?

Approved

Christine Watson- Responses Albert Blackstone. Please make sure the backlots on 12 and 12.01 also have had property owner changes. We don't want abutters to come back and say they were never notified.

Orion Breen- We received a lot of public comment about rural character and how the cluster subdivision is not meeting the rural character of Pownal. There is an opportunity that you can actually preserve more land making Pownal feel less crowded. Keep an open mind when preserving rural character.

Matt Altieri- We can't go into anything in this stage about cluster subdivision. Tables the Narrow Swath Steading Subdivision.

New Business: None

Discussion:

Christine Watson- It was brought up at the solar project about noise under the site plans. Ordinance 5 See packet

Orion Breen- Some were in the audience were here today to make public comment. If we plan do a public comment discussion at the end instead of having them site thru various other items.

Matt Altieri- There will be no public comment tonight. There will be a public period once application becomes submitted. It will be placed in the newspaper, throughout the town, abutters will be notified via mail and the town website.

Christine Watson- I know that you were doing some housekeeping and don't know if you noticed this. Difference in the road that was sent in the ordinance review committee. Not sure if you saw Article 4 section B number 11 number 2 is noise. What is in red or a bit lighter is missing. Page 8 of 8 number 2 noise 2nd sentence from the bottom it says and 7 am and that is it. I don't think it is a typo. It is between 7 am and 7 pm the daytime hourly limit and 45dba between 7 pm and 7am. That is what we are missing. That is what we were discussing with the solar when they were working, they were going to have to stop at a certain time.

Jessie Peters- Believes this was a town vote but how do we know it is 45 dba.

Matt A- Suggests going back to town meeting minutes review. What does Ben think?

Ben Smith- This seems to be referencing a site location standard in the State permitting. It is typical for nighttime.

Christine Watson-I did look in an old book and it seems to be the same. She will go into town hall if she has time and do some research.

Matt Altieri- We can add this to the list for NorthStar.

Approved

Ben Smith- We need to call it out. It needs to be targeted because it doesn't make sense the way it is written. It would need to be voted on. You don't want the planning board to make an assumption.

Christine Watson- When we were adding and changing, we would have public hearings and had public hearing and id the warrant to the town and then get a town vote on it.

Jesse Peters- Would like to see an enacted date. Some do and some don't. This noise complaint could go back as far as the seventies as it was an issue with the substation, and I believe this was voted on.

Christine Watson- 2022 Planning board meeting and submission deadline. I have added a column for people that are in the process. To eliminate confusion for individuals in the process. Does this make sense to everybody? NorthStar needs time to review, and we need time to review.

Jessie- I vote we accept proposed dates for year 2022 as amended. September dates should reflect September 21 would be September 7th submission. Matt seconds. All in favor (5-0)

Christine Watson- Will get information into town hall so that it may be posted.

Matt Altieri – We haven't been clear about how many applicants that we will consider one year. We will consider one new application and one old application at most at a given meeting. I also would also like to consider no new/agenda material after 9pm.

Jesse Peters- Can we make it so new application are first on agenda after regular business. So can we make new application first thing instead of old

Ben Smith -That the time limit is more common than not.

Orion – Is this a potential a growth issue. Are we allowed to do that?

Christine Watson- We need to give each applicant our full attention.

Jessie Peters- We can hold additional meetings.

Ben Smith- I have been to meetings that are two pages long. A time limit is not uncommon.

Jesse Peters- I think if we know ahead then we can plan for it.

Christine Watson- Procedure for planning board will be going on town website for application(s). The only change is that NorthStar will send via an email notification, so we know what is going on. Fee schedule changed year and gave 2022 submission deadlines. This will be the procedure for the applicant(s).

Approved

Todd Mellin- One of the guys made is sound like here was a hydrology report. Has anyone else seen it?

Jesse Peters- Does every home need to have a passing soil test?

Ben Smith- Need to check with Code Enforcement.

Other Business: None

Next Month Agenda:

Adjourn: Matt motioned to adjourn Christine to second. All in favor. Meeting adjourned at 8:47PM

Respectively submitted,

Alison Purinton

Planning Board Recording Secretary