

**TOWN OF NORTHFIELD  
PLANNING BOARD WORKSHOP  
MAY 18, 2006**

**MINUTES**

Members present: Doug Read, Bill Dawson, Michelle Bonsteel, Dick Maher, Christopher Hunt, Fran LaBranche, Glen Brown, Alternate Tricia Sawicki. Also present: Mike Izard, LRPC and Eliza Conde, Secretary.

**Cross Mill Village site plan and subdivision compliance:**

Town Administrator Joyce Fulweiler conveyed the position of the Select Board relative to the non-compliance of the Cross Mill Village project. At their last meeting the Selectmen asked her to contact other engineers for proposals and to contact Attorney Bart Mayer. Attorney Mayer advised the town to revoke the site plan and subdivision. The Planning Board has the full support of the Selectmen and the enforcement of the town's subdivision regulations and State of NH standards.

Lisa Martin, QCC, responded that she hoped that it would not be necessary to begin the revocation process. She agreed that the Town must enforce its regulations, but the developer is balking at paying for the Town's engineering supervision. Joyce Fulweiler added that in order to avoid this problem in the future, the Board should amend its regulations to require money up front to pay for engineering fees. Michelle Bonsteel added that the developer needs to develop a "critical path" for the project in order for the engineer to prepare a proposal. Joyce Fulweiler stated that the Selectmen feel the Planning Board has done more than enough to accommodate the developer, but that the regulations must be enforced.

Christopher Hunt stated that the original applicant had planned to subcontract the infrastructure construction which would have been completed more quickly. QCC's original proposal was based upon those premises.

Attorney Philpot, representing landowner Dwight Barton, stated that it is clear from the minutes, the proposals and other documents that the review costs were for reviewing the reports of an inspecting engineer rather than having the town's engineer actually inspect the project. Mr. Barton stated that he believes the town has changed the rules of the game. He has an engineer, testing is being done and reports submitted to the town. Atty. Philpot stated that the work is not defective and Mr. Barton commented that he wants to be treated fairly and doesn't feel he should pay more than the original proposal for "not to

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exceed \$6500". Lisa Martin replied that the new proposal is for "up to" 3 half days per week while the original proposal was for 2 hours per week for 10 weeks. QCC has never received a construction schedule from Mr. Barton which would facilitate more efficient coordination of inspections. The new proposal includes \$15000 for a testing agency as some key components have been completed without appropriate testing. Mr. Barton's response was that he has never received a checklist of requirements or clear standards to adhere to. He did not have any documentation that stated that the retaining wall had to be tested. He stated that he wants to do everything above board and he had had an engineer test and inspect the wall in question. He commented that this is a private project on private property that will always be private. He has stabilized the site and repaired the damaged recreation trail. He stated that he cannot "hit a moving target" referring to changing requirements.

Fran LaBranche stated that he had visited the property and asked Mr. Barton about the construction of the large retaining wall which appeared to have need for footings. Mr. Barton replied that the plans for the wall did not call for footings. Fran noted that the wall has a "dip" in it and is concerned about the integrity of the wall and its ability to retain the proposed road. Mr. Barton stated that it was installed the way it was designed by the experts. Fran expressed concern about the future road washing out if the retaining wall has not been installed correctly. Mr. Barton responded that that is why he has independent testing performed. Lisa Martin commented that this type of wall does not call for a footing, but that it should not be settling at this point. Fran responded that this is exactly why the Planning Board wants Lisa to inspect the project to assure the Board that the installation is correct.

Mr. Barton suggested that in the future the Board should put its requirements in the conditions of the approval, but please let him get on with the job. He stated that the work could not possibly have been completed in 10 weeks, that it will take a year to complete. Mr. Barton and Lisa Martin exchanged barbs about who does or does not have a work schedule. Lisa stated that the State's standards are not unclear and the Planning Board's regulations clearly state that the developer will pay for construction observation services.

Attorney Philpot noted that the argument is about the cost of the observation. Fran LaBranche noted that QCC's proposal clearly states that the dollar amount can be increased with the town's approval. Mr. Barton replied that the proposal clearly states "not to exceed \$6500". Atty. Philpot stated that Mr. Barton's engineer, Colin Robinson is not a "fox in a hen house", that his work is reliable and if the town can trust his work,

then this is not an issue. Fran LaBranche argued that quality assurance should be done by a third party to protect the town and Mr. Robinson represents the developer.

Joyce Fulweiler stated that the town wants to be assured that the infrastructure is installed correctly to protect both the town and future owners. Dick Maher agreed that one of the layers of inspection should represent Northfield. He asked Mr. Barton if the engineer is on his payroll. He is a subcontractor, not on site all the time. He takes pictures, watches some installation and writes reports. Dick responded that his reports can be given to Lisa to certify, but she is not comfortable at this time certifying the work. Atty. Philpot agreed that Lisa could simply say that "it appears that work has been done correctly". Mr. Robinson would be certifying his work. He stated that it was never the deal that Lisa would be on site for inspections.

Lisa Martin replied that the town has always assumed the developer would have their own quality assurances, but the town's job is to see their reviews. She stated that QCC has shown up at the site to find no one there. Mr. Barton replied that Mr. Robinson is not always there, but he stops in every day and he is very familiar with the foreman's workmanship.

Christopher Hunt stated that the regulations state that any additional needs for reviewing the project need to be met. Mr. Barton said that all he had to rely on when he purchased the property was the records which clearly state the town's engineering over view would not exceed \$6500. If the proposal was to be open ended, it should have been included in the conditions of the approval. Joyce Fulweiler stated that all projects have to conform to the Town's regulations. Mr. Barton stated that is what he is trying to do. Mike IZard commented that it appears that Mr. Barton is asking the town to forego the over site by the town. Mr. Barton replied that he is not asking that, but he does not want to pay the amount in the new proposal. Michelle Bonsteel commented that the original proposal clearly states that the dollar amount can be increased by the town's approval, but Mr. Barton clearly only wants to see the amount of \$6500. Further argument relative to the proposal, how much inspection is needed, who does or does not have a schedule. Fran LaBranche asked if the town could hire Mr. Robinson to represent the town, he would like to see the project succeed, we need everyone to be happy and the town needs to enforce it's regulations. Lisa agreed that she does not have to be the engineer involved in this project, that the town can solicit bids from other engineers. Further discussion followed about engineers and who would be overseeing whom. Joyce Fulweiler commented that Mr. Barton does not seem to feel that he has to pay for the town's engineer, but the regulations clearly state that he does. She also stated that the

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town has written proposals to work out this problem, but nothing has improved. Mr. Barton commented that he is willing to pay the proposed \$6500.

Glen Brown explained that the Town values Lisa Martin's opinion and expects her to protect the town's interest. He would like to see a schedule of work so that the inspections can be coordinated to be cost efficient. Christopher Hunt agreed that the Town hires Lisa Martin to protect the town and she has already agreed to reduce the DOT testing standards for the road. Mr. Barton argued that there is no checklist of requirements from the town and Ms. Martin replied that there is no schedule of work from the developer.

Mike Izard summed up the situation by saying that the Planning Board believes the inspections need to continue, while Mr. Barton believes he has met his obligation by paying the \$6500. Mr. Barton replied that he is willing to continue funding at some level, but not an open ended amount. He stated emphatically that this is not a life safety issue, it is just trenches and pipes. Lisa Martin noted that there have been changes to the site plan which have not been approved by the Planning Board.

Mike Izard agreed that there are a list of concerns that the board has not dealt with yet because the parties are stuck on the \$6500 limit. Mr. Barton has stated he is willing to have some quality assurance, the board still has some issues to deal with and address. There was a presumption by the board that the job would adhere to state standards and it is up to the developer to know those standards. The Board has the responsibility and obligation to be sure that this is a safe environment for the people who live there in the future and there are issues that may very well be related to life safety. It would be nice to be able to move forward with the process, and the board cannot eliminate the engineer's over view of the project. Fran LaBranche agreed that it is not up to the Planning Board to negotiate, it is up to the developer to comply with the town's regulations. If you comply, you'll go ahead with the project, if not, we will proceed with the revocation.

Lisa Martin explained that her proposal should take her through the whole project, that it is an estimate of the time required and if the scheduling can be accomplished there will be less time needed. Her proposal is an estimate only. Mr. Barton continued to argue that he is adhering to the state standards and that at no time did the plans call for the town's engineer to do on site inspections. Christopher Hunt replied that Lisa is the

Planning Board's representative and Mr. Barton needs to accommodate her so that she can work efficiently when she is on site. Bill Dawson commented that Lisa's fee schedule is a "not to exceed" budget, she did not say that it would cost that much. If Mr. Barton would cooperate and make a schedule the costs will be less. Atty. Philpot stated that the protocol ought to be that Lisa and Mr. Barton get together to make an agreement on scheduling.

Doug Read explained to the Board that the town's regulations clearly say that the town hires an engineer at the developer's expense and any extra fees they are paid by the developer. If the fees are not paid, then the Planning Board and Selectmen should close down the project. All the board needs is for Lisa Martin to be comfortable with the project so that the Board can be comfortable with the project. It is the responsibility of the Board to conform to the regulations and the regulations are very clear. He added that the Board should not tell Mr. Barton how to do his business, but just needs to enforce the regulations.

It was generally agreed that the parties are at an impasse, that Mr. Barton has not agreed to pay for the overview and that there are site plan changes which have not been approved. At this point, anything Mr. Barton performs on the project is done at his own risk because there is no overview. Atty. Philpot suggested ironing out the differences. Christopher Hunt replied that the differences are that the Planning Board wants to protect the town and Lisa Martin represents the town, while Mr. Barton is stuck at the \$6500 issue and we are not making progress.

Doug Read suggested that the Board give Mr. Barton until the next scheduled meeting to meet with Lisa and iron out the differences so that the project will be in compliance with the subdivision regulations. Michelle Bonsteel noted that there are two issues at stake, payment of the engineer overview and site plan changes.

Doug Read moved, seconded by Michelle Bonsteel that Lisa Martin is the Planning Board's representative. Motion passed.

Michelle Bonsteel moved that the applicant be required to place \$58,500, the amount in the 4-21-06 proposal, in escrow by May 31, 2006. Discussion followed whether it was necessary to have the money up front as the town holds a letter of credit from the developer. The motion was not seconded. Joyce Fulweiler suggested accepting the proposal of 4-21-06. Mike Izard reminded the board there is some flexibility in the

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proposal as the testing portion can be removed. Doug Read commented that all the Board needs is for Lisa to state whether or not the project is in compliance with the town's regulations. Joyce Fulweiler stated that the town cannot request a reduction of the letter of credit until Lisa signs off that the work has been completed in compliance with the Town's regulations. She further stated that the Town has not yet billed Mr. Barton for Lisa's construction observation services to date, nor the additional design review fees.. Atty Philpot stated that Mr. Barton agrees to pay \$8000 immediately and then discuss the protocol for the rest of the proposal. Fran LaBranche replied that the Board is not negotiating, that the applicant must comply with the regulations. Glen Brown moved, seconded by Michelle Bonsteel to accept QCC's revised proposal for construction observation dated 04-21-06. Joyce explained that this will put Lisa back on the job, that the Selectmen would sign the proposal because the Planning Board has accepted it. Motion passed.

Lisa Martin said that they can now move forward on the outstanding issues. Discussion followed relative to the process of beginning the revocation of the project. It was agreed to continue Cross Mill Village compliance issues to the June 14, 2006 regular meeting. Michelle Bonsteel asked Lisa to let the Board know if there is no cooperation or no possibility of compliance before the meeting so that the Board can meet with Attorney Bart Mayer. Dick Maher moved, seconded by Michelle Bonsteel to place the Cross Mill Village project on the June 14, 2006 agenda. Motion passed. After discussion, Dick Maher moved, seconded by Michelle Bonsteel to amend the above motion to continue the discussion of Cross Mill Village's non-compliance with the town's subdivision regulations and DES' regulations. Motion passed.

Meeting adjourned at 10:25 pm.

Respectfully submitted,

Eliza Conde, Secretary