

# **TOWN OF PLYMOUTH PLANNING COMMISSION**

## **MINUTES**

August 6, 2013

The meeting of the Planning Commission/Zoning Board of Adjustment (collectively, the "Commission") opened at 7:00PM.

- Members of the Planning Commission: Wendell Beckman (Chairman), Karen Bruyn, Judy Michael, Betsy Tonkin, Anne Brown, Tom Derlinga, Michael Coleman, Lee Kafer, and Bill Cherico.
- Others: Arthur Lynds of A.B.L.E. Waste Management representing the applicants. Anne Boehl representing the applicants. Beth Jones representing the applicants.
- Jim Allen, Zoning Administrator was present in audience.

The Commission unanimously approved the minutes of the July 9th, 2013 meeting.

## **PUBLIC HEARING**

The Commission opened the public hearing for Application #2013-0007 for Arthur Lynds. The following information regarding the application was developed through the presentation of Arthur Lynds and questioning from the Commission. Arthur Lynds seeks to subdivide 10 acres, which encompasses 1000 feet of road footage, at 1515 Lynds Hill Road into two lots with 5 acres each.

Each 5-acre parcel will have a Conditional Use Permit. Both parcels will stay within Act 250. There will be a Small Rural Enterprise on the new parcel in addition to the Small Rural Enterprise that already exists for the Waste Facility business on 5 acres. Business on the upper lot will be farm and agriculture. Property is located in Zoning District 5 and a small rural enterprise is allowed. Commission reviewed definition of small rural enterprise on p. 64 of the Plymouth Zoning Ordinance. Commission noted that there was a small rural enterprise on the existing 10 acres already.

Question to Arthur Lynds from Betsy Tonkin clarifying that small rural enterprise was for the transfer/landscaping business on 10.05 acres. However, small rural enterprise will stay in place/be re-applied to new 5 acres subdivision. The new small rural enterprise permit will be agriculture. No employees will be involved. The applicant stated that possible uses for small rural enterprise may include: to sell eggs, vegetables, sleigh rides, farm/agriculture related issues such as Christmas trees and produce from fruit trees sold to the public. Livestock will be on land. Discussion of the need for adequate public parking and spaces for not more than 5 employees.

Discussion turned to 3 abutters (John Lynds, Robert & Katherine Lynds, and Glen & Rachel Lynds) listed in application, but later in the application a 4<sup>th</sup> abutter was mentioned. Arthur Lynd explained one was across the street, but according to the petitioner, Arthur Lynds, all were notified and aware of the changes in use intended for his property.

Discussion turned to the Conditional Use Permit. Arthur Lynds will continue to work at transfer station property. House is 36x48 and ownership is not changing. An appropriate plat sketch is attached to application. Buildings meet setbacks. All are approved and permitted. Driveway already exists, but not on site plan. The question was raised about how many parking spots will be for rural enterprise? Not more than five (5) employees are allowed: however,, the number of parking spots for potential customers was not specified. Commission noted that the barn is 5,000 square feet. Also, the number of employees is not going to change. It was noted that the Act 250 application clearly states the type of rural enterprise that will be conducted on each parcel and that this must be adhered to by the applicant.

Approval is still needed for wastewater and well water. Act 250 is pending approval of the latter.

The Commission reviewed 3.2 Subdivisions – General and Conditional Use Standards for compliance.

3.2.1: Arthur Lynds submitted a Conditional Use Permit.

3.2.2: The necessary Conditional Use Permit was filed.

3.2.3: Subdivisions that require Conditional Use Approval shall, in addition to other applicable standards, meet the following:

3.2.3.1: Development Suitability

3.2.3.2: Other Regulations in Effect

3.2.3.3: (including 3.2.3.3.1-3.2.3.3.3) Lot Layout was included in Exhibits A-D of the application.

3.2.3.4: No-build/No Cut Areas – Commission noted there was none.

3.2.3.5: (including 3.2.3.5.1-3.2.3.5.2) Development Pattern is consistent with everything else.

3.2.3.6: Fire Protection is in compliance.

3.2.3.7: Water and Wastewater Systems are still pending approval.

3.2.3.8: Utilities

3.2.3.9: Storm water

3.2.3.10: Common, Dedicated or Protected Land

3.2.3.11: The subdivision will be safe from flooding.

4.14 Conditional Use Approval

4.14.1: Application for Conditional Use Permit was received on June 5<sup>th</sup>, 2013.

4.14.1.1. Map of property was included in application (see Exhibit A).

4.14.1.2: Statement of use and abutting landowner list was received.

4.14.1.3: Maps were received in the application showing proposed development (see Exhibit B-D).

4.14.1.4: A proposed site plan was received in Exhibits B, C, & D in application.

- 4.14.1.5: Dwelling units are indicated in Exhibits attached to application.
- 4.14.1.6: Development schedule is indicated in the application. Act 250 is currently pending.
- 4.14.1.7: No change in ownership is anticipated
- 4.14.1.8: No condominiums will be developed on site.
- 4.14.1.9: Additional documentation was not requested.
- 4.12.1.10: Plat sketch for subdivision was included in application.

#### 4.14.2 Conditional Use Review

- 4.14.2.1: Parking on road will not be permitted. Only on applicants property.
- 4.14.2.2: Fire equipment and pedestrian safety.
- 4.14.2.3: Adequacy of landscaping was discussed. Replacement of 2007 landscaping and addition of new landscaping for new parcel must be installed.
- 4.14.2.4: The protection and utilization of renewable energy resources.
- 4.14.2.5: The capacity of existing or planned community facilities.
- 4.14.2.6: The character of the area affected as defined by the purposes of the zoning district and specific policies of the Plymouth Town Plan.
- 4.14.2.7: Traffic on roads in the vicinity was discussed. Parking will have to occur on property to avoid blocking narrow road.
- 4.14.2.8: Utilization of renewable energy sources: and
- 4.14.2.9: Other bylaws and ordinances in effect.

Once again noted that the Conditional Use Permitting was pending Act 250 approval. No comments from the public were received. A motion to close the public hearing was made, seconded, and unanimously passed.

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The Commission opened the public hearing on application 2013-0005 for Karl & Anne Boehl. Only Anne Boehl was present for the petitioners.

Permission is sought for an 8X12 home Depot Shed that is already installed. Owner lives out of state (Long Island) and was not aware her shed was installed prior to permitting. Commission noted that the site plan in application is wrong. Shed is drawn on neighbor's property by error, but the shed is actually on Boehl property. The setback is still correct – the shed is 53 feet from house and 30 feet from stream.

Commission sorted out the error in the indication of shore land overlay. The shed is not on a shore land overlay property, but unfortunately it appears so on the map that was submitted. Anne Boehl said the confusion stemmed from the Town Clerk telling her she was on a shore land overlay.

Commission determined that the shed is okay for permitting and location. The Commission talked about refunding \$200 application (or partial refund). Anne Boehl said she would like the refund donated to a charity and notification of such occurrence.

Jim Allen is going to give her a building permit. Owner will be notified.

No other comments or questions were forthcoming. A motion to close the public hearing was made, seconded, and unanimously passed.

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The Commission open public hearing on application 2013-0006 for Beth & Rich Jones. Only Beth Jones was present.

The application is for a Conditional Use Permit for an addition of a 12x30 deck on to camp at 221 Scott Terrace that resides in the shore land overlay. The proposed deck will go the entire width of house.

Commission asked questions regarding what type of deck might be built. Beth Jones answered she might angle corners and deck stairs will be positioned towards lake. There will be a railing on the steps and the deck will not be enclosed. There will be no electrical work, but there may be some solar lights installed. The square footage will be 12x28. Beth noted they were the only ones on street that do not have deck.

The Commission determined that they did not have to notify the Vermont Department of Environmental Conservation according to Kevin Geiger. Notification only occurs if there is a substantial improvement as defined in the zoning ordinance.

Commission received and reviewed:

#### 4.14 Conditional Use Approval

4.14.1: Application for Conditional Use Permit was received on June 20<sup>th</sup>, 2013.

4.14.1.1: Map of property was included in application (Exhibits A & C)

4.14.1.2: Statement of use and abutting landowner list was received (Exhibit B)

4.14.1.3: Maps were received in application showing proposed development (Exhibit D)

4.14.1.4: A proposed site plan was received in Exhibits A, C, & D in application.

4.14.1.5: Dwelling units are indicated on Exhibits attached to application.

4.14.1.6: Development will occur upon approval and be completed by the fall.

4.14.1.7: No change in ownership is anticipated.

4.14.1.8: No condominiums will be developed on site.

4.14.1.9: Additional documentation was not requested.

4.12.1.10: Plat sketch for subdivision was included in the application.

#### 4.14.2 Conditional Use Review

4.14.2.1: Parking use will not change.

4.14.2.2: Fire equipment and pedestrian safety.

4.14.2.3: Adequacy of landscaping – no change.

4.14.2.4: The protection and utilization of renewable energy resources.

4.14.2.5: The capacity of existing or planned community facilities.

4.14.2.6: The character of the area affected as defined by the purposes of the zoning district and specific policies of the Plymouth Town Plan.

4.14.2.7: Traffic on roads in the vicinity will not change.

4.14.2.8: Utilization of renewable energy sources: and

4.14.2.9: Other bylaws and ordinances in effect.

Beth Jones indicated the deck would be finished by fall. The Commission clarified that once approved you have 120 days to start, 2 years to complete.

Commission posed a question if the deck was in a floodway? Jim Allen mentioned there were no new FEMA maps. They continue to use the high water mark from 2 years ago until new maps come out. The deck will be on pilings and the home does not have a basement. Discussion of 'new construction' and Commission noted that no definition was included in Plymouth Zoning ordinance. Deck setbacks were discussed and checked for compliance.

Owner will be notified of decision.

No other comments or questions were forthcoming. A motion to close the public hearing was made, seconded, and unanimously passed.

## **DELIBERATIONS AND OTHER BUSINESS**

The Commission then commenced deliberations on the three applications determining as follows:

Commission had discussion regarding the application of Arthur Lynds. In the event Commission approves permit and pending Act 250, the subdivided parcels will run as a small rural enterprises. Arthur Lynds will have to obtain a separate deed(s). The plat will have to be filed with city. He will receive two tax bills and two tax maps in the new property scheme. The property will also require two new Conditional Use Permits. It was noted that the Act 250 clearly defines the use of each parcel.

Discussion turned to small rural enterprises and how they were supposed to be sporadic in nature. The subdivision would allow two adjacent rural small enterprises in contradiction of the town plan. Commission discussed traffic generated by businesses and parking concerns about parking on Lynd's Hills Road. There is an allowance for 5 employees parking spaces however, the Commission wishes to stipulate in permit that there will be no off road parking as a safety issue matter. A sign will need to be installed denoting off road parking only.

Provisions of 3.15: Outdoor Lighting – Conditional Use Standard will apply.

Move to approve subdivision and conditional use for small rural enterprise on each of the parcels in Arthur Lynd's application with the following conditions:

1. Receipt of an approved Act 250 permit, including well and wastewater permits. Permit will only be issued when Act 250 permit is received. If he doesn't get wastewater he won't get building permit per Jim Allen. Permit comes to board when Act 250 is approved.

2. Parking issue applies to both lots. A sign, which says, "Customers and Employees are restricted from parking on Lynd's Hill Road Town Hwy 5" needs to be installed. Commission mentioned the need to adhere to 4.14.2.1: Adequacy and Safety of Parking and Loading Facilities and 4.14.2.2: Access for Fire Equipment, and On-Site Pedestrian Safety.

3. Permit conditional on adherence to the 2007 permit conditions and applied to both lots. This includes the landscaping that needs to be installed along the lot frontage and re-installed as screening for the dumpster storage area where it has died and keeping the dumpsters within the storage area out of sight of Lynds Hill Road according to the provisions of 4.14.2.3.

Betsey Tonkin made motion to approve.

Bill Cherico made second motion.

Approved by: Lee Kafer, Karen Bruyn, Anne Brown, Bill Cherico, and Wendell Beckman.

Nay: Betsey Tonkin, Judy Michael, Tom Derlinga, and Michael Coleman.

Motion is carried.

Commission had discussion regarding the application of Anne Boehl. Commission noted that the project did not require a Conditional Use Permit because the property was not in shoreline overlay. Motion to refund Anne Boehl's application fee of \$165 for application reflecting building permit and recording fee that constitute \$25 and \$10 respectively.

Karen Bruyn makes a motion to return money in sum of \$165.

Betsy Tonkin seconded the motion.

The Commission is unanimously in favor and the motion carries.

Jim Allen will have Treasurer refund in morning.

Commission had discussion regarding Beth Jones application for an addition of a deck. The finding was there was to be no electric on deck project.

Motion to approve the applications for a deck was made by Betsy Tonkin.

Judy Michael seconded the motion.

Commission approved unanimously.

The Commission moved on to other business.

Wendell presented additional documentation for the Joseph Trainor application from last month pending Division of Fire Safety that was received and approved. Documentation is in the file in the town office for review.

A letter was received from Two Rivers thanking the Town of Plymouth for the 2014 dues. A copy of the letter went to Ralph Michael, Anne Brown and Wendell Beckman.

A reminder that Farm & Wilderness will be here next month was issued. Questions about the sugarhouse and green house were mentioned and the Commission noted that 4.5 Agricultural uses do not have a permit requirement. Reminder that they are in the

shoreline overlay now on that side of the lake – new requirements for notification and setbacks apply. Research if permit is needed – Wendell Beckman will call Kevin Geiger.

Tom Derlinga brought up zoning items in new regulations for clarification. Kevin Geiger will be responding. Also discussed was following up with Select Board who can change minor details without incident.

The Certificate of Compliance process was discussed. Jim Allen makes sure everything is complete. Commission wants to put a Jim Allen signature line that says, “Reviewed by: Jim Allen”. Jim will talk to Jodi to make the changes to the form(s). Jim also discussed that in the process was applications have to be here by the 10<sup>th</sup> of the month. Trainor application was a mishap in process. Notices should not occur unless applications are received before the 10<sup>th</sup> of the month. Jim Allen is looking at applications for completeness before we notices are mailed to people.

Town Plan from Bridgewater is newly released. Meeting notice was received for August 27<sup>th</sup>, 2013. Additionally, Mount Holly Town Plan that has no zoning, just subdivision requirement, is coming up as well. Wendell has copies of both for review.

Commission recognized a phone call from someone on Echo Lake regarding Birch Landing enforcement. Caller said someone had broken up bank down to lake. Commission will investigate whether this would be a clear cutting issue. You can cut anything under 4”. Follow up is necessary to find out if there is there a Conditional Use Permit. It was noted that this person has been warned in past and still doing.

September 3<sup>rd</sup>, 2013 is next meeting. Farm and Wilderness is on schedule and is the only applicant so far.

The meeting **ADJOURNED**, without opposition, at 9:10 pm.