

PLANNING BOARD MINUTES

March 8, 2023

APPROVED: March 22, 2023

AGENDA: 23LLA01 – JIM & MARY ELLEN GOYETTE – 20 SCENIC ROAD – #107/33 & 34
23SUP02 – BRIAN & KAREN GALLAGHER – PEMIGEWASSET SHORES DR. – #222/030
23SUP03 – TOWN OF BRISTOL – 230 LAKE STREET - #112/070 & 071
23CUP01 – TOWN OF BRISTOL – 230 LAKE STREET - #112/070 & 071
23MER01 – TOWN OF BRISTOL – 230 LAKE STREET - #112/070 & 071
23FSP01 – TOWN OF BRISTOL – 230 LAKE STREET - #112/070 & 071

ATTENDING: Denice DeStefano (Chair) (via Zoom), Randall Kelley (Vice Chair), David Shirley, Elizabeth Seeler, and Donald Milbrand (Select Board Representative)

OTHER: Christina Goodwin (Town Administrator) Joanne Bailey (Land Use Manager), Donna Sullivan (Land Use Administrative Assistant), Applicants & Others: Jim and Mary Ellen Goyette, Kevin French, Brian and Karen Gallagher, John and Eleanor Morrison, Shaun Lagueux, John Sellers, and Michael Vignale.

Chair DeStefano called the meeting to order at 7:00 pm with a quorum present in person. She stated there was no Old Business to discuss and moved to New Business.

NEW BUSINESS:

23LLA01 - JIM & MARY ELLEN GOYETTE – 20 SCENIC ROAD – #107/33 & 34

Ms. DeStefano asked if applicants or representative were present. Applicants were present and designated Mr. Keven French to present their plan to adjust the lot lines on their properties to allow them to have adequate space to build a garage in the future.

Mr. French explained the lot line adjustments as indicated on the plans which were shared with the Board. These two parcels are owned by the same property owner and by straightening the boundary line, does just change the size of either parcel.

Mr. Kelly motioned to approve the lot line adjustment for the Goyette properties citing the following reasons for approval:

1. This was not an unreasonable request.
2. The change would allow the applicants to improve their property as they see fit.

Ms. Seeler seconded the motion. The motion carried by roll call vote 5-0-0

The Board signed the plans and mylar.

23SUP02 – BRIAN & KAREN GALLAGHER – PEMIGEWASSET SHORES DR. – #222/030

Ms. DeStefano announced the next application and stated that the applicants were present, and Mr. French would represent them with the presentation of the Special Use Permit application for the septic system. She asked Ms. Sullivan to read abutter notice and department head comments into the record. Ms. Goodwin read the names of abutters notified, no department head comments were received but the Conservation Commission did make a condition recommendation.

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Ms. Stefano directed the Board to reference Section 9.2 of the Zoning Ordinance for information concerning this application.

Ms. Goodwin clarified the Board's deliberation and decision tonight was for the septic design on the property plans and they would not be acting on any previous violations that were noted in the Conservation Commission recommendation.

Mr. French described the proposed home location, septic system design, the lot limitations with the shoreline setbacks, the wetland and poorly drained soils located at the front of the lot. He explained that there was a preference to go with a gravity fed septic design rather than a septic pump design. He stated that the location of and gravity fed design was best alternative to accommodate the owners home design plans.

Ms. DeStefano opened the floor for Board questions.

Mr. Shirley asked if there had been any test pits done between the side of the garage and the side setbacks. Mr. French indicated that three (3) test pits were done, and he shared where these were on the lot. Mr. Shirley asked if the preference for the gravity fed system was due to the plans or a bathroom on the basement level. Mr. French answered yes, and they would like to run the septic piping under the slab. Mr. Shirley confirmed that a bathroom in the basement could be achieved with a pump if septic system moved to side of garage. Mr. French stated it could but setbacks there could be an issue and it would require a pump.

Mr. Shirley asked if this was a ranch or 2 story design. Mr. Gallagher stated that their 4-bedroom home was a 2400 sq. foot, one level, home with a basement and the 1st floor would be where he and his wife would reside. The 4-bedroom septic design plans were chosen with the future of the property in mind, but that he and his wife had no immediate plans to finish the basement. They were looking to complete and live on the first level and use the basement for storage. They wanted the opportunity for future owners to finish the basement with a bedroom and bath. He added that the septic design was approved by the State at the 100+ feet from the river exceeding the State setback requirement of 75 feet but discovered that the Town required 125 feet setback so that is why they applied for the Special Use Permit with the Board.

Ms. DeStefano asked if there were any more questions or concerns from the Board. Hearing none, she asked if there were any comments or questions from abutters or the public. Hearing none, she asked Ms. Sullivan to read the Conservation Commission's recommendation into the record. Ms. Sullivan read the recommendation which is now with the special use permit application file. Following this, Ms. DeStefano confirmed with Ms. Goodwin, that the Planning Board only has authority to approve or deny the septic system as designed and does not have authority over other items mentioned in the Conservation recommendation. Ms. Goodwin clarified that this was true but that the Conservation Commission recommendation to allow the septic system as designed was made conditioned as long as any future mitigation of violations did not change the location or design of the septic system presented at this meeting.

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23SUP02 – BRIAN & KAREN GALLAGHER – PEMIGEWASSET SHORES DR. – #222/030 - continued

Mr. Milbrand asked to see the septic design plan again and review the State approval. Ms. DeStefano asked if he had any further questions. Mr. Kelley indicated he felt the Board was ready to act on the application. Ms. DeStefano asked that they consider the Conservation Commission recommendation when making a motion.

Mr. Shirley motioned to deny the special use permit based on the septic design being closer than the 125 feet setback to the Pemigewasset River. He based his motion on evidence presented that indicated the applicant's only reason for location of the septic less than 125 feet from the river was the convenience of having a gravity fed system for a bathroom in the basement. In the past, the Board may have allowed septic designs to be closer than 125 feet, but it usually was due to no other reasonable alternative location that could work. In this case he felt that there were other reasonable alternatives that could be employed to comply with the setback and that the applicant had no plans to finish the basement at this time so this was not a reasonable request. Mr. Milbrand seconded the motion. Mr. Kelley stated that he always reviewed such applications and designs with ease of use in mind, and he felt the gravity fed design offered ease of use and a pump system allowed for chance of failure. Ms. Seeler stated she had a sewer pump that has failed on occasion. Ms. DeStefano confirmed that there was a motion to deny on the floor and asked for a roll call vote. The Motion failed 2-3-0.

Mr. Milbrand motioned to approve the special use permit for the septic design as it is designed and located on the plans presented. Mr. Kelley seconded. Mr. Milbrand stated the reasons for approval as follows:

- The owners are looking ahead to be sure there are no problems in the future uses of the property
- The 125-foot requirement is outdated and state requirement of 75 feet was met with location beyond it at about 100 feet which was felt to be reasonable

Ms. DeStefano called for a roll call vote and the motion carried 3-2-0.

Ms. DeStefano stated that the Notice of Decision would be sent out in the next week.

23SUP03 -TOWN OF BRISTOL – PUBLIC SAFETY BUILDING - 230 LAKE STREET - #112/070 & 071

Ms. DeStefano asked Town Administrator, Christine Goodwin to present the application and other applications and explain to the Board why the process including abutter notices was not required.

Ms. Goodwin explained that the land was owned by the Town and this project and applicable permits were for the proposed Public Safety Building that was to be located at 230 Lake Street where the current Police Station is located. She stated that a municipality was not required to go through the permit process but that the Select Board and she felt it was important to do so. She stated that the new building and parking would impact about 65,000 square feet. With funding some of the parking may not be constructed right away but it was decided to go forth with full plans as once additional funding is achieved the upper parking would be completed. She explained that there had already been a review of the special use permit application by the Conservation Commission and there were several permit applications for review tonight with the Board.

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23SUP03 - TOWN OF BRISTOL – PUBLIC SAFETY BUILDING - 230 LAKE STREET - #112/070 & 071 - continued

Ms. DeStefano asked who would be representing the Town for the applications. Ms. Goodwin stated that Mike Vignale and she would be speaking to the project tonight.

Mr. Vignale presented the plans and described the project. He described the current condition of the site and its current drainage system. He explained that the building does extend into the wetland. He located the wetland and explained that it will be eliminated with fill, and described the proposed specialized drainage system with filtration and storage and that will mitigate the elimination of this small wetland area and that an Alteration of Terrain application, a Wetlands Permit application and a New Hampshire Department of Transportation (NHDOT) application were all in process. He explained that there was no alternative to filling this very small, isolated wetland.

Mr. Kelley asked if the State was recommending relocating the wetland. Mr. Vignale responded that they have not. Ms. Goodwin stated that the Conservation Commission recommended that the Planning Board and Select Board consider mitigation efforts for this on another Town property. Mr. Vignale stated that the State typically does not make any mitigation for a wetland this size.

Mr. Kelley asked if there was the possibility that this was a man-made wetland rather than a naturally existing one. Mr. Vignale stated it could be with the homes and other development on the site, but there was no obvious way to determine this.

Ms. DeStefano asked if there were any more questions from the Board. Hearing none, she asked if there were questions or concerns from any members of the public in attendance.

Mr. John Sellers stated he had a concern for the setting of precedence with approval to fill the wetland and would it make it an issue for property owners who may want to do this in the future. Ms. Goodwin stated that technically the Town was exempt and decided to go through the process. She stated that she felt that any decision or recommendation to the Select Board would be considered and the Conservation Commission recommendation was already presented for consideration.

Mr. Shirley asked if the Planning Board had authority to condition mitigation off site with the special use permit. Ms. Goodwin stated she thought they could require mitigation but probably could not say where. Ms. DeStefano agreed mitigation in some way, shape or form could be a condition or recommendation but the Board could not dictate where. Mr. Shirley reiterated that he had a concern that there was any authority for any mitigation recommendation off site.

Mr. Lagueux commented as a member of the public, that just because there is a wetland does not necessarily require mitigation. This happens everywhere and not all wetlands are significant enough to warrant mitigation.

Mr. Kelley added that he appreciated that the Town was going through this process and it thought it would be a good faith consideration by the Select Board to consider mitigation.

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23SUP03 - TOWN OF BRISTOL – PUBLIC SAFETY BUILDING - 230 LAKE STREET - #112/070 & 071 - continued

Mr. Sellers stated he was only concerned about precedence because he did not want to see a problem in the future as a result.

Mr. Milbrand stated that the Select Board did discuss this mitigation suggestion briefly and was willing to consider it. He stated that there were several areas being looked at anyway.

Ms. DeStefano asked if there were any more questions or concerns. Hearing none, she asked for a motion. Mr. Shirley made the comment, the only reason the Town is here for a special use permit is for filling a wetland and alterations for parking and building. This was confirmed.

Mr. Kelley made a motion to approve the special use permit for the Public Safety Building Project as designed and further recommends the Select Board consider the Conservation Commission's non-binding recommendation for mitigation on another Town property to offset the loss of the wetland. Mr. Shirley seconded the motion. The motion carried by roll call vote 5-0-0.

23CUP01 – TOWN OF BRISTOL – 230 LAKE STREET - #112/070 & 071

Ms. DeStefano announced the next case was the Town of Bristol, Public Safety Project Conditional Use Permit application for steep slopes. She stated that the Board should refer to 4.17 of the Zoning Ordinance for this. She asked who would be presenting this application for the Town. Ms. Goodwin stated it would be Mr. Vignale.

Mr. Vignale addressed the Board with explanation of the project and its impacts to the steep slopes for the building, the driveway and the parking lot. He referenced the location and levels of the building as it will be built into steep slopes. He went on to explain the grading, building design and the limitations of the site as well as the final grades and erosion controls which will stabilize the site when completed.

Mr. Kelley asked if it was true that the rear wall of the building will act as a retaining wall for the slope. Mr. Vignale responded that this was true and it was not uncommon to do this. Added reinforcement would be applied to the construction to meet the structural engineering requirements for this. He added that the upper retaining wall would also have additional geogrid reinforcement. Mr. Milbrand added that the materials used in the concrete will make the walls very strong.

Ms. DeStefano asked if the Board had any more questions or concerns. Hearing none, she asked if there were any questions or comments from the public in attendance.

Mr. Shirley motioned to approve the conditional use permit for steep slopes with the following reasons listed:

1. It's a public building that needs public access.
2. They need the back parking lot access.
3. The project was approved by Town Meeting and that this project will allow for Public Safety improvement for Bristol

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Mr. Kelley seconded the motion. Ms. DeStefano asked if there was any further discussion. Mr. Milbrand added that the steep slopes ordinance was created to eliminate the issues of erosion and clear cutting issues outlined in the ordinance and this project does not violate any of those. Mr. Shirley added that you cannot get proper utility out of the building without altering the steep slopes. The motion carried by roll call vote 5-0-0.

23MER01 – TOWN OF BRISTOL – 230 LAKE STREET - #112/070 & 071

Ms. DeStefano stated the next item was for a lot merger for the same Public Safety Building project and it was just for informational purposes for the Board. Ms. Goodwin explained that no votes were needed for this. The two lots were merged on the plan to build the complex, the Chair signs this and it will be recorded with Grafton County.

23FSP01 – TOWN OF BRISTOL – 230 LAKE STREET - #112/070 & 071

The next agenda item is for the Full Site Plan for the Town of Bristol, Public Safety Building. Ms. Sullivan read the application information into the record adding that no abutters were notified and there were no comments or concerns received from department heads.

The full site plan was displayed. Ms. DeStefano reviewed the application checklist with the Board noting all the materials one by one confirming notations of items on the plans. Mr. Vignale and Ms. Goodwin confirmed page locations of the checklist items within the application materials and plans. Setbacks were confirmed for Shoreland and other requirements, but Ms. Goodwin indicated sideline setbacks were not shown. It was determined that the application was complete except for a signature block and that this could be stamped on.

Mr. Kelley motioned to accept the application as complete. Ms. Seeler seconded. The motion carried by roll call vote 5-0-0.

Ms. DeStefano opened the floor for questions and discussion from the Board. Hearing no questions, she then opened the floor for public comment or questions. Hearing none, Ms. DeStefano asked the applicants if they had any comments.

Ms. Goodwin commented about the next steps, the funding issues, and adjustments for the project. She stated that the full planned project is represented on the plans but there was additional funding needed to fully complete the project which would be second layer of asphalt and back parking lot. There was an article requesting additional funding for radiant flooring as well. She stated that if funding is received full project will be completed and if all funding was not received there would be some things done in phases but the intent is for the full project as designed on plans submitted so these were presented for approval.

Mr. Kelley motioned to approve the full site plan 23FSP01 for the Town Public Safety Building noting the following reasons.

1. The plan presented meets the guidelines.
2. It is the best design to fit the lot.

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23FSP01 – TOWN OF BRISTOL – 230 LAKE STREET - #112/070 & 071 - continued

Ms. Seeler seconded the motion. The motion carried with roll call vote 5-0-0.

MINUTES:

The meeting minutes of February 22, 2023, were reviewed by the Board. Ms. Seeler motioned to accept the minutes as presented. Mr. Kelley seconded. The motion carried 4-0-1 with Mr. Shirley abstaining.

REPORTS:

HISTORIC DISTRICT COMMISSION – Next meeting on March 14, 2023.

SELECT BOARD – Mr. Milbrand reported that they surprised and honored Barbara Greenwood with the Town Report dedication at the last Select Board meeting. Ms. DeStefano added that this was Don's last meeting as Select Board Representative for the Planning Board and Ms. Goodwin added that Leslie Dion will be the alternate representative at next meeting. Ms. DeStefano commented he would be missed and that there were openings for alternates if he wanted to continue with the Board.

Mr. Milbrand continued his report stating that there had been a fire at the Highway Department in the old salt shed which destroyed the shed and a truck.

CIP COMMITTEE – no report

CONSERVATION COMMISSION – Ms. Bailey reported that they had developed a new Conservation Commission Checklist for the Special Use Permit process, and this was tested with the Public Safety Building project. It was not part of official file presented tonight because the Conservation Commission did not give final approval of the document until after the test run. Ms. Goodwin stated it would be added to the materials for the upcoming workshop meeting.

LAND USE – Mr. John Sellers was present in the audience and asked to speak about the zoning issue of two zones on his property. He stated that recent applications for use of his apartment as an Airbnb, made them aware of the limitations of his property use due to being in two zones – rural and village residential. He would like this fixed so that it is in only one zone and prefers it to be rural as it better suits where the property is located and what they do on the property. The lots were displayed for the Board. Mr. Shirley stated that zoning is not to reflect what is but more to reflect planning for the future. Mr. Sellers stated that he felt his was improperly labeled.

Mr. Kelley asked what Mr. Seller's remedy would be. Ms. DeStefano stated that they would have to propose an amendment to the Zoning Ordinance, and it would have to go on the ballot for a vote. She stated there were many properties in Town with split zones and that the Board decided to review a handful of these and if decided, then notify property owners etc. and put change before the voters.

Ms. Goodwin explained the descriptions of both zones in question for Mr. Sellers lots and also pointed out the limitations his lots would have with frontage and access etc. Ms. DeStefano stated that this could be looked at and included in the research with other lots for a proposed amendment for voter approval.

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LAND USE – continued

Mr. Shirley suggested Mr. Sellers talk with his neighbors to see if they would like to join him with the request for zone change. Ms. DeStefano thanked Mr. Sellers for coming in to talk about this and it would be a part of a bigger discussion when they take up split zoning of properties in future workshop meetings.

Ms. Bailey wanted to ask the Board their opinion about a property that has created a lot of calls into the Land Use department since being listed on the market a week ago. She stated inquiries were coming in to ascertain what can be done with a property on Cottage Road that has three small cottages on it. People were asking if these cottages could be demolished to build 3 new ones, what constituted a change to grandfathering and about other possibilities for the property. Ms. DeStefano brought up that they would have to be built on the same footprint and in the Lake district, consideration of the height restriction etc. Mr. Kelley stated his understanding of grandfathering was same footprint, same square footage, no changes. Ms. DeStefano stated that there was an article written by the Town Council which should be in the Land Use Admin office area. There was discussion of condo conversion and other alternatives. Ms. DeStefano recommended talking with the Town Council about grandfathering and any limitations on lots in order to assist any prospective buyers on any planned changes.

NEXT MEETING: March 22, 2023

Ms. DeStefano stated that the meeting would include Election of Officers, a discussion with the Fire Chief on Solar and possibly a presentation from Mr. Shirley of his work on Steep Slopes.

ADJOURNMENT: With no other business before the Board, Ms. Seeler motioned to adjourn. Mr. Kelley seconded. The motion carried 5-0-0 and the meeting adjourned at 8:44 pm.

Respectfully submitted,

Janet Cote
Land Use Associate