

NEWRY PLANNING BOARD

PUBLIC HEARING

SWEETWATER VILLAGE SUBDIVISION—APPLICATION # 20-261

Wednesday, November 4, 2020
Raymond C. Foster Municipal Building

Full discussion is available on audio recording at the Newry Town Office.

Members Present: John (aka Gootsch) Gauthier (Board Chair), Kenny Young (Board Vice Chair),
Becky Bean (Board Secretary & Recording Secretary)

Members Late:

Members Absent:

Staff Present: Dave Bonney (Code Enforcement Officer); Shelley Norton of AVCOG via Zoom

Public Hearing Call to Order: Chairman John Gauthier called the Public Hearing to order at 6:45 PM.

Using a colored site plan map, Rick Dunton of Main-Land Development explained in detail the proposed project to those in attendance whether in person or via Zoom.

- Amy Call of 40 Mtn. View Road asked if any variances or changes to the UDRO for the building of this subdivision were being requested. Shelley Norton replied for the Board that no variances have been requested; however, a waiver has been requested in regards to one of the fire standards. Amy expressed concerns regarding cluster development. Shelley explained the Town's standard for cluster development. Amy spoke of concerns with flooding. Amy spoke of a prior subdivision application being denied on this site; it was clarified that in 2006 a subdivision was approved on this site; however, the developer did not move forward with the development other than to add a leach field and an entrance onto the site.
- Philip Sheridan of 7 Coombs Road expressed concern regarding water and the flood zone noted on the plan. It was explained that FEMA maps the flood zones. Philip noted that the plan shows that the flood zone passes through Lots 8 & 9. Rick Dunton explained the plan to add fill to the site to get the first floor of the buildings to a minimum of 1 foot above base flood elevation as mapped by FEMA, which exceeds what the Town's UDRO dictates for their ordinance. Philip expressed concern with the redirection of flood water and asked about the timeframe for approval. Gootsch noted that the Board has determined tonight that the application is complete, and therefore, the Board now has 30 days from tonight to either approve or deny the application.
- Bruce Pierce of 1014 Sunday River Road spoke of his history with the Newry Fire Department and expressed concern with the condition of the fire pond located at the Matterhorn and asked if an agreement will be in place to ensure the maintenance of the pond. Bruce went on to ask about the cost of the houses (Rick Dunton stated the target is approximately \$250k). Bruce asked if the applicant considered using a Wers Bo (spelling?) sprinkler system. Bruce expressed concern with nearby wells being contaminated with E.coli, etc. if flood waters get into their wells. Bruce asked about the stream setbacks required for Newry; Gootsch replied that a 75' setback is required.
- Evan Hansen of 6 Bristol Road in Falmouth, who also owns a lot in Coombs village adjacent to the proposed development, expressed concern in regards to flood water and the water table in the area - stating that he gets 2' of water in his crawl space in the spring if his sub pump isn't constantly running. Evan also stated concerns with the proposed development being inconsistent with the development already in the area. Evan also asked about dredging Barker Brook if the development is allowed on that property.

- Rick Churchill of 75 Coombs Road expressed concern with flooding and the effluent/septic systems that will be added to the area.
- Chad Creelman of 16 Island Pond in Cumberland Maine expressed his support of the development which is the property he and his family has been looking for in order to move to Newry.
- P. Christopher Degrasse 235 Sunday River Road -- directly across the street from the proposed project shares the concerns previously stated by the group which include flooding, and possibly re-directly the flood waters when raising the lot. In regards to his well near the Sunday River Road and the proposed septic systems and possible flooding, Christopher asked who will guarantee his water quality and pay for his new well. Christopher also expressed concern with density and traffic flow with the proposed the location of the access road into the subdivision. He went on to express concern with landscaping and how the common area was chosen.
- Brooks Morton, Newry resident and past member of the Planning Board, expressed concern that the proposed development was pushing the definition of Cluster Development and the definition of a subdivision. He spoke about this being in the Androscoggin River flood plain.
- Rick McVay of 93 Coombs Road expressed concern with flooding and the effects on the natural resources in the area.
- Neil Goldberg of 46 Wabanaki Pass in Waterford expressed his support of the development noting that perhaps reducing the number of units may resolve many of the concerns stated about the size of the septic and the amount of water drawn, but ultimately this the type of development that would bring him to Newry and he feels that many people his age looking for low effort to purchase into a community and not have much upkeep.
- Mike Cormier of 10 Coombs Road stated that he has a substantial amount of frontage on this lot, and expressed concerns with short notification in regards to this being on a Zoom call and asked how he can get all public documents in regards to this subdivision. Shelley suggested he contact the Town Office. He also asked about the 30-day for approval or denial and asked if it could be extended. Shelley noted that she believes it is part of state law to try to work within that timeframe.
- Fred Call of 40 Mtn. View Road expressed concern with surface flooding and the sewage-related material being washed from the development's septic system. He expressed concern about the proximity of the well at 235 Sunday River road to the proposed septic system. Fred expressed concern in regards to the added traffic in the area creating more chaos with no turning lane or any other traffic controls.
- Philip Sheridan asked about Mr. Goldberg and Mr. Creelman how they will feel if after paying \$250k for their properties and their homes are 2' under water in the spring. Mr. Creelman replied that he is not an engineer but that he expects that all the due diligence would be done before a property is sold and that is why there is a Board and lots of engineers looking into this.
- John Mataraza of 19 Starwood Drive asked if the proposed subdivision would be a rental community. Rick Dunton stated that the intent is not to do short-term rental, but at this point, the Town does not have an ordinance to regulate such rentals. Rick added that these homes are very limited in space and therefore would not be inviting to a party-type crowd. John also asked about the leach fields and septic systems, and expressed concern with how close it is to his property line. Rick explained the system with its advanced treatment units. John spoke about the flooding that happens on the development site and over onto his property and spoke of the concern that more flood waters would be directed onto his property with the fill

that is being brought in. Rick explained three modes of flooding that happens on this property. John asked about the proposal to use the fire pond next to the Matterhorn. Rick explained the agreement that is being worked on between the developer and that landowner; the agreement will include an inspection and maintenance plan for that fire pond.

- Bruce Pierce talked about the history of the fire pond at the Matterhorn.
- John Mataraza and Bruce continued their conversation regarding the fire pond.
- Philip Sheridan asked, as concerned citizens, what they would need to do to motivate the Planning Board to not approve this type of project. Shelley explained that the Planning Board's responsibility is to review the Unified Development Review Ordinance and any other applicable Ordinances to this application, which because they applicant is not constructing house in the floodplain, the floodplain ordinance does not apply to this application. The application is considered using the review criteria. The Board has a responsibility to treat each application fairly, but also a responsibility to follow the ordinance. The Board has to follow the ordinance and follow the law; it is not a persuasive argument. Philip then asked if the Board has any responsibility to the citizens of Newry – a petition to the Board with signatures from the majority of the population of the Town and would that have any impact on the Board's decision. Shelley replied that it shouldn't and that if it went to court, the Board's decision would not be upheld if it was based on a decision like that. The Board needs to look at the review criteria in the Ordinance and make findings based on those review criteria as to whether the application satisfactorily meets the criteria or not. Shelley noted that the UDRO (Unified Development Review Ordinance) is available at the Town Office and on the Town's website. The State of Maine's subdivision regulations are included in that ordinance as well as additional requirements that were passed at Town Meeting. Philip also asked about the flood zone line going through two of the lots – stating that it goes through the corner of the building on Lot 9. Rick Dunton confirmed that the flood zone line does not go through the building (map C2.1), and talked about line width and having the units at an appropriate elevation.
- John Mataraza asked if there would be association fees. Rick Dunton replied yes. John asked about association documents. Rick replied that preliminary association documents have been drawn up. John asked about short-term rentals being permitted in those documents; Rick stated that they are “not not permitted” – the HOA documents are silent on whether short-term rentals are permitted.
- P. Christopher Degrasse spoke again about how he received notification about this meeting (through Fred & Amy Call) and that Zoom was not mentioned. Since he is just learning about this project, asked if there was a way to extend the 30-day timeframe. In respect to the UDRO, he about which development it is being reviewed. Shelley replied that this application is being reviewed under Section VI (Criteria of Approval beginning on page 9 of the UDRO) is part of the review, Section VIII (General Performance Standards starting on page 33), the road is reviewed under Section XV (Road Design and Construction Standards starting on page 64), Section XVII (Storm Drainage Design page 75), Section XVIII (Provision for Cluster Development starting on page 79), and Section XX (Dedication and Maintenance of Common Land).
- Fred Call expressed concern with the comical level of jargon he feels the group is being treated to. He spoke further about surface waters flooding into the ATU, and the line-width error mentioned earlier.
- Amy Call asked where, as concerned citizens, they can go to express their concerns, and stated that this development is not good for the town of Newry, and asked what they can do at this point. Shelley noted that the Planning Board has another meeting on November 18th and this application may be on that agenda, and then another meeting on December 2nd, and it is possible that this application is on that agenda. The agendas are available at the Town Office. Zoom is available, however, these would not necessarily be Public Hearings which is the only time legally that the public has the right to speak, the rest of the time, the meetings are open meetings which the public can come to, but it is not required that the Board has the public speak other than at the Public Hearings. Shelley added that comments can be provided in writing as well.

Public Hearing Adjournment The Public Hearing adjourned at 8:07 PM.