

Minutes and Exhibits November 1, 2023, Lovell Planning Board Meeting

Call to Order 6:34 PM

Andrew: Call to Order

Attendance

- PB Members present: Andrew Brosnan (Andrew), Dave Durrenberger (Dave), Diane Conary (Diane), Eugene Jordan (Eugene), Mike Lewis (Mike) – Voting, Rose Micklon (Rose), Heinrich Wurm (Heinrich) – Via. Zoom Non-Voting
- Also present: John Chagnon (Engineer for Applicant), Rob Drew (Applicant), Crystal Drew (Applicant)
- Chris Brink, Paul Denis, Rick Pilsbury, Lynn Hurd, Jill Rundle, Sandy? Robert Prescott,

Review, Accept / Correct Minutes

Andrew: September 6, 2023, meeting minutes, tabled, just got them this afternoon.

Andrew: October 4, 2023, page 2, results. Add section where Andrew asked PB to send in their concerns about the 5 Land Uses.

Ordinance Review

Andrew: Andrew only got (2) responses from PB; he is disappointed.

Conditional Approval Application

Restaurant, Convenience, Gas – Lovell Store

Andrew: There will be no decision, but we will review the application for completeness. We will get a presentation from the applicant and determine if the application is complete tonight. PB received an application this past week; online, and at Town Office. One e-mail from public so far, anything sent in is public information. Request of any bias? There was no bias noted. Land uses are Petroleum Storage, or Automobile Service. Heinrich non-voting, hard to hear from Zoom. Vote for Mike to be voting? Vote = Unanimous. Motion that PB has jurisdiction? Vote = Unanimous. Application is not signed, need to have a signed application.

John: 2021 subdivision, this is lot B, storage is on lot A. Rte. 5 is 50 mph and other details provided. Want to waive the High Intensity Soil Survey and want to waive the Hydro-geologic assessment. Working on a traffic analysis. Pointed out flood hazard zone (FHZ) labelled line. Trip generation study, 60% of trips will be pass by trips for fuel.

Andrew: Questions from the board and can you provide reasons why the waivers are being requested? Pointed out the columns checked as waived by board, but the board did not waive anything yet. We need a written Fire Marshal letter.

Applicant: We have a fire Marshal letter.

Andrew: Fueling station, use, automobile service station. It looks like the Aquifer Protection Overlay (APO) hits the lot, and our ordinance disallows doing that, as the APO seems to affect the whole lot. You would need to advise us how an automobile service can go on the lot, because our ordinances do not segregate the lot, for APO, it applies to the entire lot, referencing 5.3 When a lot is divided by a district boundary, other than the boundary of the Aquifer Protection overlay...seems to prohibit dividing the lot to apply APO on only portions of the lot.

Submitted by Dave Durrenberger

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Dave: Where is the line for APO determined?

John: Comes from Jon Bliss.

Dave: Does anything in the drawings tell us the depth of the water table?

John: Could get from Jon Bliss on the 1st page, septic design.

Dave: Why the waivers for soil and hydrogeologic assessments?

Eugene: Asking for waivers, so we decide on that next month?

Andrew: It is too easy to say no waivers unless we know why it is being asked.

Heinrich: Is there a plan to add an EV charging station?

John: Will investigate

Public Comment

Andrew: Please state your name and where you are from.

Peter Heinz: 24 hours? Just gas, or other services? Convenience store automotive or a suite of products? Restaurant kind of food?

Rob Drew: Yes, 24 hours for fuel, restaurant like what Center Lovell Market was doing.

Robert Prescott: Is convenience 24 hours? Drew: No

Chris Brink: I am concerned it is APO, a soil survey makes sense. I talked to the former soil scientist for the State of Maine, and he pointed out that soil data is not designed for site specific decisions. Also, retention pond, soil analysis is called for, there needs to be separation between the bottom of the retention pond and the high-water level. Retention should not be located on hydrogeologic soil unless there is a permeable liner. Chris submitted a letter.

Paul Dennis: Not seeing a narrative.

John: Will provide the missing items 10 days before the next meeting.

Andrew: Can't vote on applications completeness tonight. Should we do a site walk, not sure how useful it would be?

Eugene: I think it is important to site walk for the public, this is a big project.

Andrew: Site walk notice is 10 days concluded Wed. November 15th 3 PM, must be open to the public.

John: We will put stick markers where the corners of the building will be.

Andrew: We will review application requirements one by one to determine what is missing.

From 9.9.C

1. A completed conditional use application form, including the name, telephone number, and address of the applicant (and any authorized agent) plus the name of the proposed development, the assessor's map and lot number of the subject property. **Application fee needs to be submitted.**
2. A scaled site plan of the subject property showing the sizes and locations of existing and proposed building footprints, parking lots, drives, walkways, streets, roads, landscaping, and areas of proposed grading or clearing or areas to remain undisturbed. Vote Complete? Yes = Unanimous.
3. A narrative describing the proposed project, including such details as the projected number of employees; months, days, and hours of operation; and number of customers to be served. **Need to provide months, days and hours, customers to be served.**
4. Verification that the applicant has sufficient right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest. A copy of the most recently recorded deed shall be provided with a copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property. Vote Complete? Yes = Unanimous
5. The zoning district in which the proposed site plan is located and the location of any zoning boundaries affecting the site plan. Vote Complete? Yes = Unanimous

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6. For applications for development proposed to be located in whole or in part within the Shoreland Zone, preconstruction photographs of both, (i) the development site and, (ii) Shoreland vegetation at the time of application and prior to the start of any work under approval or permit. Not applicable.
7. If any portion of the site is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the Flood Insurance Rate Map, shall be delineated on the plan. Vote Complete? Yes = Unanimous
8. Proposed Deed Restrictions: A copy of any proposed deed restrictions intended to cover all or part of the subject property. Vote Complete? Yes = Unanimous
9. An indication of the type of water supply system(s) to be used at the site, including evidence of adequate ground water supply and quality for potable water. Vote Complete? Yes = Unanimous
Unanimous Also, an indication of an adequate supply of water for firefighting purposes, from either on or off-site, satisfactory to the fire chief. Vote Complete? Yes = Unanimous
10. An indication of the type of sewage disposal to be used at the site, and a septic system design, prepared by a Licensed Site Evaluator or Professional Engineer. Vote Complete? Yes = Unanimous
11. Estimate of Traffic Generated. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used may be taken from the most recent available edition of the *Trip Generation Manual*, published by the Institute of Transportation Engineers. Vote Complete? Yes = Unanimous
12. Permits from State or Federal Authorities. If the Board is unsure whether a permit or license from a state or federal agency is necessary, the applicant shall be required to obtain a written opinion from the appropriate agency as to the applicability of their regulations. Upon written request of the applicant, the Board may consider accepting copies of permits granted by State or Federal authorities after any public hearing is held, but in no event shall any Conditional Use be approved without such permits. **Some permits are still pending.**

From 9.9.D

Where new construction or expansion of a use is proposed, submission of each of the following additional items shall be required as part of the application. However, if the Board finds that strict compliance with this subsection would be excessive in light of the nature of the proposed structure or activity, or where there are special circumstances of a particular plan, the Board may waive any of these following application submissions, upon written request of the applicant, provided that such waivers will not nullify the intent and purpose of the Zoning Ordinance.

1. A standard boundary survey of the parcel made and certified by a registered land surveyor licensed in Maine, relating to reference points, showing true north point, graphic scale, corners of parcel and date of survey and total acreage. The site plan may be superimposed upon the survey information, or the survey may be submitted separately. Vote Complete? Yes = Unanimous
2. Existing or proposed culverts or other stormwater management features on or adjacent to the site. Vote Complete? Yes = Unanimous
3. Existing and proposed topographic contours at an interval of 2 feet, in relation to Mean Sea Level, for any areas to be developed. Vote Complete? Yes = Unanimous
4. The location of all wetlands, rivers, streams, brooks, vernal pools and other water bodies within or adjacent to the proposed site plan, as well as any other prominent natural features. Vote Complete? Yes = Unanimous
5. For undeveloped sites, a high intensity soil survey by a Certified Soil Scientist of those areas of the site proposed to be developed. **PB is asking for a reason as to why they are being requested for waiver.**
6. A written statement from the fire chief approving all dry hydrant, fire pond, or storage tank locations or other fire protection measures deemed necessary. Vote Complete? Yes = Unanimous
7. The location, names, and present widths of existing streets, highways, easements, or parks on or adjacent to the site. Vote Complete? Yes = Unanimous
8. The location of any open space to be preserved and a description of proposed ownership, improvement and management. Not applicable.
9. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, where site considerations or development design indicate greater potential of adverse impacts on ground water quality. Such considerations may include, but shall not be limited to, extensive areas of

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shallow to bedrock soils, or the proposed use of shared or common subsurface wastewater disposal systems. **PB is asking for a reason as to why they are being requested for waiver.**

10. Traffic Impact Analysis. For proposed projects requiring 40 or more parking spaces or projected to generate more than 200 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets. **Waiting for the analysis to be complete.**

11. Wildlife Habitat Areas. Areas within or adjacent to the proposed site which have been identified as having a high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the Comprehensive Plan. If any portion of the site is located within an area designated as a unique natural area by the Comprehensive Plan or the Maine Natural Areas Program or Maine Department of Inland Fisheries & Wildlife Beginning With Habitat Program, or as a significant vernal pool or other wildlife habitat governed by DEP Chapter 335 Rules, the plan shall indicate appropriate measures for the preservation of the values, which qualify the site for such designation. **Waiting for this from the state.**

12. Historic or Archaeological Sites. For all areas within or adjacent to the proposed site which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the comprehensive plan as sensitive or likely to contain archaeological sites, the applicant shall submit a copy of the site plan and a copy of any proposed mitigation measures to the Maine Historic Preservation Commission and submit any agency comments to the Board. Vote Complete? Yes = Unanimous

13. Parking, Driveway and Street plans, in sufficient detail to meet the standards of this Ordinance. Yes = Unanimous

14. A storm water management plan, prepared by a registered professional engineer in accordance with the *Maine Stormwater Best Management Practices Manual*, published by the Maine Department of Environmental Protection (2006). The Board may waive submission of the storm water management plan if the proposed site work will not involve grading which changes drainage patterns, and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the site. Vote Complete? Yes = Unanimous

15. An erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991. The Board may waive submission of the erosion and sedimentation control plan if the proposed site work will not involve grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the site. Vote Complete as submitted on drawing CV4? Yes = Unanimous

16. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public ways and open spaces shown on the plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If proposed streets and/or open spaces or other land is to be offered to the municipality, written evidence that the Board of Selectmen is satisfied with the legal sufficiency of the written offer to convey title shall be included. Vote Complete? Yes = Unanimous

17. The location and method of disposal for land clearing and construction debris. Vote Complete? Yes = Unanimous

Old Business Conditional Use Application - None

CEO Report - No report presented.

Public Hearing - None

Meeting Adjourned: 8:41 PM

- Date and Time of Next Meeting Wednesday December 6, 2023, 6:30 PM.

Additional Exhibits - See attached e-mail.

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From: Andrew Brosnan <a.brosnan@lovellmaine.org>
Sent: Saturday, October 28, 2023 10:13 AM
To: Diane Caracciolo; Dave Durrenberger; Eugene Jordan; Mike Lewis; Rose Micklon; Heinrich Wurm
Subject: Fwd: A Letter to the Planning Board

FYI - a letter to the Planning Board

Begin forwarded message:

From: Howard Corwin <hcorwinmd@icloud.com>
Subject: A Letter to the Planning Board
Date: October 26, 2023 at 9:53:26 PM EDT
To: A.Brosnan@lovellmaine.org, PlanningBoard@lovellmaine.org
X-Spam-Status: No, score=-0.2

A Letter to the Planning Board
October 26, 2023

On the agenda for next week's Lovell Planning Board meeting is an application to develop a gas station, convenience store and restaurant. It would be adjacent to a recently developed storage compound with no aesthetic nor particularly attractive rural country appearance.

My understanding is that the survey conducted by the Comprehensive Planning Committee revealed the great majority of the year-round citizen voting population wished to maintain the picturesque rural ambiance of the Town of Lovell. Future development was to permit growth but avoid our becoming either a pure business or a suburban-like appearance community. Issues such as the future development of the community touched on the build-out of the community. Clearly the Town of Lovell would be totally suburbanized were it allowed to develop the total number of home lots as currently zoned.

The ordinance that unfortunately was recently voted down would have clarified the town's future development and its long-range conservation. I look back on the extraordinary progress that has been made in the relationship of the townspeople and the summer people and believe Lovell is a unique community. There is none quite like it.

Let me explain, and please don't throw everything away because I come "from away." I had been a Navy doctor, had seen plenty of damaged veterans, had looked for some years throughout New England and wanted to find a place of peace. I found it. Believe me--Kezar Lake was a dream. I will never forget the first day in 1972 when I met the caretaker of the place I was buying on Mud Cove. Ron McAllister, then the code-enforcement officer, a much bigger man than I, walked down my rustic driveway, did not say "hello" but did say, "This is God's country. Take care of it." And then he walked away without saying "good-bye." And we became friends.

And I did take care of it, spending almost fifty years. When I was president of the Kezar Lake Association, I realized we had to take over the rivers and brooks and lands and mountains and did so with creation of the Greater Lovell Land Trust in 1985. And what happened over many years was better and better care by the leaders of Kezar Lake and the GLLT and the relationship of the "town and gown"

people. And most of all, many of the docents of the land trust and the relationship of the town's children and parents that took such a great part in enjoying and sharing and working with us on our many trails and parks brought many of us together. Just think of the work of Leigh MacMillen Hayes. And that's where we are.

So let's really think before we make mistakes right now. Let's step back, those of you who are on the Planning Board, and see what we can really do now. We can come as friends and live together in this (our) town that is so unique and different from all our surrounding towns.

Regarding the specifics, I have reviewed as much as I can, the data available regarding the current application. Unfortunately, the application is materially incomplete. There is no information regarding the proposed restaurant. Critical reports such as the Erosion and Sediment Control Plan, the High Intensity Soil Survey, the Hydro-Geologic Assessment, and the Traffic Impact Analysis have not been provided and the applicant apparently has no intention of ever providing them. The applicant has not even bothered to certify that the application is "true and complete," no doubt because there are other deficiencies that the Planning Board will uncover in its more thorough review of the application materials.

Based on the incomplete information that has been provided, what I believe may be particularly problematic are the septic system, grease traps, oil separators, catch basin and detention pond, as they relate to the lay of the land with Alder Brook and its ultimately entering the Kezar River. When the application is complete, these issues should be reviewed by the Inland Fish and Water Department and the Department of Environmental Protection, and perhaps also by an expert consultant retained by the Planning Board at the applicant's expense.

Does the proposal adequately safeguard the waters that are so important to the rural character of Lovell that the residents want to preserve? Is it safe? Are there reasonable conditions that could make it safe? Could ongoing pollution monitoring ensure that it remains safe? We need not rush to build. We had three floods this summer, and it is clear that we are going to have more of the same as our Maine environment gets warmer and storms are more violent. When we deal with cars, gas, and oil, on the gas station side, and industrial waste from the kitchen on the other, we need excellent septic and storm water management systems. Remember, the Kezar River still has brook trout and it is adjacent to a beautiful forest flowing just south of where the Alder Brook empties. We need to safeguard against damage not only to the fish but also to the residents' enjoyment of the river.

This is a time for both the Planning Board and the residents to come together and realize what an extraordinary community Lovell is. Its potential is enormous. Let's make it work together.

Howard A. Corwin, M.D.