

## PLANNING BOARD

DATE: June 9, 2021

TIME: 5:00 P.M.

PLACE: Zoom Virtual Meeting

FOR: Continued Public Hearing

PRESENT: Brandee Nelson, Chair; Malcolm Fick; Jonathan Hankin; Jeremy Higa;  
Pedro Pachano

Chris Rembold, Assistant Town Manager/Director of Planning and Development

Ms. Nelson called the meeting to order at 5:00 P.M. She read the opening statement from the agenda.

She called for roll call attendance: Mr. Hankin, present; Mr. Fick, present; Mr. Pachano, present; Mr. Higa, present; Ms. Nelson, present Mr. Higa had not yet connected

### **PUBLIC HEARING: LONG POND NOMINEE TRUST**

The public hearing for the special permit for a rear lot on Long Pond Road in the R-2 zone was continued from June 3, 2021.

Mr. Hankin made a motion to reopen the public hearing, Mr. Fick seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Ms. Nelson, aye

The public hearing was reopened at 5:03 PM.

Ms. Nelson said Mr. Higa had just contacted her that he was having difficulty connecting. She asked the Board to wait for Mr. Higa to connect. Mr. Higa connected and announced that he was present at 5:05 PM.

Mr. Syd Smithers was present on behalf of the applicant James Mercer. He said the survey map was revised to relocate the gravel driveway. It was agreed to relocate the driveway to the north in order to avoid falling under the Derelict Fee Statute. The driveway will remain with Mr. Mercer when the 350 acre parcel is transferred to BNRC. He said the parking area will be west of the outlet for the brook.

Mr. Smithers said a Form A plan has been submitted to create the 7.7 acre rear lot parcel.

Michael Pill, attorney for one of the abutters, was present. He said his clients do not think the parking area for nine cars will be big enough. He said they don't propose to construct parking for more than nine cars right now but if the parking lot is not adequate it should be agreed that BNRC will come back for site plan review (SPR) for a larger lot.

Mr. Pill said the boat launch for canoes and kayaks is planned for the west side of Round Pond but the access has not been engineered. It is generally agreed that will be on the west shore of the pond but access is not known.

Mr. Pill said the trailhead will be located on the west side of the pond. The driveway will be gated or chained off. BNRC will have a key as will a representative of the neighborhood.

Mr. Pill said it is requested that people will be kept off the dam. People can fish off the dam as long as access is on foot.

Stuart Schweitzer is agreeable to relocate the driveway to the north and not to remove the present gravel driveway abutting his property.

Ms. Nelson said the survey is of the rear lot and remaining 350 acres. The proposed parking is not shown on the plan. She said there is no intent to pull off road into the property. She said the ANR (Form A) creates the 9 car parking area.

Mr. Rembold said the ANR allows the creation. People's concerns can be taken into consideration.

Mr. Hankin said the driveway is owned by Mr. Mercer who will provide an easement to BNRC.

Mr. Smithers said that is right. There are equal right of use and maintenance. Mr. Mercer will be able to put a locked gate in for privacy. BNRC will have a key for access and maintenance.

Mr. Fick wondered if a condition can be put on the boat launch and parking for SPR prior to construction. He also suggested a condition to block off vehicular traffic access to the dam.

Ms. Nelson asked if there were comments from other boards.

Mr. Rembold said the comment from the Conservation Commission was that the rear lot does not trigger their jurisdiction. Their letter said that utilities, driveway and dam maintenance will fall within their jurisdiction.

Mr. Rembold said the Board of Health commented that when a house is built it will need a proper septic system.

Mr. Rembold said the Selectboard sent a favorable recommendation with a note to pay attention to the concerns of the abutters.

Mr. Hankin asked if the pond is going to be owned by BNRC.

Mr. Smithers said yes they will maintain the pond.

Ms. Nelson asked if there are comments from the public.

Martin Mayerson said he owns the property north of the parcel. He asked how far north the driveway will be moved.

Mr. Rembold shared the revised plan. The driveway will move 25 feet to the north.

Mr. Mayerson said there is a plan to put a hedge on the south side of the driveway. He said he is requesting similar vegetated screening on the north side.

Ms. Nelson asked why that would be necessary when there is 125 feet between the driveway and your property line.

Mr. Mayerson said he can see the driveway. It is a simple request.

Ms. Nelson said she is not aware of vegetation as it has not been part of our conversation.

Mr. Smithers said there is an agreement with Mr. Schweitzer to put in screening.

Mr. Mayerson said there are no parking signs along the gravel road. He asked who will enforce no parking on that road.

Mr. Smithers said BNRC will be the property owner so they will enforce.

Ms. Nelson said the road moves people 1,000 feet into the property.

Mr. Mayerson asked who will enforce.

Ms. Nelson said BNRC.

Mr. Mayerson asked if there will be signage on Long Pond Road and the gravel road

Mr. Smithers said BNRC does not own the property yet so there is no design for signage. The property won't be open until management and signage are in place. He said this will be similar to other BNRC properties.

Mr. Mayerson said that is fine.

Mr. Pill thanked Mr. Smithers for the summary. He said he hopes everything will be in writing in a legal way. He said he hopes we can reach an agreement. He said we are reserving all rights until everything is reduced in writing.

Ms. Nelson said to Mr. Pill that BNRC is working in good faith. She said it is satisfactory to include in the conditions.

Mr. Pill said he has known Mr. Smithers for 25 years and he will act in good faith. He said he would like a condition that BNRC is responsible for enforcement. Anyone with issues can go to the Building Inspector for enforcement.

Mr. Schweitzer expressed thanks for the whole process and how it has been run by Ms. Nelson. He said the whole Planning Board has done a great job as has Mr. Smithers and BNRC for their response. He said he is pleased with the conditions. He asked that the stipulation for the vegetated buffer be included in your documentation. The agreement has been worked out with Mr. Smithers but ask that it be included in your documents. He said he is excited for this to be in the neighborhood as long as it is contained.

Ms. Nelson asked if there were additional comments. There were none. She suggested the Board move into the deliberation of findings. She thanked Mr. Rembold for preparing draft findings.

Mr. Rembold suggested it would be good to review the findings prior to closing the public hearing.

Mr. Rembold prepared *Exhibit A Planning Board Findings and Basis of Decision Re: Special Permit #970-21 Long Pond Mercer/BNRC Rear Lot Findings & Proposed Conditions*

The Board went through the findings. A change was made to #3 to add any increase in parking spaces more than nine are subject to SPR.

Language was included for a vegetated buffer along the south side of the easement.

Mr. Rembold said in #7 & #8 in regards to the neighbor's quiet enjoyment. There shouldn't be any motorized boats or trail vehicles on BNRC lands.

Mr. Pill said there are deeded rights for boats but not motorized boats. He said it is good for this to be included as a condition.

Ms. Nelson said no motorized vehicles.

Mr. Pill said in 1969 an abutter was given the right to a motor that does not exceed 5 hp. He said maybe there should be an exception for emergency services.

Mr. Higa said all uses of the lake, including abutting land users, will stay in place even after BNRC takes ownership.

Ms. Nelson said we should include all motorized vehicles with the exception of emergency vehicles.

Mr. Rembold said he made the change.

Ms. Nelson said the general findings look fine. Mr. Schweitzer's is no longer part of the land being considered. The Conservation Commission and the Board of Health are satisfied or don't have jurisdiction over the rear lot. Do we need to flag or is this self-explanatory.

Mr. Rembold said it is self-explanatory. Revised plan conforms with Item 3. The Board can discuss 10.4.

Ms. Nelson said #6 regarding the common driveway. The driveway is common to a point.

Mr. Smithers said it is common to the point where the driveway splits.

The Board went through the findings,

Criterion #1—ok

Criterion #2

Ms. Nelson asked about a statement for the establishment of the driveway opening.

Mr. Rembold said a common driveway permit will be requested pursuant to the issuance of the special permit.

Ms. Nelson said the new driveway location will be opposite Button Down Lane. She said it makes use of better sight lines.

Criterion #3—ok

Criterion #4--ok

Mr. Pachano asked about lighting.

Ms. Nelson said typically BNRC properties are open dawn to dusk.

Mr. Smithers said yes.

Mr. Higa asked if we need to put down dawn to dusk.

Ms. Nelson said it could be added or language could say consistent with BNRC policies of dawn to dusk. The Board agreed to add the language.

Criterion #5--ok

Mr. Higa asked if high speed electric boats would be allowed.

Mr. Hankin said BNRC will own and have jurisdiction.

Mr. Smithers said electric powered kayaks are allowed by National Parks.

Ms. Nelson said it can be addressed in the conditions. She said she is comfortable with the item as written.

Criterion #6—ok

Mr. Pachano said conservation of this much land is good for the Town and for public use.

Mr. Higa said it provides a resource to attract people to the Town.

Mr. Pachano was concerned about a sentence in Criterion #5 impinging on abutting land owners.

Mr. Rembold said it isn't a problem as he added the necessary language to protect the property owners.

Mr. Hankin pointed out the neighboring land owners will be given a right of access to 350 acres they didn't have access to before.

Conditions:

Ms. Nelson asked about requiring SPR for the parking lot and associated screening.

Mr. Pachano said the road design is the most important item.

Mr. Higa agreed.

Ms. Nelson said to modify #1 that the driveway to the rear lot then when the driveway is built for the rear lot.

Mr. Hankin said a common driveway.

Mr. Hankin made a motion to close the public hearing, Mr. Fick seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

The public hearing was closed at 6:30 PM.

Mr. Fick made a motion to approve the application for the rear lot based on the finding reviewed and amended tonight and the conditions of findings for the rear lot of the Mercer property on Long Pond Road, Mr. Hankin seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Higa, aye; Mr. Pachano, aye; Ms. Nelson, aye

Mr. Rembold asked for a motion to authorize him to endorse the Form A on the Board's behalf.

Mr. Fick made a motion for Mr. Rembold to endorse on behalf of the Planning Board the Form A and survey plan with the revision date of June 8, 2021, consistent with the emergency authorization subject to the special permit appeal period, Mr. Higa seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Higa, aye; Mr. Pachano, aye; Ms. Nelson, aye

Mr. Smithers said BNRC and Mr. Mercer are indebted and grateful that the Board pushed through the proceedings thoughtfully and carefully.

Ms. Nelson said it is great to be able to preserve the land. She thanked Mr. Smithers, Mr. Pill and the neighbors.

#### **CITIZEN'S SPEAK TIME:**

Ms. Loubert made a comment to Mr. Higa about making a wrong comment about the Master Plan.

Eileen Mooney asked if Mr. Hankin had voted for the conditions as drafted.

Ms. Nelson said yes, it was unanimous.

There were no other comments. Having concluded its business, Ms. Nelson adjourned without objection at 6:38 PM.

Respectfully submitted,

*Kimberly L. Shaw*

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Planning Board Secretary