

GEORGIA PLANNING COMMISSION

May 1, 2018

7:00 pm

Board Members Present: Peter Pembroke, Suzanna Brown, Tony Heinlein, Maurice Fitzgerald, and Lary Martell.

Absent: George Bilodeau

Staff Present: Ryan Bell, Planning Coordinator

Others Present: Sam Ruggiano, Dan Ryea, Michael Gawne, Nathan Callas, and Ken Minck

Approved: May 5, 2018

Peter reconvened the hearing @ 7:00 p.m., which is being continued from April 24, 2018.

PC-008-18

Yankee Corporation

Parcel ID: 107950000

I-2 Zoning District

Peter Pembroke discussed the continuation of the meeting. Tonight we are going to address just a couple of issues. The original issue that we were discussing was around the rights of way and what had transpired with those. The documentation was provided to everyone on the board. Are there any outstanding questions that the Board has? No questions were asked.

The other piece that did transpire, which wasn't going to be part of our discussion tonight, is the Agreement that the Selectboard signed with Bryce. The Selectboard had a meeting to discuss the fence, its situation, its placement, the maintenance thereof, and what not. There is now a drafted and signed agreement that outlines what it is, what it shall be and where it is. This helps determine some of the questions that we have had previously around the fence. Peter opened the meeting to questions and comments that Board or Public have. We have now gotten to a place where everyone has an understanding about it.

Sam Ruggiano states, "Based on the last meeting, we have made some revisions to the plan and I would like to pass out the smaller copies."

Mike Gawne introduced himself as the attorney for Yankee Corp. Mike came here this evening to address the fence issue, if it is still an issue. If it is not an issue, Mike hesitates to say anything if everybody is satisfied with the current status of the fence. Peter believes at this point, the Selectboard supersedes anything with this Agreement and it supersedes anything that we may have asked for or had wanted to do. At this point, from the Planning Commission stand point, it's a done deal.

Tony Heinlein asked, "How can the Selectboard make an Agreement that avoids the Zoning Regulations? The Zoning Regulations dictate the fence and now they went around that whole process?" Mike Gawne states, "I did come prepared to address that issue. The first thing that I did was go through the subdivision regulations and the subdivision regulations don't even mention fences. With reference to Zoning, I want to let you know that they did get a permit from the Zoning Administrator a few years ago, and no appeal was taken from the permit and the fence was put up where it has been at that point and time. Since no appeal was taken, no one can question that fence from a Zoning point of view at this late date. The next thing is that since there is a regulation Section 2.3.C.3, which

states as part of the plan, fences do not require setbacks except that no fence shall be constructed in any Town or State Highway right of way without the property owner first obtaining a right of way permit respectfully from the Georgia Road Commission or VT Agency of Transportation. The Agreement that we got from the Selectboard meets that particular requirement for the approval of the property owners.

The last part of the letter says that the Selectboard really has exclusive jurisdiction to deal with fences that are located on Town rights of way, highways or trails. Tony states, "The fence went up before the permit was issued." Mike states, "I don't know that, but I will accept your representation as accurate." Tony states, "All the posts were in, when I personally blew the whistle on it, I said this thing doesn't look right, but no body knows where the boundary is for the property, so how can Cindy say well, it is where it should be or shouldn't be? We assume that the owner putting the fence up, is putting it on his property."

There was a general discussion regarding the permit for the fence that the Zoning Administrator issued. At this point and time, the fence is a moot point.

Tony asked, "On the quit claim deed, does anybody know how this thing started? The Selectboard said, at a meeting, Bryce would like to do away with this access and at the same time Bryce wanted this fence, those are two issues, same sentence at the Selectboard meeting that dealt with those two issues, then when they go for a vote on the Selectboard, they approve the fence and never said a word about the quit claim. Then they proceed to march on as if the Selectboard gave the approval. That is another muddy water."

Peter states, "That was why it ended up having to get cleaned up so much longer later." Tony said, "They really never gave anybody authority to even do this part, is what I'm saying, it came up with the Selectboard meeting, does that need to get cleaned up." Ryan states that this is the clean-up.

Lary states, "The other thing that we need to bring up here, not to beat a dead horse, the condition that we probably want to place on it is, that they have the same type of thing from the Selectboard for the Easement changed that you are looking to do. It may already be in place." Ryan spoke with the Town Administrator and he stated that the Selectboard would be granting the easement. We could just put it as a condition to get the approval from the Selectboard.

Peter, "Just to put a capper on this thing, I think that if we could go back in time, when the property transfer actually happened, and do things differently, from Harrison to Bryce, where all of this muddiness started with the fence, the original easement for access, thing probably would have happened differently and I think that we probably just been trying to do the best thing that we could to a workable scenario that is easy to maintain into the future. So getting the agreement, allows for here is what we are going to do moving forward, there are some questions, we have something to work from, which we never had in the beginning."

Sam Ruggiano says, "The reason for the fencing was because of the vandalism and the dumping that was happening on the property. He put it in the trail because he wanted to have connectivity from his existing park down to this area, for his machinery to get back and forth."

There was a general discussion regarding the trail that the fence was on.

Sam went over the changes that were made based on comments from the last meeting. One of the changes was the Town Trail inside the fence maintained by Yankee Corp. Then we had access to Lot #2 and there was a source of confusion there, thinking that vehicular access would happen, so we got rid of that note. The access to the park itself, we have been working with Peter, of VTrans, and we have come up with a modified radial design that handles a WB 62 tractor trailer load sitting at the intersection and turning on to it simultaneously. That has been adjusted for that. One of the other comments was on Lot #4, the Board felt that there was too many parking spaces, what we have done is that we are just showing future parking, so if he ever does need it, he can build it. The last change was

the demarcating the 100 ft. lake buffer. What we are going to either use is big boulders, or some sort of monumentation that prevents people from going across the line. Those are really the only changes that we have had.

As far as maintenance for the outside of the fence, do you guys have plans around keeping that going? Bryce will keep up the maintenance as they have done in the past. Keeping it narrow will discourage ATV's from using it.

Sam would like to make something clear, so it doesn't get out of hand, and correct me if I am wrong, Bryce is going to maintain that pathway for pedestrians. He is not going to do winter maintenance.

Are there any questions surrounding the updates to the plans. We have been working with Vtrans to get the letter of intent. Vtrans approval is necessary.

Peter opened the meeting up for public comment.

Ken Minck. Mike Gawne asked, "How are you related to the project?" Ken states that he is a resident of the Town. Mike doesn't think that gives Ken standing to participate in a hearing. Ken can give comments at the end in public comments. Ken was part of the initial hearing as a resident. Mike states, "If you let him go on, that is your decision, but I am saying that it is inappropriate for somebody to participate in a hearing who is not an interested person as defined by the Statutes."

Peter states, "The Planning Commission will give Ken some latitude. Ken says, "I would like to know if there are any options in being able to relocate the swale from the buffer and the Russell Greene Natural Area (RGNA)." We had this discussion the last time. Should the swale be in the buffer? Sam states, "The State Archaeologist was the one who wanted it put there, he did not like where the other one was, that was the whole reason that we had to move it, and change our design so that storm water pond is here not to get it into that spot."

Ken asks, "Can it not be moved to drain into the existing swale on 104A?" Sam states, "That is not going to happen, the State will not allow that to happen, they don't like to see additional flow going into their system if they don't have to, if there is another alternative, they would rather you do that." Ken states, "It is discharging into the same body of water." Sam states, "You asked and I answered, the State won't go for it".

Ken says, "Either this is guidance for agency act 250 section 248, it comments regarding riparian buffers." Mike Gawne objected to that admission what so ever, "Ken is not an interested party, and he is not entitled to give testimony". Ken states, "He is an interested party." Mike states that "You are not an interested party according to Statute." Ken disagrees with Mike. Mike asked, "What is the basis of your disagreement Mr. Minck, upon which Statute are you relying?" Ken says, "Don't ask me to state Statutes." Mike says he can tell what Statute you should be relying on if you want to know, 24 V.S.A. Section 4465 is the State Statute which gives a person standing to participate as an interested person. Do you own property that is adjacent to this property? Are you the Town of Georgia?"

Ken states, "He is a resident of the Town of Georgia, the Town of Georgia owns the Russell Greene Natural Area." Mike says, "That does not give you authority, you do not speak on behalf of the Town of Georgia. Are you a Selectmen, are you a Planning Commissioner, what are you, what is your position here in the Town of Georgia other than a resident. It is annoying, from my viewpoint, to have people participate who are not allowed to participate."

Peter granted Ken the latitude as long as his statement was brief and to the point. Ken states, "That guidance that I just gave you, and our zoning guidance, section 5.1 (d) and (e), as I read it, does not allow this type of activity in a buffer." Peter states, "So noted."

Peter believes with the AOT standpoint, we would end up where you have landed, is probably is where we would end up. The Selectboard is working on the changes for the swale.

Suzanna asks "What is the timeline for a full build out of this park, is there a timeline?" Sam states, "Act 250 permits give us three years. We are probably looking at 5 year minimum." Suzanna says, "Because, correct me if I am wrong, but you said the fence would not get moved and the path across the front wouldn't get put in until after full build out. Without some limit to that, you could extend that for a very long time." Sam states, "The Letter of Intent from the Agency of Transportation is two years, so every two years we are going to have to revisit this with AOT." Suzanna would like to tie this to the decision because it holding up this whole process of getting a complete trail system. Sam states, "He is not going to build a sidewalk until it's built, it's a construction site, we want to keep people out of it while he is building stuff."

There was a general discussion regarding when the fence would be moved and sidewalks put in. Suzanna states, "I don't have a problem waiting, but I have a problem waiting an indefinite amount of time, if we could say a five year limit or something. You could technically not build one of the buildings for a long time." Sam states, "The reality of it is we would like to wait, if you want to put a timeframe to that, I think 10 years would be legitimate."

Dan Ryea asks, "What was the big reason to move the fence right now?" Suzanna says, "To connect the trail." Sam asks, "What is the timeframe for the trail to be put in?" Suzanna states, the first phase is done." Dan states, "There is still plenty of room to walk there." Sam asks "Do you have a timeline to have connectivity of all of these paths are going to happen?" Suzanna states, "Not 100%."

Peter asks, "Do you guys have an understanding of where the Planning Commission is coming from as far as unobstructed access, does that part make sense? I think I get where you guys are coming from, there is expense, time, effort in moving the fence, when the whole project is finished, that would be the last thing to button it up, I understand where you guys are coming from. I just want to know that you guys understand where we are coming from, which is we are trying to keep as much as a cohesive piece of access as we can. We have already been struggling with the town trail piece and to be able to keep that piece on 104. That is the goal in all of this. The town trail piece has come to fruition, now we are trying to figure out what it is going to look like on the 104 piece."

Sam states, "The reality of it is, on a project like this, there is probably going to be some revisions done. This will constantly being reviewed. This won't be the last time you see this project, you will have another opportunity to look at this again."

Tony adds, "I don't see why that fence can't go up after that retention pond is complete, and whatever other little work is necessary. Builders do this all the time, piece meal construction, and eventually it all falls together." Lary adds, "The Fence may look different though when he builds the buildings and the way he builds his fence coming into the driveways." Peter states, "Now that we talk about it, and again I don't want to take anyone's side on this thing but, if we talk about the "what if's" scenario and that you come back and redesign this, the pond aspect of it has changed over time, unto itself. I can see your point on the whole thing."

Motion made to close the hearing at 8:50 p.m., made by Lary, seconded by seconded. No further discussion. All in favor.

Motion made to go into deliberative session at 8:55 p.m., made by Lary, seconded by Maurice. No further discussion. All in favor.

Motion made to come out of deliberative session at 9:15 p.m., made by Lary, seconded by Maurice. No further discussion. All in favor.

Motion out of deliberative session to move forward with the decision addressing the few conditions, made by Lary, seconded by Maurice. No further discussion. All in favor.

Respectfully submitted,

Ryan Bell, Acting Secretary
Planning Coordinator