

**JOINT ARCHITECTURAL BOARD/PLAN COMMISSION MINUTES
MONDAY, OCTOBER 15, 2018
7:00 PM
BOARD ROOM
MUNICIPAL BUILDING, 210 COTTONWOOD AVE.**

Present: Jeff Pfannerstill, Ann Wallschlager, David deCourcy-Bower, James Schneeberger, Tim Fenner, Jack Wenstrom and Tim Hallquist.

Absent: deCourcy-Bower

Others Present: Administrator Cox, Building Inspector Hussinger and Deputy Clerk Bush y.

Call to Order-

1. Consideration of a motion to approve the Jt. Architectural Board/Plan Commission Minutes of September 17, 2018.

Motion (Hallquist/Wenstrom) to approve the Jt. Architectural Board/Plan Commission minutes of September 17, 2018. Carried (6-0).

2. Architectural Board review and consideration of an application for a sign for Lake Country Bed Barn, 365 Cottonwood Ave.

Bed Barn a current business in Hartland is moving within the village. They are proposing 3 signs and they have been approved by the BID already.

Motion (Wallschlager/Halquist) to approve the request for a sign for Lake Country Bed Barn. Carried (6-0).

3. Architectural Board review and consideration of an application for a sign for Anytime Fitness, 520 Hartbrook Drive.

Anytime Fitness is requesting a new illuminated sign and the size has been approved by building inspector Hussinger.

Motion (Hallquist/Schneeberger) to approve the sign application for Anytime Fitness, 520 Hartbrook Drive. Carried (6-0).

4. Architectural Board review and consideration of an application for a sign at Evert-Luko Funeral Home at 1700 Warren Avenue.

Evert-Luko Funeral Home would like to replace/resurface their current sign. It was noted that nothing is changing inside the building. Pfannerstill wanted it made clear for the record that while the word Crematory is on the sign, there is no crematorium there.

Motion (Wallschlager/Wenstrom) to approve the application for a sign at Evert-Luko Funeral Home, 170 Warren Ave. Carried (6-0).

5. Architectural Board review and consideration of an application for a sign for Speech/Language Therapy for Kids, LLC. at 119 E. Capitol Drive.

The signs being proposed are an over the door sign and window graphics. The BID has already approved the sign.

Motion (Hallquist/Schneeberger) to approve the application for a sign for Speech/Language Therapy for Kids, LLC, 119 E. Capitol Drive. Carried (6-0).

6. Plan Commission review and consideration of actions and items related to The Glen at Overlook Trails, a condominium development on the property located at and adjacent to N56 W28628 CTH K (Lisbon Road). Actions and items include annexation, zoning of the property, Planned Unit Development and Upland Conservancy Overlays and Preliminary Plat.

Matt Neumann was present and said before they can do a Certified Survey Map to combine the lots and do a CSM to dedicate the right of way, they need clarity on several things. He said they need direction on the Southern Oak connection, Public vs Private roads, and what changes to the Isolated Natural Resource Area will be allowed. Wallschlager had questions regarding the road entrance. She said she would like to see the entrance moved further east and widened. Matt Neumann said the County dictates where the entrance points are and said he thinks it is wide enough to the Country and Village standards.

Pfannerstill pointed out that since they are dealing with several different items they will address them one at a time. He asked if anyone else had any comments on the entrance and there were none.

The next item of discussion was connectivity to Southern Oak. Pfannerstill said on the plan it shows an entrance to K, a walking trail towards Mary Hill subdivision and he said the Plan Commission will need to decide if someday down the road they wanted to make that a road because right now it is not shown as a road. Mr. Neumann said right now what they are requesting after the last meeting is an emergency access and as a secondary provide a road reservation, if the Village should decide at some point in the future to make it a through road. Pfannerstill said as an emergency access, if something catastrophic happened at the entrance, they would still be able to have access into the subdivision. Wallschlager said she feels it should never become a permanent road and that it should stay as an emergency access only.

Pfannerstill asked Mr. Gebhard N56W28754 County ROAD K if there has been any talks at all between himself and Mr. Neumann regarding the 30 ft. strip of land. Mr. Gebhard said he resents

the fact that it is shown on the plans as private property and everything is continuing to move forward and progress but nothing has been resolved. Pfannerstill asked if there had been any meetings between himself and Mr. Neumann and he said no. He said he has been pushed off and disregarded and the only notice he got was the agenda for this meeting in the mail. He said he won't be in town the next Monday for the Public Hearing that will decide the fate of his property. Pfannerstill said that is something that the Plan Commission needs to talk about tonight because it is an important piece that is being decided about private property and it is something that everyone needs to take into consideration.

Mr. Neumann said in response to communication between themselves and Mr. Gebhard, there have been several interactions with more than 1 attorney that said they are representing the land owner, Mr. Gebhard. He said they have made proposals they think are addressing as many of the land owners concerns as possible regarding the connectivity. Mr. Neumann said they have agreed to do the emergency access vs the full connection, they have rerouted the walking trail to go south in the Hwy K right of way and they have offered the land owner an easement if the land owner agrees to it, that there would be a pedestrian crossing does not crossover his driveway. He said they have notified him that with a 12 ft. paved path, people will probably walk there no matter what and they understand it would not be an accepted use for an easement.

Mr. Neumann went on to say they have another trail crossing in another location where the sewer goes through and they have removed that. He said they do need a sewer crossing further north which is where the long term plan of connectivity to the sewer in this area and has been for years. He said there would be a need for underground sewer connection and there would be a short term land disturbance to cross there but after that there would be no need to go on the property. Mr. Neumann said he feels like to say there have been no conversations in not the entire story, all though the conversations have not been directly between Mr. Neumann and the land owner, but they have been through the land owners' legal counsel. Mr. Neumann said they are trying to avoid the situation where there is condemnation for safety purposes, which is what sometimes happens in situations if need be. He said he just wanted to give the whole background of the conversations.

Pfannerstill asked Mr. Neumann to state what they are proposing and said they will allow comments from anyone who wants to make a comment, then they will bring it back to the board to let the board discuss it amongst themselves.

Mr. Neumann said the access is what brought the land owner here in the first place and is what is exactly represented on the plan. He said what is not represented here is a road reservation across his land. Mr. Neumann said they can only grant a road reservation across the land they own. He went on to say so there is a 30 ft. gap in road reservation that eventually they would have to deal with. Fenner asked if his understanding was correct that they need to cross the 30 ft. wide in 2 areas, 1 potentially at the access and for the sewer too. Mr. Neumann said there is a sewer connection a few hundred feet north of where the emergency access is. Fenner asked what happens if the land owner is not willing to grant an easement for that purpose and Mr. Neumann said that would have to be a question for the Village to address, related to the overall sanitary sewer system whether that would be something the village would require.

Wallschlager asked how the sewer will get to Siepmanns property and Mr. Neumann said through that location. There was brief discussion on other sewer locations.

Fenner said the reason he is asking is because he views the access and the sewer as 2 different items. He said you need sewer to develop and what you basically have said in respect to the access is that you will dedicate on your side and if the village at some point and time in the future ever wants to do anything further they will have to deal with the 30 ft. Fenner said that is not the situation with the sewer that is going to have to happen if this project is going to develop. He asked where they are at in regards to negotiations with the property owner in terms of acquisition of that sewer easement. Mr. Neumann said they made a proposal and at this point is in review by the land owners counsel but doesn't know if the land owner has seen it or not. Fenner asked Mr. Neumann if he is aware that if the Village gets involved with condemnation it could take 6 months to a year. Mr. Neumann said yes.

Pfannerstill said going off that, while they do enjoy connectivity and it is part of the long standing plan in Hartland to have connectivity, one thing they do have in Hartland when we do condo plans, is it is not an absolute necessity to have a connection or even an emergency spot there especially since at some point in the future this will be connected so we are pushing for a connection here for the emergency connection so there is 2 ways to get in. He said however there will be a connection to the northeast on this property that will connect to a road, so we don't have to have this connection so that eliminates one of those huge issues.

Fenner commented on the connectivity. He said there seems to be a compromise and that is what is suggested in the Administrators memo. And that is give the village the option in the future and if that is part of a replanning process. He said it's his understanding the village is updating the comp plan and what they are going to do here he has no clue but if we could get a reservation that gives us the right to do something in the future, the village has now avoided a) a condemnation in the future if that's what we are going to do and b) without the 30 ft. agreement we aren't ever going to be able to do that in the future unless we do that, unless we have gone the next step and acquired that property through condemnation. He said leave it as a cul-de-sac but if we can get a reservation of an easement for a future road if it has to be put in, it's good planning to do so, it saves us some money and its save us a condemnation procedure in the future. He said his 2nd observation is connectivity must be a significant issue over here in terms of planning. He said he is willing to support what is being planned here if we can get access easement on the property the developer controls that doesn't mean we have to go to the next step of condemnation, and he is opposed to that right now, because he suspects something is going to happen in the future with that 30 ft. strip. He said for the immediate future there is no connectivity and the best we can do is set the stage that if in the future when we update the plans and look at the big picture, we at least have the option of doing something.

Wallschlager said if we are going by the comp plan which is outdated with the connected road that means there are no condos here and it has to be the same size houses as what is in Mary Hill. She said we can't pick and choose what rules we are going to follow. Administrator Cox said the Plan Commission has had this discussion before and after a lot of conversation the determination was made that the parcel can accommodate the 50 units under the comp plan and there was a conscious decision not to change the comp plan and still move forward with the project. He went

on to say that the commission and the board has made a determination that the concept that is in compliance with the comp plan.

Administrator Cox pointed out that the Comprehensive Plan is a guide and always has nuances to developments that get approved. He went on to say the comprehensive plan is not a regulation, the zoning code is a regulation but the comp plan isn't. He said the village is well within its authority to decide not to put the connection in at Southern Oak at this point. Maybe it makes sense at this point to talk about a reservation for an option for the future but certainly the state law says that the zoning decisions have to be made in conformity with comp plans. He said that is the only segment of the comp plan that the state has made a regulation about so the conversation about density which was fairly extensive is how a determination was made that base on the understanding of the word density and the natural resource area and how that impacts, a conversation was had and decisions were made by both this body as a recommendation and the village board as a final authority that the low density cluster development is acceptable in its design. He said you get to the other issue of Southern Oak with the comp plan as a guide, the Village and Plan Commission need to decide what they want to do. Wallschlager said by using the comp plan as a guide and common sense and what the citizens have to say about it, because that is their life and where they spend their time; and she feels that is important.

Pfannerstill said one thing he believes in, is compromise and that this land someday will be developed. He said the comprehensive plan was done 12 years ago. He said a lot has changed and they are on the doorstep of a new comprehensive plan being done. He said he does believe in the power of the comp plan and the state law does say the comp plan should be guidance. He also said they need to be mindful of all parties involved, Mr. Neumann, Mr. Gebhard who has a strip of land, the residents on Southern Oak.

Mr. Neumann said they will gladly remove the access if the Plan Commission prefers it.

The following residents had comments:

1. Dino Xykis - 605 Southern Oak- said he is not against the development and asked the Plan Commission how they would feel if they were in Gebhard's shoes. He said he feels the village has been delinquent.
2. Joseph Walicki – 624 Southern Oak- he said the discussion on conformity, picking and choosing is concerning to him. He is concerned about the development putting a road through and is against the road going through.
3. John Stahl 1235 Mary Hill – commented that no one will want to turn out on K and that road is not made for that kind of traffic.
4. Gordon Geiger - N55 W28903 Hwy K- commented that he doesn't see any passing lanes on the road.

Pfannerstill said the County doesn't feel it is enough of a safety concern for them to deal with it

right now. He said when there is more traffic they will look at it. Mr. Neumann said this location is the only location the County will grant them access. They have access rights to the property, that is a property right, and that is the location the County has said is the safest location.

Fenner commented on the connectivity and said there are basically 3 options, no connectivity, no connectivity but reservation for emergency access to address safety issues or no connectivity but reservation for a right of way for some point of time in the future. He said he would not tie any of the action to the 30 ft. strip, we don't need to deal with that only if we are going to do something, put in the emergency access or do the road. He feels the 30 ft. is off the table as far as he is concerned right now for the project because that will be a village problem if we do the reservation or emergency access. Fenner wanted to know if the emergency access would address some real safety concerns.

Pfannerstill said the reason for the emergency access is for example if a disaster happened and blocked the entrance there would be an emergency access if there was a need.

Several more residents commented:

1. Dino Xykis- commented on Public safety and they need to take into account the traffic.
2. Mrs. Walacki- 624 Southern Oak – commented that the bus stops on both sides of Graystone and that the public will use it if it's connected.
3. John Peret 372 Switchgrass Ct – commented that he is for the development, said he thinks Hartland doesn't need more subdivisions like the one he lives in which is Mary Hill. He also said he looked at the connection location and said it looks like it would always go through.
4. Mrs. Gerard 606 Southern Oak – asked if the property is currently in Merton and commented that she doesn't want the road connected. Pfannerstill said yes it is currently in Merton but it can be annexed if the property owner requests that Hartland do an annexation of the property.
5. Angela Wade- Southern Oak – doesn't want the road to go through.

Pfannerstill requested a 5 minute recess at 8:18pm.

The Plan Commission then moved on to the Public vs Private Roads issue and Pfannerstill asked Mr. Neumann if he is proposing private roads on the plan. Mr. Neumann said originally they were proposing private roads with public maintenance and public easements but then went back and had a discussion with their staff. He said after a discussion with the administrator their recommendation as well as Administrators is to have it dedicated as a public right of way and request a reduction in the setbacks. He said they were originally proposing private roads with public maintenance and public easements for access and maintenance and now they are proposing and he agrees with staffs comments, that they will have to go to public standards, have public access easement, there will have to be a public utility maintenance easement, and then they were going to request public access that is maintained by the public, and staff recommendation was why don't you make that a public road and the only real difference is a

reduction in the front yard setback. They are proposing a 15 ft. front yard setback, which is the same as what they presented before as a private road. Private road is a little bit less, 25 ft. setback and a 40 ft. right of way and now they proposing a 60 ft. right of way so they are requesting a reduction in setback. He said the layout is exactly the same, everything is exactly the same except rather than create all these public easements to access, maintenance of utilities and maintenance of the surface itself, like snow removal, so now they are proposing a public right of way.

Pfannerstill said one of the reasons they did not address this at the last meeting was that he along with one other board member, some felt it was the first they had heard of it with public maintenance.

Wenstrom asked what type of curb would they be using and there was brief discussion on the type of curbs being proposed.

Pfannerstill commented that he likes the idea of containing this to a condominium development. He said regarding the maintaining of roads, there are issues with the road in Mary Hill subdivision and the cost to the village is much higher if the village is maintaining the roads. He said one of the things that was enticing about a condo development was it was saving the Village money, the village wouldn't have to worry about salting and plowing the roads. He said it would be a lot of extra money the village would be saving if it isn't public roads. He said furthermore the setbacks were set up as condominium because it was going to be private roads but that doesn't mean we can make things work as seen in them memo, there are ways to make things work. Pfannerstill said the cost to the village is much higher, if we are maintaining those roads over a span of 20 years, to when they need to be replaced or if there are the same problems as there are in the Mary Hill subdivision because of the way the land is. He said he thinks it should be private and they can still have the density that is there. He also commented on the possible legal issue and he said one thing that was brought up was there might be people saying you have to take care of the roads because a municipality does have certain responsibilities to the health and welfare of the people. He said it has happened in other parts of the state with condo developments where the condominium association did go to an appeals court. Wallschlager commented that she also would like the roads in the development to be private.

Mr. Neumann made several points on the public vs private roads. He said he feels it is unfair making the 50 residents that would be in the condominium development to pay the same property taxes like everyone else plus fund the road maintenance of their own street plus pay for the costs of other resident's streets that were built over the years. He said we paid for the infrastructure, we pay for the sewer and water, we pay for the streets and curbs, we pay for private trails on private land that will have be recorded as a public access easement that will have to be maintained by the condo association, he said it just feels wrong. And to now say on top of that the residents don't get any benefits themselves, he said he really has a problem with that. He went on to say if there would be an honest dialogue about a tax reduction since his future residents would be responsible for their own maintenance and there is talk about what the cost

for public would be vs their private cost, he said he would be all for it. He said as private road they could probably do what is necessary and less expensive than a municipality in some cases, but there is a reason why there are public maintenance of roads and for safety too. The reason there are public roads in these communities is because they need to be kept clear and kept safe. He said God forbid something was done wrong by a private contractor who didn't plow, it would turn into a fiasco. And if there were an accident but municipalities have a limitation of liability on public rights of way but it doesn't exist on private land. He went on to say there is a reason public right of ways were created.

Pfannerstill said he didn't know until the last meeting about the public vs private roads. Mr. Neumann said it has been talked about in the past that at some point it would have to figure out if it would be public or private. He said they never got into the details because it didn't matter at that point, that wasn't detail that was relevant to the density or the layout. Those are things that you are dealing with the comp plan and they said it repeatedly through the process. He said it was never a major topic but over and over again they talked about that they needed to talk about the road issue at some point. Mr. Neumann said he never once said it would be private roads and privately maintained with a certainty through this whole thing. Pfannerstill asked Mr. Neumann if he has never said that why was it printed on the plans. Mr. Neumann responded by saying it was going to be a private drive and it was going to have a public access easement because they know that would have to get public through there at some point. It would have a public maintenance easement for maintenance of the sewer, water and utilities. And it would have a public maintenance obligation to make sure the road is clear of snow and in the long run be taken care of. He said it is not abnormal to do in condo developments. Pfannerstill said at the last meeting he did say it was the first he was hearing of that in a condo development. He said there are other ones in the village and they pay for the maintenance of their roads.

Fenner said if this was truly a self-contained condo development he had no problem with a private road. And he said what he means by self-contained, there are no public rights beyond the entrance, no sewer or water easements. He said communities with self-contained condo developments put a water meter at the entrance, they put a flow meter for sewer purposes, they build a condo association and how they collect things internally is up to the association. The association has to take care of the laterals and everything else. He feels this doesn't do that. There was back and forth discussion on public vs private road and other condo developments. Fenner said the public vs private was not a new issue for him, it was an issue he was aware of months ago and it didn't catch him by surprise. He said he is for private roads if there is a contained development but if there isn't a contained development and we have public attributes, it is a public road.

There was more discussion about public vs private, subdivision vs condo development. Mr. Neumann commented on lowering the condo fees and that devalues the condo itself. Pfannerstill commented that Mr. Neumann is saying he presented it the whole way through and Fenner is saying he presented it the whole way through and that he missed that. Fenner said they did not say that, he said that Mr. Neumann raised the issue and it was an open issue. Wallschlager commented that Mr. Neumann may have mentioned public vs private in the past, but the

definition of what Mr. Neumann meant is what finally hit home for her at the last meeting. There was brief discussion on the proposed front yard setback.

The Plan commission then discussed the isolated natural resource area. Mr. Neumann said some trees will need to be removed where the cul-de-sac is but plan to replant trees.

Pfannerstill said he would like to take the issues separately and they need to make decisions on the issues of Southern Oak, public vs private and the isolated natural resource area.

Motion (Fenner/ Pfannerstill) to approve the Isolated Resource area as presented. Carried (6-0).

Motion (Wallschlager/Pfannerstill) that the emergency access going to Southern Oak Drive be taken off permanently.

Discussion- Fenner clarified emergency access is police and fire. Wenstrom said until they have another access to the property he thinks they need to put something in there for emergency access which someday could be taken out, eliminated as soon as there is another way of getting ingress/egress into the property. He believes that emergency access is important. Wallschlager said once it is in, she doesn't see it ever coming out. Pfannerstill agreed it is important, but will continue to push on the county to get the access in the northeast. Mr. Neumann commented that the emergency access could be approved now and it could be put on the plat that it could be vacated once another access is developed and that it is not a connection but an emergency access only. Fenner said he likes the idea that once there is an alternative access is provided to the area, it disappears. Wallschlager brought up another option of access, rather than go straight to Southern Oak she said they could go out of the cul-de-sac and go around the dry pond and come out right on the corner so they wouldn't have to cross Mr. Gebhards land at all. There was brief discussion on that option. Mr. Neumann said they would be more than willing to ask the county about that option.

Amended motion (Wallschlager/Pfannerstill) leaving original motion as is- that emergency access going to Southern Oak Drive be taken off permanently and amended to add that Mr. Neumann will check into the possibility of going southwest and bringing it out on the corner.

Roll call-

Wenstrom- no

Wallschlager- yes

Hallquist- no

Fenner- no

Schneeberger- no

Pfannerstill- yes

Motion failed- 4 no's, 2 yes.

Motion (Fenner/Wenstrom) to provide for an emergency access at a location to be determined at a future date once there is input from the County.

Discussion- Hallquist agreed with the motion with an amendment that it be vacated once another access has been obtained. Fenner accepted the amendment.

Amended motion (Fenner/Wenstrom) - to provide for emergency access from the cul-de-sac at a location to be determined, which once determined would be vacated upon an alternative access is obtained. Pfannerstill asked for a roll call-

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| Wenstrom- yes | Wallschlager- yes |
| Hallquist- yes | Fenner- yes |
| Schneeberger- yes | Pfannerstill- no |

Motion passes as stated, 5 yes, 1 no.

Pfannerstill said the last thing to talk about is the public vs private roads.

Motion (Pfannerstill/Wallschlager) to approve private roads without access to the public the condominium association aka Neumann development has the ability to say they do not want thru traffic, and hold that as a private condo plat.

Discussion- Fenner asked Mr. Neumann with that motion- if it passes, he indicated he may make some changes to the development including eliminating the public components from the path system and what other changes would he make. Mr. Neumann said if it a private development road layout and profile, the accessibility to the paths they will be building and the condo association would be maintaining that everything is private with the exception of the necessary services. Fenner asked if they would be eliminating the connectivity to the east and Mr. Neumann said potentially the only reason they would want to keep something there is for their ability to (inaudible). Mr. Neumann said if the only thing is the water and sewer services then the question he would need to ask his team is really what we should be doing, is it really the development they should be doing. Mr. Neumann reiterated that he doesn't think it is fair for the future residents not to have the same public services as other residents.

Pfannerstill said to roll call the question that the roads be private roads that are not maintained by the village.

Roll call-

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| Wenstrom- no | Wallschlager- private |
| Hallquist- no | Fenner- no |
| Schneeberger- no | Pfannerstill- yes |

Motion failed. 4 – No's, 2 yes.

Motion (Fenner/ Hallquist) to have the roads public in the condominium development with all of the public amenities associated with it.

Roll call-

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| Wenstrom- yes | Wallschlager- no |
| Hallquist- yes | Fenner- yes |
| Schneeberger- yes | Pfannerstill- no |

Motion passed 4 - yes, 2 no.

7. Adjourn

Motion (Wenstrom/Schneeberger) to adjourn. Carried (6-0). Meeting adjourned at 9:23 PM.

Respectfully submitted by
Recording Secretary,

Deidre Bush y, Deputy Clerk