

Minutes of the Meeting

Members Present: Nancy Girard, Chair; Marty Martindale, David Russell; Dan Hudson, Don Guarino, Selectmen's Rep.; Desiree Tumas, Clerk. Absent from the meeting was John Funk, Vice-chair.

Public Present: (As signed in) Pete Pinckney, Jonathan McNeal, Laurie Henderson, Bob Henderson, Nanci Mitchell, Conservation Commission Chair.

The meeting was called to order at 7:00 pm.

Open Meeting

Chair Girard opened the meeting with Board Member introductions and an explanation of Meeting Procedures.

Acceptance of Meeting Minutes

August 13, 2009

Member Russell moved to approve the August 13, 2009 Minutes of the Meeting as amended, Member Martindale seconded the motion as stated; the motion passed unanimously.

September 02, 2009 – Audit of Land Use Planning

Selectmen's Rep., Guarino moved to approve the September 02, 2009-Workshop Minutes of the Meeting as amended, Member Martindale seconded the motion as stated; the motion passed unanimously.

September 10, 2009

Member Russell moved to approve the September 10, 2009 Minutes of the Meeting as amended, Member Martindale seconded the motion as stated; the motion passed unanimously.

October 08, 2009

Member Hudson moved to approve the October 08, 2009 Minutes of the Meeting as amended, Member Martindale seconded the motion as stated; the motion passed unanimously.

Public Hearings

There were no hearings scheduled.

Other Business

Jonathan McNeal – SAI Communications – Proposing to place an additional 5' x 7' concrete pad to support another radio cabinet of the same size as the one shown on submitted plans.

Mr. McNeal explained to the Board that SAI Communications would like to replace and add a couple of antenna arrays on the existing telecommunication tower. In doing so, it will be necessary to add an additional 5'x7' concrete pad to place an equipment cabinet to support the new arrays installed. Mr. McNeal provided photos of the current pad and cabinet that exist on the site for depiction purposes. Additionally, Mr. McNeal provided email correspondence related to the original approval.

Mr. McNeal was not sure if an additional site plan review would be required to obtain a building permit to complete the proposed work and seeks a determination from the Planning Board.

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Mrs. Tumas, Planning Board Clerk provided the Board with the original approval letter and a letter from the Building Inspector for consideration. See attached copy.

Board Members reviewed the documentation provided and all agree that the proposed addition of a 5'x7' concrete pad and an additional equipment cabinet would not be a substantial change to the original site approval and would not require a public hearing for site plan amendment.

Chair Girard called for further Board discussion; Member Hudson suggested a professional engineer review of the site for compliance with the original approval.

Chair Girard called for further Board discussion, hearing none requested a motion.

Member Martindale moved that the proposed changes are not a substantial change to the original approval and that an additional public hearing would not be necessary. Member Hudson seconded the motion as stated; the motion passed unanimously.

Chair Girard requested a copy of the original approval letter as well as the Building Inspector letter be sent to Vice-chair Funk.

Nanci Mitchell, Chairperson, Conservation Commission – GPS Unit and Planning Board involvement in purchasing and implementing use.

CC-Chair Mitchell explained that there is a need to purchase a GPS unit to work in conjunction with the ArcGIS Mapping Program currently used by the town. The GPS unit would benefit both the Conservation Commission and Planning Board when considering potential development by mapping relevant features of the site.

CC-Chair Mitchell requested the PB assistance to purchase the GPS unit, by splitting the cost with the Conservation Commission. The estimated cost of the GPS unit would be approximately \$500 including necessary mapping software and protective case.

Following brief discussion, Board Members agree the GPS/ArcGIS Mapping would be a beneficial tool to use.

Board Members were provided a copy of the current Planning Board Budget for cost consideration.

Chair Girard called for further comment, hearing none; entertains a motion to approve the expenditure.

Member Hudson moved to approve the withdrawal and transfer of \$500.00 from Account #01-41911-730-00, Capital Outlay-Master Plan to Account #01-41911-740-00, Capital Outlay-Equipment. Member Russell seconded the motion as stated for discussion purposes.

Board Members revisited the costs associated with the proposed purchases and determined that if the cost were to be split between the Conservation Commission and the Planning Board the transfer amount would be \$250.00 not \$500.00.

Chair Girard called for an amendment to the motion stated and seconded for discussion purposes; ***Member Hudson moved to amend his motion to approve the withdrawal and transfer of \$250.00 from Account # 41-41911-730-00, Capital Outlay-Master Plan to Account #01-41911-740-00, Capital Outlay-Equipment. Member Russell seconded the motion as stated; the motion passed unanimously.***

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Mrs. Tumas, PB Clerk noted that she had taken the ArcGIS Class in 2001 and requested the Boards approval to attend an updated class. Board Members are agreeable to the request; Mrs. Tumas will provide the Board with class information and cost for budget consideration.

Referring to the Planning Board Budget, Board Members questioned why Account #01-41911-343-00 – Advertising has gone over budget. Mrs. Tumas will look into the matter.

Board Members agree to take the Agenda out of order and discuss scheduling the site walk.

Schedule Site Walk – TM/LT #410-25 – Request to upgrade a portion of the Class VI section of Sawtooth Road starting at the end of the paved Class V section for approximately 600’ for the purposes of obtaining a building permit.

Mrs. Tumas, PB Clerk explained the Selectmen have requested the Planning Boards comments pertaining to the potential development of a lot on the Class VI section of Sawtooth Road.

Board Members briefly discussed ongoing concerns related to the development of the Class VI portion of Sawtooth Road. Concerns stated were related to the amount of ledge, steep slopes, stonewalls and wildlife in the area as well as the engineering challenges of upgrading the road.

Selectmen’s Rep. Guarino explained the Class VI Road Committee created a report that the local government center reviewed the document and said that the Class VI Road Policy looked very good. The policy was then forwarded to town counsel, as they would be the defending body if the policy were to be questioned. The town’s attorney removed all the environmental strength from the language. The Selectmen cannot consider natural habitat and resources when considering Class VI Roads development. However, the Planning Board can exercise consideration of the natural resources of a proposed Class VI Road development.

Board Members briefly discussed the Boards scope in this matter as it relates to *RSA 674:41 Erection of Buildings on Streets; Appeals*; concluding that the Planning Board could review the proposal and submit comments resulting from the site walk to the Board of Selectmen. *A copy of RSA 674:41 is attached to the minutes.*

Selectmen Rep., Guarino noted that the Board of Selectmen have already conducted a site walk and suggests the Class VI Committee also provide comment about upgrading the Class VI section of Sawtooth Road.

It was noted that sometime ago, the Planning Board conducted a site walk of the same area of Sawtooth Road for possible development and the Board concluded that they could not support upgrading Sawtooth Road due to the amount of ledge, the stonewalls, natural resources and wildlife habitat available in the area.

CC-Chair Mitchell noted that the real estate ad for another property on a Class VI Road states the only approval necessary to develop the residential lot was from the Board of Selectmen. Board Members questioned if a request could be made to the listing agent to correct the actual requirements. Members agree they cannot make such a request.

Mr. Pickney stated familiarity with the Sawtooth Road property and that some years back a similar proposal was entertained and that was when the Class VI Road Committee was formed. There was also a moratorium on further development proposals until such time as the committee had created a policy addressing the issues of developing a Class VI Road.

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Chair Girard called for further comment, hearing none, redirected discussions to scheduling of the site walk.

Due to the expected inclement weather and schedule conflicts on Saturday November 14, 2009 Board Members agree to schedule the site walk on Saturday November 21, 2009 beginning at 9:00 am. Proper notice will be posted for the site walk.

Mark Fougere, AICP – To discuss preparations for amendments to the Zoning Ordinance and suggestions for immediate amendment.

Chair Girard noted that the legislature has adopted a provision defining “Unnecessary Hardship” and in order to bring the local zoning ordinance into compliance with the statute it is requested that the amendment be placed before the voters at Town Meeting in March 2010. It was additionally noted that it is important that the voters know that amendment is legislative not a local.

Mr. Fougere noted the date deadlines for ordinance amendments for Board discussions and hearings pertaining to any proposed zoning ordinance amendments.

Mr. Fougere explained that the zoning ordinance was in compliance with the recent changes to the flood plain per FEMA.

Mr. Fougere explained the need to create a Workforce-housing Ordinance due to new legislation that will be effective January 01, 2010. Local ordinances are developed based on the property valuation and availability of work-force housing. Assessing numbers will be forthcoming for planning purposes. It was noted that farmhouses are being converted to multi-family homes and this seems to be a growing trend and viable option to meet workforce-housing requirements.

Mr. Fougere also explained that if there were adequate workforce housing available then there would not be a need for an ordinance. Determination of existing availability will be forthcoming once the assessing department provides the existing number of residential homes and rentals. Mr. Fougere believes that the numbers may be adequate for home sales and thinks that the rental property numbers may not be adequate.

Addressing an Agritourism Ordinance, Mr. Fougere explained that farmers have to come up with diverse and innovative ways to support the farm from time to time. The current ordinance requires ZBA approval for non-traditional agricultural uses.

Mr. Fougere questioned how the issue came about. Mrs. Henderson explained that they received a letter stating that the activity was a use not allowed by the local ordinance. Meetings with the Planning Board and Zoning Board followed the violation letter from the code enforcement officer.

Mr. Fougere explained the Board needs to determine if they want Agritourism to be a permitted use and in what zones, permitted use with a special exception or not permitted.

Board Members noted that agricultural uses is allowed in all zones so it would be difficult not to permit Agritourism in any particular zone.

Mrs. Henderson commented that the ZBA “missed” the interpretation of the RSA and determined the proposal of “pony parties” was a commercial use. Additionally stating that the ZBA focused on “agricultural use” and not “Agritourism” despite Mrs. Henderson providing copy of the RSA to both the Planning Board and Zoning Board at the joint meeting that was conducted.

Members questioned if it was necessary to incorporate the RSA into the ordinance if it is already known to be a state regulation.

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It was noted that other farms in the State have implemented non-traditional uses on farms such as corn mazes and several haunted houses such as the one on Coppie House Farm in Lee, NH. Currently there are growing concerns within the Town of Lee, NH with consideration of traffic, life and safety issues of the temporary non-traditional activity. The current situation is that the farm has a conservation easement but there is no language that addresses permitted uses if any with a conservation easement on the property as it relates to Agritourism.

Board Members reviewed *RSA 21:34-a – Farm, Agriculture, Farming*. Various municipal boards feel that duplication of the statute is not necessary. Members of the Planning Board generally agree to add the notation of all for a clear definition. *A copy of RSA 21:34-a is attached to the minutes.*

Board Members reiterated that they don't like to be redundant in the ordinance and regulations when a state statute covers the issue to avoid possible conflict. It was also suggested that the Board use regulations to state what one cannot do instead of what you can do.

Mr. Fougere will research what other towns have done when faced with the same situation and he will forward information to the Planning Board.

The Board briefly discussed groundwater protection and regulation concluding that the town does not own the water therefore they cannot restrict use suggesting a overlay as a protective measure. Mr. Fougere explained that NH Office of Energy and Planning has a Model Groundwater Protection Ordinance that can be used.

Mr. Fougere went on to discuss language pertaining to "Hardship". If the proposed language becomes law, there will be no need to add the language to the local ordinance.

Revisiting the Agritourism, it was questioned if it were possible for a reversal of the ZBA Decision. It was explained that the ZBA heard and denied the case; the case was scheduled for a rehearing request, which was also denied. The next avenue of relief would be a NH Court Appeal.

Mrs. Henderson noted that despite reading of the statute during the hearing and request for rehearing the language was still misinterpreted by Members of the ZBA.

Mrs. Henderson discussed that it should not matter if you are teaching someone how to garden or care for animals from time to time farmers need to think outside the box when it comes to making money with the resources available on a farm. It was noted that the concern came up with the involvement of children. Then it went to the inability to classify the activity under an agricultural use so it defaulted to a commercial use.

-Board Members were provided a copy of the 2009 Legislative Changes for Planning Board Activity for informational purposes. The Board will revisit the legislative changes once the ordinance amendments are complete.

-Revisiting possible ordinance amendments, the Board briefly discussed the need for language addressing steep slopes and ridgelines. It was suggested that Mr. Fougere review the language in Gilford, Moultonborough and Sandwich Zoning Ordinances.

-CC-Chair Mitchell noted that the Conservation Commission would like to see language pertaining to the preservation of the night sky. Board Members commented that PB had made a concerted effort to require down-directional lighting when applicable.

Chair Girard called for further discussion pertaining to zoning ordinances; Mrs. Tumas questioned if the Board wanted to schedule a workshop meeting between the November and December regular meetings. It was determined that since the site walk scheduled on the November 21st and Thanksgiving was

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November 26th it might be difficult to schedule an additional meeting. Discussions will resume at the December 10, 2009 regular meeting of the Planning Board.

Mrs. Henderson noted that she would like to have the word "childcare" removed from the description of the ZBA statements on page 4 of the August 13, 2009 Minutes of the Meeting. Additionally, Mrs. Henderson explained that she is operating for pre-school age children not as a preschool. Mrs. Henderson also requested comments pertaining to the site walk also be amended.

Mrs. Tumas, will review the tapes and notes and make corrections as necessary. With regards to the site walk comments; Member Hudson stated that he did not have issue with the text of the Minutes as it relates to the comments of the site walk.

Mrs. Henderson explained that she was concerned about the possibility that abutters would not understand which activity was approved.

Mrs. Tumas, Clerk explained that if Mrs. Henderson had issue with the minutes in the future, she should submit her comments to the Board prior to the meeting so that the request could be entered into the record.

Unscheduled Business

-Don Guarino – Proposed site for the new life safety building.

Mr. Guarino explained that the Construction Committee is waiting for Homeland Security Funds. The Committee has received DOT approval for the driveway for the proposed "Life Safety Building" which would house both the police department and fire department. The proposed location is on Rte 140 near Allen's Mill Road.

Regarding concerns pertaining to the wetlands on the property; an engineer has confirmed that the lot is buildable and the proposed septic is away from the wetlands.

The size of the building has been reduced to 100' x 100' also reduced parking is also being entertained. Additionally, the septic design has been created but not submitted to the state as yet.

Mr. Guarino went on to explain that a one million dollar funding request has been made and capital reserve amounts are available. In the event that no funding is approved the job would not be put to bid. Mr. Guarino anticipates that he will have more detail to report at the December 10, 2009 regular meeting.

Mr. Guarino noted that the design of the proposed building is similar to the current public safety buildings in the town of Salisbury, NH and Errol, NH.

Member Martindale questioned if the truck bays would have doors on the front and back of the building. It is believed that there would be double doors installed.

Member Hudson stated concern regarding the wetlands on the site and suggested the septic design be submitted for state approval. Mr. Guarino explained he understands the stated concerns pertaining to the wetlands and development of the site and is in favor of presenting the proposal to the Planning Board. Mr. Guarino will follow-up with Mr. Darbyshire and discuss the wetland concerns and request the wetlands be delineated on the plan.

Concerns regarding traffic safety were noted. It was explained that the proposed entrance site is actually further down Rte 140 away from the intersection of Allen's Mill and Route 140.

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Mr. Guarino suggested the Board do a site walk of the proposed site following the Sawtooth Road site walk. Board Members are agreeable to the site walk. Proper notice will be posted for both site walks. Members of the Conservation Commission as well as the Class VI Road Committee are invited to attend.

Mr. Fougere was reminded of an additional proposed zoning amendment to Article VI Manufactured Housing; section D6.2 as it relates to the storage of recreation vehicles. Mr. Fougere went on to explain that the intent was to allow residents to store recreation vehicles on their property not for the purposes of locating a recreation vehicle on an otherwise vacant parcel. The proposed amendment would include, "principal home".

Mr. Guarino questioned grandfathered units already in place around the lakes. Mr. Fougere explained that the amendment would apply to future uses, not those already existing. It was additionally noted that if an RV has been parked on a lot it is grandfathered; if for example the RV is removed from the site for the winter and the property owner comes back the following summer, it would not be permitted.

Mr. Fougere went on to explain that the language of D6.3 also needs the addition of the word "consecutive". All agree the concerns of septic issues with recreational vehicles are at the forefront of the proposed amendments.

Administrative:

-Board Members were asked if they planned to attend the LRPC Meeting on November 23, 2009. Chair Girard commented that she would be attending the meeting inviting other members. Mrs. Tumas noted that she had the registration information if needed.

-Mrs. Tumas asked the Board if they had the updated fee schedule in their planning board material. Board Members requested an updated copy of the fee schedule.

-Mrs. Tumas provided the Board with a draft copy of a "Decision Letter/Approval & Denial", "Regional Notice Letter", "Decision Letter/Approval & Denial", and a draft "Minutes of the Meeting Policy". Mrs. Tumas requested the Board review the letters and policy for possible implementation. Discussions will be scheduled for the December 10, 2009 regular meeting.

-Thomas Argue, et al has submitted a Boundary Line Adjustment application. Mrs. Tumas questioned if the Board would like to schedule a site walk of the property. Having previously done a site walk of the property, Board Members do not think it necessary to do an additional walk of the property.

Mrs. Tumas requested the Board clarify the necessity of recording site plans and decision letters. Mr. Fougere commented that Hillsboro County Registry of Deeds no longer accepts Site Plan Recordings because of the number of recordings. Board Members agree that it is not necessary to record approved site plans.

Chair Girard called for further comment or unscheduled business, hearing none, entertains a motion to adjourn.

Adjournment

Chair Girard called for further business to come before the Board, hearing none; entertains a motion to adjourn the meeting.

Member Russell moved to adjourn the meeting at 10:20 pm, Member Hudson seconded the motion as stated; the motion passed unanimously.

Respectfully submitted,

Desiree Tumas, Clerk