

MINUTES
PLANNING BOARD
December 4, 2019

Present: John Schaumlöffel, Chair, Liz Freeman, Vice-Chair, Bert Hamill, Lou Alvarez, Nate Sikkila, Deirdre Daley, Lou Guarino, Craig Smeeth and Debbie Deaton

The meeting was called to order at 7:00 p.m.

John asked Lou G. to sit in for Paul.

The Board reviewed the minutes of November 20, 2019. Lou A. said the By-Laws were mentioned twice and to remove the second one. John said the line item in the amount of \$520 for SWRPC was left out of the budget reference. Bert made a motion to accept the minutes as amended. Nate seconded the motion and it passed unanimously.

Selectmen's Report:

Bert informed the Board the Employee Appreciation Luncheon will be held on December 19th and all members are welcome.

He also stated the Selectmen are going to be voting on a blanket procedure for mileage reimbursement. Bert reminded the Board any warrant articles need to be submitted by January 14th.

Chairman/Land Use Clerk Report:

John thanked Deirdre and Lou A. for their work on the Gravel Pit inspections and reports. He mentioned the Board has purchased some reference books if anyone would like to borrow them. John asked if it would be possible to put those books in the library. Debbie will look into it.

John also thanked everyone for their opinions and discussions.

Debbie informed the Board there will be a Subdivision Application on December 18th as well as the Public Hearing for the Off-Site Improvement amendments to the Subdivision Regulations and Site Plan Regulations.

Public Hearing-Salo Lot Line Adjustment, Maps 1/4 & 1/6:

John opened the meeting at 7:15. Kirk Stenersen, Higher Design, gave the Board an overview of the Lot Line Adjustment. He noted there were actually 3 lots involved (Map 1/4 should be 2 lots, not 1, according to the deed). Lot 6 is 5 acre lot of record, has flowage rights and is landlocked with a 20 foot Right of Way Easement through Map 1/4. Liz mentioned Map 1, Lot 4 is not designated on the Plat. Mr. Stenersen will update that. Bert asked about the Tract 2 in the town of Sharon. Kirk replied the Salos also own those parcels and will be merging the 2 parcels in Sharon. The 2 tracts of Map 1 lot 4 will have a land swap of the same acreage but make them less non-conforming.

John asked about the Easement for the "driveway" that starts in Sharon. Kirk replied it is a proposed Easement because you can't show an easement to yourself. It is shown on the plan for future use.

Liz mentioned Kent Brown's report suggests the Board should visit the site. John replied it is snow covered at the moment so it would be pointless.

John asked the Board to review the requested waivers. Bert asked if there are any steep slopes on the property. Kirk replied the property is "gently rolling" but the acreage that is being added to lot 6 is basically flat.

Bert asked if there are any wetlands. Kirk replied there are flowage rights on the northeast area of the mill dam on the existing lot 6. Mr. Salo stated he talked to the Building Inspector prior to purchasing the lot and the Inspector said he would be able to give him a building permit because it is a lot of record and there is access via the existing cart road.

Liz asked where the new driveway would be going. Kirk replied there is already a "cart road" existing from Route 124. Mr. Salo stated it is a driveway, there is a deed for it and permitted by the State.

John asked if there are any wetland crossings or if any of the property is in the Conservation Overlay District. Bert said he believes there are potential conservation concerns. Kirk stated there are 3 existing lots, one of which will

be decreasing in size to 2 acres (existing house and barn), there will be an identical land swap between Tract 1 & Tract 2, creating more useable land on each lot. Tract 3 (Lot 6) will be gaining 2.4 acres of flatter land. Liz brought up the fact of Tract 1 & Tract 2 being 2 separate lots according to the deed but only 1 lot on our assessing cards and tax map so they've been incorrectly taxed. Mrs. Salo stated all of the land was in Current Use so the difference in tax revenue would have been negligible. Mr. Stenersen stated in 1971, Tract 1 and Tract 2 were owned by different people so they are 2 separate lots. Debbie will contact M&N Assessing to create a new lot after investigating.

Bert feels the deed needs to be examined, also the easement for the cart road, the flowage easement, etc. The Board needs to do more investigation on this site before completeness is voted on.

Nate and Liz agreed cleaning up the lot lines on Tracts 1 & 2 is a "no-brainer" and there is no issue with that. Whether or not Lot 6 (Tract 3) is buildable is the part in question. There is no wetland delineation on the plat, nor are the slopes indicated. The question is the access because the lot is landlocked. Kirk interjected it is a lot of record and has access through the easement which should have nothing to do with approving a lot line adjustment. If it was a subdivision, he could understand it.

Liz said if in fact lot 6 is a buildable lot, adding acreage to it is not an issue but just because a lot is grandfathered, doesn't necessarily make it a buildable lot. She went on to say she would feel better about it if we had legal confirmation if it is buildable or not. John asked Liz what the question is that needs to be answered. Liz replied we need to determine if the easement provide sufficient access to Lot 6 to make it buildable. He and Liz agree it gives implicit approval that the lot is buildable.

Mrs. Salo read from Book 2161, Page 116 regarding the easement. It basically says it gives the right to pass and repass. Bert said it is the classic definition of an easement. Kirk said the legal question should be whether or not the buildability of a lot should be a factor in approving a lot line adjustment. John asked Debbie to email Gary Kinyon asking that question. Bert would prefer not to accept for completeness until we have the answer to the question and should continue the hearing to a date certain. Kirk stated if the Board wishes to add a condition saying that in no way is this guaranteeing this is a buildable lot if it doesn't meet setbacks, etc., he doesn't feel the Salos would have a problem with that.

Liz said she wouldn't have a problem if they wanted to go to the ZBA for a variance for the 20' right of way to create a back lot which needs 50'. Liz also mentioned the designation of Map 1 Lot 4 is missing from the plat. Kirk said he would amend the plat.

Nate said he felt the Board is getting off track. We are here to review a lot line adjustment and we're talking about whether or not one of the lots is buildable, which is irrelevant. He continued by saying we should vote on the waivers.

Nate made a motion to grant the waivers as requested. Lou seconded the motion and it passed with 1 abstention (Deirdre). Liz asked Kirk to correct a typo in the waiver request (Tract 3 should read 5 acres) for the file. Kirk agreed he would.

John asked each Board member if they felt the legal advice and accepting the waivers were 2 separate issues or one and the same. Nate, Lou G, Debbie, John and Lou A all feel the waivers are legitimate for a lot line adjustment and legal advice is a separate issue, Deirdre and Craig said they would like to seek legal opinion, Bert and Liz said they didn't want to make the applicant jump through hoops and the waivers are somewhat legitimate but would like to reserve the right to seek legal counsel.

After some additional discussion, Liz made a motion to accept the application as complete. Nate seconded the motion and it passed unanimously. Liz made a motion to continue the Public Hearing (for the purpose of seeking legal counsel) to December 18th at 7:45. Bert seconded the motion and it passed unanimously.

Off-Site Improvements:

After some discussion, the Board agreed to remove the last paragraph in the amendment to the Subdivision Regulations and Site Plan Regulations and will read as follows:

- V. The Planning Board may determine during the hearing process that the proposed development creates the need for off-site improvements, all or part of which are rationally related to or occasioned by the proposed development. In accordance with RSA 674:21 the Planning Board may impose the requirement that the applicant install or pay for all or part of such off-site improvements.

1. The overall construction and site development components that could be considered for off-site improvements shall be limited to any necessary Street, drainage, sewer and water upgrades pertinent to that development.
2. When imposing such requirement, the Board shall consider the degree to which the proposed development is benefited by such off-site improvements. Such deliberations shall include whether other properties would also benefit from the upgrading of such off-site improvements. In such cases the Board shall determine the amount to be paid by applicant, taking into consideration the following:
 - a. the standard to which the town presently maintains the road;
 - b. the frontage of the proposed site plan;
 - c. the potential traffic increase necessitated by the proposed site plan;
 - d. the character and potential for development of the neighborhood;
 - e. the number of residences presently fronting on and putting traffic on the road;
 - f. any other factor that the Board deems appropriate to establish a rational connection to the needs created by the development to the amount to be paid by the applicant.

A notice for a Public Hearing on December 18, 2019 at 8:15 pm, will be posted and advertised in the Monadnock Ledger. The notice will read: A Public Hearing will be held on December 18, 2019 at 8:15 pm to amend the New Ipswich Site Plan Regulations and Subdivision Regulations regarding the process for evaluating the need for off-site improvements in accordance with RSA 674:21.

Underground Utilities:

Craig did research on underground utilities. He stated he feels this research is not complete. See the attached document.

Craig stated Eversource couldn't give a dollar amount to dig trench for lines. The contractor would have to pay for the trench to be dug and the conduit. The reason Eversource likes to do above ground utilities is they can do fault isolation if there is a problem.

He went on to say he needs to do more work to define where the road ends and the driveway begins. Eversource will install 125' of utilities at no cost to the homeowner or contractor. Lou G. said he has recently installed 3" conduit to Eversource specs and it cost him approximately \$75-\$100 per foot. Liz & Nate said they had conduit installed and don't remember it being that expensive.

Deirdre said when her subdivision was built, they did a lot of research on underground utilities prior to having the work done. There are pros and cons to both underground and above ground. One of the pros to underground is, if there is a weather event, the lines won't get pulled down but conversely, there can't be any trees near the conduit because the roots can damage it.

Mike Klass, Office of Strategic Initiatives said the State wants Towns to have underground utilities but the cost is astronomical. Londonderry is the only town that mandates it at this time.

John said the underground utilities recommendation is in the Subdivision Regulations, not in the Zoning Ordinance.

Bert stated the Selectmen don't want the Building Inspector to be enforcing Zoning Ordinance violations.

Deirdre believes the Board should continue with the current direction of underground utilities because it conforms with the Master Plan. She also thinks the Board should provide for the opportunity to ask for waivers due to the fact there is a lot of ledge in Town.

John said we need to look at the Subdivision for evaluation, the possibility of adding something to the Zoning Ordinance and also enforcement. Bert said if it is in the Zoning Ordinance, it would be enforceable by the Zoning Officer. Liz said in order to add it to the Zoning Ordinance, the Town would have to vote it in and that is unlikely.

Deirdre stated in our Zoning Ordinance it states there cannot be more than 4 houses on a shared driveway. More than 4 houses would be considered a Private Road.
John would like to continue this discussion to January 15th.

Commercial District:

Liz stated she spoke to NHMA asking the question if the Selectmen can write a warrant article changing a Zoning Ordinance, the answer is absolutely not. She also said it is unlikely one lot can be designated as a Commercial Zone because that would be considered Spot Zoning which is illegal. Bert said he reviewed some case law regarding "spot zoning". It is possible to name one lot as a Commercial District *if* there is an adjacent lot already zoned the same.

Deirdre stated she reviewed the Commercial District section in our Zoning Ordinance and there is a list of permitted uses. Liz stated they don't apply because we don't have a Commercial District.
The Board decided to continue this discussion to January 15, 2020.

Looking forward to next year, the topics the Board needs to complete are:

Underground Utilities

Commercial District

Driveway Regulations/Public Safety (numbering, signs, etc)

Enforcement

Road Acceptance

Green Farm Road/Jacqueline Drive:

John asked Liz to preside over the meeting and John stepped down. Debbie informed the Board Gary Litchfield called and said he should be receiving the As-Builts and requesting the bond be released. Bert stated the only thing we are waiting for is the As-Builts. When they are received, the Board will contact Kent Brown and Peter Goewey to inspect the road (Green Farm & Jacqueline). Once Peter inspects the road, he will need to send Debbie an email giving the results of the inspection to Debbie so it can be forwarded to the Planning Board & Mr. Litchfield.

The Board will notice a Public Hearing to release the bond provided the inspection is satisfactory. (Mr. Litchfield will have to give permission to discuss the release of the bond without him being in attendance, if he doesn't want to attend). The residents of the unaccepted portion of Green Farm Road and Jacqueline Drive cannot petition the Selectmen to accept the road until the bond is released. Bert also implied the Selectmen are not inclined to accept any new roads. The HOA may want to get a warrant article prepared in that case.

John Schaumlöffel, 55 Jacqueline Drive, requested when the road is inspected, Mr. Goewey list any items in detail that need to be addressed by Mr. Litchfield prior to the release of the bond. Bert stated if in fact there are any issues Mr. Litchfield needs to address, it would not allow enough time for the HOA to petition the Selectmen or present a warrant article. There also needs to be an ad placed in the Monadnock Ledger 10 days prior to the Public Hearing for the release of the bond.

With regards to setting anything in the agenda regarding this matter, John asked Liz to instruct Debbie to insert any necessary items for discussion.

Liz has returned the Chair to John.

Deirdre made a motion to adjourn at 10:00 pm. Everyone seconded the motion and it passed unanimously.

Respectfully submitted,

Debbie Deaton
Land Use Clerk