

**TOWN OF WOLFEBORO
PLANNING BOARD
August 1, 2017
MINUTES**

Members Present: Kathy Barnard, Chairman, Vaune Dugan, Vice-Chairman, Brad Harriman, Selectmen's Representative, Mike Hodder, Peter Goodwin, John Thurston, Members.

Members Absent: Paul O'Brien, Member, Dave Alessandroni, Alternate.

Staff Present: Matt Sullivan, Director of Planning and Development, Lee Ann Hendrickson, Administrative Secretary.

Chairman Barnard opened the meeting at 7:00 PM at the Wolfeboro Town Hall Great Hall.

I. Scheduled Appointment

Jon Hoagland

Agent: Deidre Benjamin, Stoney Ridge Environmental

Special Use Permit

Case #2017-18

Tax Map #158-2

Kathy Barnard stated the public hearing was continued from July 11, 2017 and noted the Planning Board performed a site visit prior to this evening's meeting. She stated several neighbors, the applicant and applicant's agent were present at the site visit. She noted the Board is reviewing a request relative to driveway construction.

Deidre Benjamin, Stoney Ridge Environmental, stated following the 7/11/17 meeting she, the applicant and the Association's Board of Directors met onsite. She stated the applicant is working with an engineer (however, the engineer is not stamping the plan); noting the driveway has been pulled away from the shared property boundary. She stated changes from the first plan reflects stabilization of the slopes by a stone headwall and riprap.

Vaune Dugan stated she does not see the headwall design on the plan.

Deidre Benjamin forwarded a schematic of the design of the headwall; noting the engineer did not submit a cross section.

John Thurston asked whether mulch would be installed at this time until the rip rap is installed.

Deidre Benjamin stated the silt fences are currently installed and it would be a reasonable request to place mulch as well.

Peter Goodwin verified a 20% grade; noting there is no indication of a berm on the plan.

Deidre Benjamin stated such could be added to the plan and noted the driveway could be pitched away from the association property.

Mike Hodder asked if the applicant discussed with the association issues related to parking and blocking the driveway.

Deidre Benjamin replied no, rather concerns related to the installation of the driveway were discussed.

Mike Hodder stated he is disappointed those issues were not addressed given that the applicant was requested to do such. He stated he does not understand why the applicant is asking for a public remedy to a private problem.

Vaune Dugan questioned detail regarding the rain garden.

Deidre Benjamin stated the rain garden is not an engineered stormwater design however, provided a typical schematic of such.

Vaune Dugan asked why the detail is not included on the plan; noting such is an important part of the solution.

Deidre Benjamin stated she wasn't sure.

Kathy Barnard stated the Board received letters from two abutters; Barbara Hunt and Don and Sabra McBride. She stated the letters have been placed in the file.

Don McBride stated the driveway is tremendously steep and slopes into the lake; noting construction would increase turbidity and velocity. He stated he feels the association needs to deal with the runoff as well and noted there have been algae blooms.

Matt Sullivan stated there is a need for stabilization of the driveway; noting such would be subject to a Town of Wolfeboro Driveway Permit. He stated he discussed the proposal with Dave Ford who noted a concern of slope stabilization, removal of the guardrail and lack of topographic detail. He stated he requested Ms. Benjamin submit a rain garden detail and recommended a condition to include survey of the shared property line.

Kathy Barnard questioned whether Baas Drive is a Town road.

Matt Sullivan replied yes.

Kathy Barnard asked if the Town installed the guardrail.

Don McBride replied yes.

Kathy Barnard stated it seems that a considerable amount of fill will be required and the amount of fill should be known.

Matt Sullivan stated the final resting place of the fill is a concern.

Peter Goodwin stated the fill layer would bring up the driveway +/-8' therefore, there would be more impact to the wetlands.

John Thurston asked if there are requirements relative to side slope for residential driveways.

Matt Sullivan replied no.

Kathy Barnard stated the applicant's request for a driveway permit was denied; noting there is no guarantee it would be approved.

Matt Sullivan stated the Public Works Department has real concerns for the driveway design as it is proposed.

Tom McManus, 7 Baas Drive, Treasurer of the homeowners association, stated the Board of Directors do not know what the best solution is; noting protecting the association's property is first and foremost. He stated he agrees with Mr. Sullivan regarding a condition to include surveying the boundary line and noted that since Mr.

Hoagland took ownership of the property in May/June 2016, he is aware of one incident where a landscaper partially blocked access; noting the previous owners used accessed their property without problem. He stated Mr. Hoagland has every right to access his property and noted the association has never maintained access in the winter and has no plans to maintain such in the future. He stated the covenants and restrictions state the association is not responsible for such. He stated the association's concerns include snow storage, sand, salt and snowmelt. He stated the association has never denied access and has no plan to however, if the association feels that plowing or snow removal is endangering the association or lake, they question their alternatives. He stated if the Board grants approval, he would request the following; the berm and pitch away from association property be depicted on the plan and memorializing the property line.

Mike Hodder asked if the association has the ways and means from keeping people from blocking the access way.

Tom McManus stated the association has fourteen members with 8 or 9 parking spaces available; noting parking has never been a problem.

Vaune Dugan asked if Mr. Hoagland plows and maintains the access way, would such be amenable to the association.

Tom McManus stated there is not any place for the snow to go; noting the snow could be trucked off. He stated Mr. Hoagland stated he would snow blow.

Vaune Dugan asked if the association would be amenable if Mr. Hoagland plowed and maintained the access way.

Tom McManus stated that if Mr. Hoagland wants to snow blow the access way, sure.

John Thurston stated he doesn't feel it is the Board's pervue to determine whether or not Mr. Hoagland could snow blow the access way. He asked if Mr. Hoagland has a deeded right of access to his property.

Tom McManus stated the minutes noted a referral to right-of-way however, there is no right-of-way. He stated there is a deeded right of access and deeded right of use. He stated he doesn't see how the association could deny an equal partner access onto or through association property.

John Thurston stated Mr. Hoagland has the right to use his property therefore, has the right to access the property. He stated access to his property shouldn't be impeded.

Peter Goodwin questioned the width of the wetland; noting a 12' wide driveway and 8' wide gravel would impact the wetland however, the applicant is stating the impact would only be 190 SF. He expressed concern for the construction of the driveway and 190 SF of impact.

Vaune Dugan stated unless there is a headwall.

Referencing the NHDES approval, Matt Sullivan stated condition #7 states the following; "Within three days of grading or temporary suspension of work in an area in or adjacent to surface waters all exposed soil areas should be stabilized by seeding and mulching during the growing season or if not within the growing season by mulching with takifire on slopes less than 3:1 or netting and pinning on slopes steeper than 3:1.

Vaune Dugan stated there still needs to be a headwall; noting the size of such should be known.

Mike Hodder stated that his experience on the Board whenever there has been a case where a person has asked for relief to be allowed to cross a wetland and claiming there is no other place on the property where he can gain access to his property and use it in a meaningful way, the problems have always derived from the nature of the land itself. He stated the Board is being asked to cross a wetland because the applicant feels the current access

is inconvenient to get to his property in a way his property has been accessed for years. He stated the ordinance states the Board cannot allow the applicant to cross the wetland unless there is no other way to gain access to his property. He stated there is another way of gaining access to his property, the one that already exists. He noted the only impediment to gaining access to his property is through blocking by people; noting the claim has not been substantiated. He stated he doesn't feel the applicant has made a case for crossing the wetland because there is another way of accessing the property – the way it's currently being accessed.

Vaune Dugan stated it seems to be a civil matter and there are mixed messages from the applicant and association.

Mike Hodder stated the applicant is asking a public body to solve a private problem.

Kathy Barnard stated the Board is required to look at the ordinance and feels the ordinance is clear in that there is the ability to access the lot without crossing the wetland.

Jack Lynch, 10 Baas Drive, asked Mr. Sullivan if he resolved the occupancy issue.

Matt Sullivan stated there is no documentation in the file that a seasonal occupancy permit was granted.

Jack Lynch stated he supports Mr. Hoagland's efforts and questioned how fire and police services would access the residence in the winter. He stated there would be a major cost to the association and such needs to be addressed prior to a decision; noting the association is not going to take responsibility for the removal of snow and sand.

Matt Sullivan stated this Board's decision is to look at the ordinance and consider whether there is an alternative location on the parcel that exists. He stated in this case there is an existing driveway providing access to the lot and it's not this Board's jurisdiction to discuss the shortcomings of the existing access rather, it is to discuss the proposed driveway location and its compliance with 175-10 of the Zoning Ordinance.

Mike Hodder stated this Board's power is limited; noting the Board can only apply the ordinances the citizens of the Town voted to adopt. He stated the ordinance, in his opinion, the ordinance requires a particular finding.

There being no further questions or comments, Chairman Barnard closed the public hearing.

Vaune Dugan stated every lot in this subdivision has frontage on the road for a reason; noting access from the frontage should be respected and the Board should consider conditions to allow such. She stated it seems clear that the association doesn't want Mr. Hoagland to access via the association property. She stated the proposed infiltration trenches and rerouting of the driveway is better for the lake. She stated the location of the proposed rain garden is where all the association water is dumped; noting there are benefits that should be looked at.

Mike Hodder read 175-10.C.(2); noting the Board has to resolve such.

Vaune Dugan stated the ordinance doesn't speak to access via other ownership rather, it only speaks to access.

Mike Hodder stated Mr. Hoagland has shared access.

Vaune Dugan stated he does not have shared access in the winter.

Mike Hodder stated that is an issue that the association has to deal with. He stated if the Board decides to deny the application, he requested restoration be addressed.

Kathy Barnard stated the Board requests the Conservation Commission to review the Special Use Permit applications and generally follows the recommendations of the Commission; noting the Commission did not feel the proposed driveway was needed. She stated the Board found out this evening that Dave Ford has concerns

and the driveway permit may not be approved. She stated there are other issues that have not been addressed and feels there will be more impact than what has been stated; noting it was very clear at the site visit that more fill will be brought in which would impact a greater area. She stated the Board has not been given information disputing the latter.

Brad Harriman stated his issue with the plan is the lack of detail of the 25% slope section coming down through the wetland itself. He stated the Board has not been given the dimensions of the actual width of the road or the impact of the slope and what the slope is going to be made of. He stated there is a lack of information and believes there is an alternate access.

Kathy Barnard verified there are requirements relative to plantings within the shorefront.

Referencing the NHDES Shoreland Permit, Matt Sullivan stated the proposal is in compliance with the 50' grid segment requirement and the unaltered area (natural woodlands buffer).

Peter Goodwin stated that if the application is approved that a berm and survey of the property line be included as conditions. Referencing the 190 SF of impact, he noted the proposed rain garden is a wetland therefore, there is replacement of the wetland area.

It was moved by Vaune Dugan and seconded by Peter Goodwin to approve the Jon Hoagland and Sharon Wells Special Use Permit application with the condition that the applicant submit rain garden detail for wetland replacement, berm and lot line delineation, headwall detail and the approval be subject to receipt of a driveway permit.

Discussion of the motion:

Kathy Barnard questioned a condition relative to further intrusion into the wetland; noting the applicant is only asking for 190 SF of impact.

Vaune Dugan stated the applicant has to show how the headwalls would maintain the 190 SF of impact and not further expand into the wetlands.

Peter Goodwin noted an error in the 7/11/17 minutes; stating the minutes reflect 90 SF of impact.

Matt Sullivan noted the NHDES approval states the retention of 186 SF; noting a slightly different square footage from the proposal.

It was moved by Vaune Dugan and seconded by Peter Goodwin to approve the Jon Hoagland and Sharon Wells Special Use Permit application with the condition that the applicant submit rain garden detail for wetland replacement, berm and lot line delineation, headwall detail, subject to a driveway permit.

Peter Goodwin, Vaune Dugan voted in favor. Kathy Barnard, Brad Harriman, John Thurston, Mike Hodder opposed. The motion passed.

It was moved by Mike Hodder and seconded by John Thurston to deny the Jon Hoagland and Sharon Wells Special Use Permit application to construct a driveway and reconfigure the existing driveway area, Case #2017-18, Tax Map #158-2, and restore the wetlands to its original condition. Mike Hodder, John Thurston, Brad Harriman, Kathy Barnard voted in favor. Vaune Dugan, Peter Goodwin opposed. The motion passed.

II. Public Comment

Suzanne Ryan asked what brought the review of the Michael Simmons request for a building permit on a Class VI Road back to the Planning Board. She stated on 9/6/16 she attend the Planning Board meeting and under public comment, requested the Board consider working on a checklist for the process to be taken from the BOS' policy. She stated the Town voted 15 scenic roads and 4 Class VI roads and asked if the Board is going to reassess such in

detail and take into consideration the dual track of scenic rural roads and Class VI roads. She submitted the Town's composite map; noting such shows that there is access in another manner to this lot. She asked the Board to use the Master Plan when they deliberate on the matter; noting the Master Plan is very clear that a landowner cannot obtain a building permit for development if the only lot frontage is on a Class VI highway unless the landowner receives a Special Exception. She asked what happened to the Special Exception process in this process. She submitted the following documents; 2007 BOS Policy, email correspondence with Michael Shellito and partial documents of the Composite Map of Wolfeboro New Hampshire.

III. Action Item

Application for a Building Permit on a Class VI Road; Tax Map #104-11, Michael Simmons

Kathy Barnard stated the review is in accordance with RSA 674:41; noting it is not a public hearing. She stated the Planning Board is reviewing the information and providing comment to the BOS; noting the BOS would address the issuance of a building permit. She stated the Board previously reviewed the request on May 24, 2016. She stated the request includes development on a scenic road; noting such would require a public hearing.

Matt Sullivan stated pursuant to RSA 674:41 and the Town of Wolfeboro Class VI Road Policy, the Planning Board is asked to evaluate and comment on applications for building permits upon Class VI roadways. He noted the following criteria for review;

- A. Conditions of the road – does the road have adequate width, drainage, and grade to handle increased development?
- B. Conditions of connecting roads – are the roads leading to the Class VI or private road adequate to handle increased traffic?
- C. Effects on municipal services – will the contemplated development result in a need for increased police, fire/rescue, water, sewer and electric services?
- D. Is issuance of the permit likely to result in an “occasion” to lay out the road as a Class V road?
- E. How will the proposed development affect neighboring properties and how well does the proposed development “fit” in to the general growth/development patterns in the Town?
- F. Will the issuance of said building permit tend to distort the Town's street map or Master Plan?
- G. Will the issuance of said building permit place a new financial burden on the Town with regards to the maintenance and repair of required infrastructure (i.e. electric, drainage, roads, etc.)?

Matt Sullivan stated the proposal has been modified since May 2016; noting the revised plan and proposal includes tree flagging, change in grading and driveway placement, removal of widened section of road for emergency service vehicles (with consultation with fire department and requirement of a fire suppression system), underground utilities and drainage easement (applicant responsible for such however, easement to be maintained by the Town). He read Dave Ford's memo, dated July 27, 2017.

Mike Hodder asked if Mr. Simmons has entered into an agreement with the Town that the Town is not responsible for maintenance of that portion of the road and liability for emergency services. He stated that if Mr. Simmons has entered to said agreement, has the agreement been recorded. He stated it would be difficult to make a recommendation to the BOS absent that information.

Matt Sullivan replied no and noted per Dave Ford's memo the Town will not be maintaining that portion of the road and would therefore remain a Class VI road.

Mike Hodder asked if the applicant is going to record with the deed that snowplowing is problematical; noting the BOS will have to address such with Mr. Simmons.

Matt Sullivan stated the drainage easement would be recorded with the deed.

Kathy Barnard stated the Board could recommend to the BOS that a formal agreement be executed.

Vaune Dugan stated the agreement would state the Town would not be responsible for snowplowing.

Referencing 674:41 I. C. 2., Mike Hodder stated such reads that the municipality neither assumes responsibility for maintenance or liability from any damages resulting from the use thereof. He stated the applicant needs to produce evidence of the notice of the limits of municipal responsibility and an easement or statement in the deed that there will be a problem with snowplowing.

Kathy Barnard questioned whether the Board has received comments from the Fire Department.

Matt Sullivan stated the Fire Department reviewed it as part of the initial submission. He stated that based on the revisions of the plan, the Fire Department has agreed to the removal of the pass through area of the road in exchange for the sprinkling of the home.

Kathy Barnard asked if such could be provided to the BOS in writing.

Matt Sullivan stated such could be a recommendation of the Planning Board.

Kathy Barnard confirmed that the letter from the Fire Department would address adequate width issue of the road and the drainage easement addresses issues with the Public Works Department.

Mike Hodder asked if the revised plans could be included as part of the Board's recommendations.

Matt Sullivan stated the plans are certified as of 7/24/17.

The Board reviewed the following criteria;

A. Conditions of the road – does the road have adequate width, drainage, and grade to handle increased development?

Width of the road has been discussed with the Fire Department – Fire Department has requested the house be sprinkled.

Reviewed by Public Works Department – approved the revised plans dated 7/24/17.

B. Conditions of connecting roads – are the roads leading to the Class VI or private road adequate to handle increased traffic?

Proposal includes the construction of a single family home and attached garage therefore, the condition of connecting roads is adequate given the scale of development and proximity of a Class V road.

C. Effects on municipal services – will the contemplated development result in a need for increased police, fire/rescue, water, sewer and electric services?

An increase will be produced as in the development of any single family home however, the municipal departments have reviewed the proposal and is comfortable with such. Other single family homes are located on the Class V portion of Stoneham Road. Recommend Class VI Road liability waiver. Underground utilities preferred due to necessary tree cutting associated with overhead utilities.

D. Is issuance of the permit likely to result in an “occasion” to lay out the road as a Class V road?

No, the standard proposed would not constitute an upgrade to a Class V standard. The Board agreed that no, as proposed, the issuance of the permit would not likely result in an “occasion” to lay out the road as a Class V road.

E. How will the proposed development affect neighboring properties and how well does the proposed development “fit” in to the general growth/development patterns in the Town?

The Board recommended no further subdivision of the parcel and agreed to make the BOS aware of neighboring parcels and the potential for future development. Concern for future development related to a road not built to Town specs.

F. Will the issuance of said building permit tend to distort the Town's street map or Master Plan?

Referencing an official map under 674 which the Town does not maintain therefore, the Board should look at the Master Plan; noting the Master Plan includes policy statements that discourage building/development on lots on Class VI roads. Precedent set by the Planning Board and BOS exists and the BOS have adopted a policy related to development on Class VI roads. Development in area adjacent to the property in all directions per an aerial perspective; noting the proposal is not isolated.

G. Will the issuance of said building permit place a new financial burden on the Town with regards to the maintenance and repair of required infrastructure (i.e. electric, drainage, roads, etc.)?

Performance of road maintenance addressed in Dave Ford's memo dated 7/27/17, drainage easement being prepared and plan addresses drainage issues. Questioned whether landowner would be responsible for the maintenance of the underground electric and if so, a utility easement should be executed.

The Board agreed to submit the following comments to the BOS;

- Plans dated 7/24/17 be incorporated into the approval
- No further subdivision of the property
- Advise BOS of neighboring parcels and potential for future development
- Execution of Utility Easement; if landowner is laying underground utilities should the landowner then be responsible for the maintenance of such
- Class VI Road liability waiver
- Recommend review of all Applications for a Building Permit on a Class VI Road by the Conservation Commission (to review environmental impact)
- Submittal of letter from the Fire Department requiring a fire suppression system
- Incorporate Dave Ford's letter to Michael Simmons, dated 7/24/17
- Planning Board schedule and hold a public hearing relative to the scenic road statute; BOS approval conditional upon such

It was moved by Vaune Dugan and seconded by Peter Goodwin to send a letter to the BOS noting no objection to the Application for a Building Permit on a Class VI Road for Michael Simmons, Tax Map 104-11, reflecting the above noted comments/conditions for Criteria A through G as noted in the Wolfeboro Board of Selectmen Class VI Road Policy. Kathy Barnard, Vaune Dugan, Peter Goodwin, Mike Hodder, John Thurston voted in favor. Brad Harriman abstained. The motion passed.

IV. Work Session

Definition of Inns/Hotels/Motels

The Board reviewed the following definition of Inns/Hotels/Motels; "A building contained in at least five and not more than fifty (50) individual sleeping rooms or suites, each having a private bathroom attached thereto, for the purpose of providing overnight lodging facilities to the general public for compensation, may provide dining services to its guests and to the public and may host special functions, such as weddings and conventions. The Board noted a correction to the first sentence; change "contained in" to "containing".

Matt Sullivan stated the intent is to consolidate the existing definitions of inn, hotel/motel and motel into one definition. He stated the definition was drafted by Rob Houseman following a review of several definitions from local municipalities and other planning resources.

The Board agreed to move the definition of Inns/Hotels/Motels to public hearing.

It was moved by Kathy Barnard and seconded by Vaune Dugan to move the definition of Inns/Hotels/Motels to public hearing, as revised. All members voted in favor. The motion passed.

Master Plan RFP

Matt Sullivan stated the deadline for submittal of the RFP is 9/6/17 at 3PM.

V. Informational Item

The Board was provided the following information; Planning Board Rules of Procedure (adopted 7/11/17), TRC minutes, EDC minutes and Wayfinding Sign Committee minutes.

VI. Planning Board Subcommittee Reports

CIP Committee: first meeting scheduled for 8/4/17 – MED and Public Works Department

VII. Approval of Minutes

July 11, 2017

Correction: Page 1, Hoagland Special Use Permit application, 3rd paragraph, 5th line; change “90SF” to “190 SF”

It was moved by Vaune Dugan and seconded by Mike Hodder to approve the July 11, 2017 Wolfeboro Planning Board minutes as submitted. Kathy Barnard, Vaune Dugan, Peter Goodwin, Mike Hodder, Brad Harriman voted in favor. John Thurston abstained. The motion passed.

VIII. New/Other Business

Mike Hodder questioned whether a site visit would be scheduled for the North Wolfeboro Scenic Road Tree Trimming.

Matt Sullivan encouraged individual drive-bys; noting he would confirm the trees have been flagged and would provide a list of the roads.

It was moved by Kathy Barnard and seconded by Vaune Dugan to adjourn the August 1, 2017 Wolfeboro Planning Board meeting. All members voted in favor. The motion passed.

There being no further business, the meeting adjourned at 9:03 PM.

Respectfully Submitted,

Lee Ann Hendrickson

Lee Ann Hendrickson

****Please note these minutes are subject to amendments and approval at a later date. ****

