

DEERFIELD PLANNING BOARD
DEERFIELD, NEW HAMPSHIRE
JULY 27, 2011

MINUTES OF MEETING

PRESENT: Board members Fred McGarry, Kate Hartnett, William Perron, Lisa Wolford, Peter Schibbelhute. Also present Planning Consultant Gerald Coogan and secretary Jane Boucher.

APPROVAL OF MINUTES

William Perron moved to approve the minutes of July 13, 2011. Lisa Wolford seconded. The following corrections were made to the minutes.

Page 2: Paragraph 8: Correct to read:"...used a Conservation Easement..."

Page 2; Paragraph 9: Correct to read:"....it was his understanding...."

Page 2: Paragraph 10: Add : "Items on list include:"

Page 3: Paragraph 10: Correct: "...the as-built plans."

Page 3: Paragraph 11: Correct to read:"Jason Dionne and his attorney Paul English..."

Chair McGarry called for a vote on the motion. Motion carries.

APPROVAL OF MANIFEST

William Perron moved and Peter Schibbelhute seconded to approve the manifest in the amount of \$2773.89 and a time sheet for Jane Boucher. (SNHPC \$2773.89; time sheet Jane Boucher 16 1/2 hours). Motion carries.

RULES OF PROCEDURE

Chair McGarry provided copies of "Rules of Procedure" contained in the OEP Planning Book Handbook. He advised the Board that he could not locate a copy of "Rules of Procedure" previously approved by the Planning Board. Board members will review this information and discuss it further at their August 10, 2011 meeting.

The secretary will check with Town Clerk Kevin Barry to see if he has a copy of the Rules of Procedure on file in his office.

Lisa Wolford referred to RSA 676:1 noting that " every local land use board shall adopt rules of procedure concerning the method of conducting its business".

SIGNATURE; LETTER TO US DEPARTMENT HOUSING

Gerald Coogan provided to letter which David Preece, SNHPC, asked the Board to send reaffirming interest in a grant from HUD.

Chair McGarry read the letter conveying the Planning Board's

continued support
for the NH application to the sustainable regional plan grant
program.

Peter Schibbelhute moved and William Perron seconded to
authorize the chair to sign the letter. Voted in favor.

7:20PM APPLICATION FOR PUBLIC HEARING; LOT LINE ADJUSTMENT;
REED FAMILY REVOCABLE TRUST, SHAWN AND CASSANDRA REED; ALAN AND
LINDA CARTER; SOUTH ROAD

Roscoe Blaisdell, Alan and Linda Carter and Shawn Reed were
present.

Chair McGarry read the Notice of Public Hearing by which the
Reed Family Revocable Trust, Shawn and Cassandra Reed , 113
South Road (Map 419 Lot 21 consisting of 5 acres) and Alan and
Linda Carter, 111 South Road (Map 419 Lot 22 consisting of
5.0001 acres. The intent of the application is to adjust the
lot lines between Tax Map 419 Lots 21 and 22 by adding 5, 070
square feet (0.1163 acres) to lot 21 so than an existing
driveway and fill material are no longer an encroachment.

Gerald Coogan commented that the application can be accepted as
complete and approved and the new monumentation has been set.

William Perron moved to accept the application. Peter
Schibbelhute seconded. Voted in favor.

Roscoe Blaisdell provided plans and noted that corners have
been set and the line has been well marked.

William Perron moved to approve the Lot Line Adjustment for the
Reed Family Revocable Trust, Shawn and Cassandra Reed and Alan
and Linda Carter. Peter Schibbelhute seconded. Voted in favor.

NOTICE OF DECISION; CADY SUBDIVISION; MEETINGHOUSE HILL ROAD

Attorney James Raymond reviewed and revised a Notice of
Decision (NOD) prepared by Gerald Coogan. Mr. Coogan said that
the Board should provide a NOD for each decision.

Mr. Coogan reviewed Attorney Raymond's comments. Attorney
Raymond commented on the amount and type of bond, if material
to the application, should be reviewed and approved at a
noticed public hearing.

Attorney Raymond referred to the easement noting 'Who is the
grantee of the sight distance easement? Typically , the
easement would be granted to the Town. This road, however, will
be a private road, so the owners of the road will have the
maintenance obligation, if they behave like most private road

owners, however, they will not do this type of maintenance, so the town should probably be the easement holder, but the easement might also grant a right to the lot owners to enter and cut the vegetation to maintain sight lines. We will want evidence that the town is obtaining good title to the sight distance easement and the grading easement, which could take the form of a certification of title from the applicant's attorney. We do not want to find the easements to be subject to a prior mortgage."

Gerald Coogan noted that the applicant, in order to comply with the conditions set, needs to provide an easement with maintenance conditions acceptable to the Planning Board.

Lisa Wolford questioned if Mrs. Cady should be informed regarding Attorney Raymonds comments on the easement. She felt a maintenance agreement should be included in the easement and if the Town does provided maintenance, the owners will be assessed.

Kate Hartnett expressed concern regarding the legal bills involved with this project. Gerald Coogan will ask Attorney Raymond to keep track of any billing for Cady. Gerald Coogan will speak with Attorney Raymond before speaking with Mrs. Cady.

BROWNS MILL; BMI REALTY TRUST

Gerald Coogan provided comments from Attorney Raymond regarding the conservation easement for Browns Mill and also release of the bond.

Attorney Raymond commented "A question is whether the conservation restriction was intended to be in the form of an easement held by a third party, such as the Conservation commission or Bear Paw, or a restrictive covenant imposed by the developer on each lot, but with no transfer of a property interest. If the former, an easement, then the developer must convey the easement interest, as an interest in real estate, by deed, which is then recorded. The property interest cannot be conveyed simply by a plan notation. In other words, noting on a plan that the land will be subject to a conservation easement does not create the easement."

Attorney Raymond further commented "The Planning Board, however, would have difficulty verifying that the covenant wording is included in all of the deeds and making sure that later deeds in the chain of title pick up the restriction, and the town arguably would not obtain the same enforcement rights. Therefore we recommend that the Board require the developer to record a declaration of covenants before selling lots, subject to the Board's review and approval of the declaration. The

Board may want us to review the declaration, at the applicants expense. If the Board decides that the restriction should be a recorded easement, the Board should require the applicant to make arrangements with a conservation organization to accept and monitor the easement, such as the Conservation Commission or Bear Paw, who may require a stewardship contribution in return for accepting the responsibility of easement holder."

The Board discussed Attorney Raymonds comments. It was noted that Wayne Hussey, who was scheduled to meet with the Board this evening, was not present. A meeting with Mr. Hussey to further discuss the conservation easement has been scheduled for September 14, 2011.

Chair McGarry commented that he had spoken with Steve Chabot, KNA, and Mr. Chabot and Alex Cote will do a final walk through on the Browns Mill property. He will then advise the Board if any releases from the bond can be made.

Steve Chabot indicated that Severino, who did work on the road, has not been paid. Chair McGarry said that perhaps releases could be made in stages with the recommendation the Severino be paid with the first release. He added that we should wait for a report from Steve Chabot to take any action.

MEMORANDUM; GERALD COOGAN

1. Board of Selectmen Meeting: The Land Use Boards had an informational meeting with the BOS on July 18. Jack Munn from SNHPC met earlier and reviewed a proposed study of erosion and flood plain issues along the Lamprey River.

2. Telecommunications Plan: SNHPC and the Town are working to identify "dead spots" or gaps in cell wireless and broadband service in Town. Chief Greeley and Tibbetts will meet and provide information.

3. Site Plan Review Regulations: In progress

4. CTAP Transportation Plan: Steve Keach plans to meet with Alex Cote to finalize the Town Roadway Management Plan; then, they will meet with the DPB and BOS to review the information and seek input.

5. Capital Improvements Plan I had a brief discussion with Leslie Boswak regarding CIP and she advised that we take incremental steps in preparing the CIP.

6. Northern Pass No new information

Lisa Wolford felt that the Planning Board should provide input for the Northern Pass project. William Perron, selectman's representative, noted that the Board of Selectmen have

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appointed a committee to study the project and they have not completed their research at this time. It was suggested that Lisa Wolford contact the chair of the committee and perhaps the Planning Board could meet with them and the Board of Selectmen to discuss this further.

7. Deerfield Trail Plan: Anne Deely will meet with the Planning Board on August 24 to discuss the project.

Kate Hartnett advised that Anne Deely had met with the Conservation Commission. The Commission would like to establish a "Trails Club" and will be asking for a joint meeting with the Board of Selectmen and Planning Board.

8. Rollins Excavation: Gerald Coogan noted that he has not yet received a letter from DES. He suggested that the Board conduct a site visit sometime in September.

9. Workforce Housing: This will be put on the agenda for discussion for August 10, 2011.

9PM The meeting was adjourned.

Recorded and transcribed by Jane Boucher
Pending Approval by the Planning Board