

DEERFIELD PLANNING BOARD
DEERFIELD, NEW HAMPSHIRE
MARCH 9, 2016

MINUTES OF MEETING

PRESENT; Board members Fred McGarry, Kate Hartnett, Richard Pitman, William Perron, Peter Schibbelhute. Alternate member David Doran. Secretary Jane Boucher.

7PM Chair Fred McGarry called the meeting to order.

BROWNS MILL

Board members will conduct a site visit to Browns Mill on Sunday March 13, 2016 at 10AM. The Board will possibly visit Barbara Castor's lot on Mountain View Road.

APPROVAL OF MINUTES

William Perron moved and Peter Schibbelhute seconded to approve the minutes of February 24, 2016. The following revisions were made to the minutes;

Page 2 Paragraph 2: Correct to read "Mr. Burd noted that...."

Page 2: Paragraph 9 Correct to read "...along the northerly property line."

Page 2 Paragraph 11 Correct to read "...and record a document of recision."

Page 3 Paragraph 1: Correct to read "...site, and if possible locate house roofs and living space to passive solar south."

Page 3 Paragraph 2: correct to read: "...Revocation Procedure of Recorded Approvals."

Page 3 Paragraph 3: Correct to read "...some type of reclamation plan and revocation of previous approval."

Page 3 Last Paragraph Correct to read "...water supply for municipal uses."

Chair McGarry called for a vote on the motion. Voted in favor with Richard Pitman abstaining.

APPROVAL OF MANIFEST

William Perron moved and Peter Schibbelhute seconded to approve the manifest for a time sheet for Jane Boucher (18 Hours).
Voted in favor .

7:15PM APPLICATION FOR PUBLIC HEARING; LOT LINE ADJUSTMENT; 4 NH HOMES, MOUNT DELIGHT ROAD

Mike Gallo, 4NH Homes, a representative from Eric Mitchell & Associates and several abutters were present.

Chair McGarry read the Notice of Public Hearing by which 4NH Homes, 34 Rundlett Hill Road, Bedford, NH is making application for a Lot Line Adjustment for property located on Mount Delight Road (identified as Tax Map 413 Lot 62) consisting of 32 +-

acres and owned by the applicant. The intent of the application is to adjust the lot line between Tax Map 413 Lot 62 with Tax Map 402 Lot 152-3 in Allenstown, NH by adding 0.57 acres to Map 402 Lot 152-3 creating Parcel "A". Map 413 Lot 52 would then consist of 30.48 acres. No new lots will be created.

Chair McGarry read a memo from Gerald Coogan noting the purpose in to adjust the lot line creating a Parcel "A" and transfer that land from Lot 62 in Deerfield to Lot 152-3 in Allenstown. Then sub divided the newly adjusted lot 152-3 (10.00 acres) in Allenstown into two lots. A copy of Mr. Coogan's memo is attached to these minutes.

Chair McGarry then read a letter from Splendore Law, PLLC representing the heirs of Emma Hogan (Tax Map 413 Lot 62). A copy of the letter is attached to these minutes. Attorney Splendore notes "Legal title is vested in the heirs of Emma Hogan because Thomas Wasson did not record the 1954 deed until 1991, after Emma Hogan received and recorded her deed for the same property."

The letter also noted that resolution of this matter is in negotiation with the Hogan family and 4 NH Homes.

Mr. Gallo, 4 NH Homes, said that the boundary dispute is subject to agreement and 4 NH Homes will transfer 10 acres to the Hogans.

Board member discussed what procedure should take place in view of this information. It was agreed to accept the application and continue the public hearing, at which time the applicant will provide the recorded boundary agreement with the heirs of Emma Hogan.

Richard Pitman moved to accept the application . William Perron seconded. Voted in favor.

Richard Pitman moved to continue the public hearing to April 13, 2016 at 7:45PM and the Yield Plan to April 13 at 8:30PM. Voted in favor.

A copy of Attorney Splendore's letter will be sent to Attorney James Raymond for his review.

A copy of the minutes of this meeting will be sent to the Town of Allenstown Planning Board.

SPM APPLICATION FOR PUBLIC HEARING; JOSHUA AND JOAN FREED/FRANK AND JEANETTE FOISY; LOT LINE ADJUSTMENT SOUTH ROAD
Frank and Jeanette Foisy and Joshua Freed were present.

Chair McGarry read the Notice of Public Hearing by which Joshua and Joan Freed, 274 South Road, Deerfield, NH (identified as Tax Map 413 Lot 51) consisting of 3.20 acres and Frank and Jeanette Foisy, 270 South Road, Deerfield, NH (Map 413 Lot 50) consisting of 5.34 acres and owned by the applicants. The intent of the application is to adjust the lot line between Lot 50 and 51. Lot 50 would then consist of 3.20 acres and Lot 51 would consist of 5.35 acres.

Chair McGarry read a memo from Gerald Coogan commenting that:
1. When a previously approved five acre lot was reduced in size, the practice of the Planning Board had been to contact NH DES and request guidance as to what action, if any, at the state or local level is required. New lots created by subdivision that are greater than five acres do not require State (NH DES4.S) subdivision approval. Jones & Beach Engineerings contacted Eric Thomas of NH DES to request his advice on the matter.

2. Section 210.7 C of DZO states the following:
C Areas designated as having poorly drained soils may be used to fulfill up to 25% of the minimum lot size required by town ordinances and subdivision regulations, provided that the non-wetland area is sufficient in size and configuration to adequately accommodate all required utilities such as sewage disposal and water supply, including primary and auxiliary leach field locations.

This provision has the net effect of requiring at least 2.25 acres of the lot to consist of upland soils with the balance being poorly drained soils. For the Freed/Foisy LLA the applicant should provide information on the soil characteristics of the lot.

Richard Pitman moved to accept the application. Voted in favor.

Chair McGarry read a letter from abutters Gerald and TeriiLee Uber supporting the intent of the application.

Joshua Freed provided maps of soils noting they were upland and working septic systems were located on both lots. He said that the only wetland was located on the Freed lot.

William Perron moved to grant conditional approval to Joshua and Joan Freed and Frank and Jeanette Foisy for a lot line adjustment with the following conditions:

- . State Subdivision Approval or waiver indicated on plan
- . Change Iron Rods to Be Set to Iron Rods Set
- . Metric notations be noted as 0.

Conditional Approval to lapse in 60 days. (May 9, 2016). Voted in favor.

OTHER BUSINESS

PLANNING BOARD 3/9/16

Fred McGarry elected to serve as a member of the Board of Selectmen noted that according to RSA 673:9 II he cannot serve a chair of the Planning Board.

At their next meeting (March 23, 2016) the Board will elect a chair and appoint someone to fill the unexpired term of Mr. McGarry.

Kate Hartnett indicated that she would not serve as chair.

The meeting was adjourned at 8:30PM/

Recorded and transcribed by Jane Boucher
Pending approval of the Planning Board

MEMORANDUM

March 7, 2016

TO: Deerfield Planning Board
FR: Gerald Coogan, Planning Consultant
RE: Plan Review ---- 4 NH Homes Lot Line Adjustment (in Deerfield) and Subdivision (in Allenstown)

Applicant: 4 NH Homes (Mike Gallo), 34 Rundlett Hill Road, # 4, Bedford, NH 03110

Owner: 4 NH Homes (Mike Gallo), 34 Rundlett Hill Road, # 4, Bedford, NH 03110

Agent: Eric C. Mitchell & Associates, Eric Mitchell, LLS # 595

Wetland Scientist: NA

Land Area: Tax Map 413, Lot 62 has 41.25 acres + or -

Location: Mt. Delight Road – Tax Map 413, Lot 62 (AKA “old Wason property”).

The purpose of the Subdivision Plan and Lot Line Adjustment Plan (LLA) is to:

1. Adjust the lines between Deerfield Tax Map 413, Lot 62 and Allenstown Tax Map 402, Lot 152-3 by creating a Parcel “A” (0.57 acres) and transfer that land from Lot 62 in Deerfield to Lot 152-3 in Allenstown. *Action by the Deerfield Planning Board.*
2. Then subdivide the newly adjusted lot 152-3 (10.00 acres) in Allenstown into two lots. *Action by the Allenstown Planning Board.*

See RSA 674:53 – entitled “Land Affected by Municipal Boundaries”. The LLA plan will adjust the lot lines in the following manner. In accordance with RSA 674:53, the Town of Deerfield contacted the Town of Allenstown regarding the LLA application.

Lot	Existing	Proposed	Change area
Map 413, Lot 62 – <i>Deerfield</i>	41.25 acres +-	30.68 acres +-	10.57 acres +-
Map 402, Lot 152-3 - <i>Allenstown</i>	9.43 acres +-	10.00 acres +-	0.57 acre +-

Note: Tax Map 413, Lot 62 – *Deerfield* will lose 0.57 acre due to the adjustment and 10 acres due to a boundary change by mutual agreement between 4 NH Homes and Mr. M. Hogan (Tax Map 413, Lot 63.1). ECM can explain this in greater detail at the public hearing.

Waiver requests: None

At a later date, the agent will submit an Open Space Development (OSD) for Lot 62. At the meeting on March 9th, the ECM representative will review the Yield Plan for Lot 62. Normally, the Planning Board receives the OSD application and Yield Plan (to be reviewed by KNA) at the same time. However, ECM would like the opportunity on March 9th to review the Yield Plan with the Board.

Recommendation:

1. Move to accept the application as complete
2. Move to approve the Lot Line Adjustment Plan as shown on the plan.

Cc: Eric C. Mitchell, LLS, ECM & Associates

SPLENDORE LAW, PLLC
740 Chestnut Street, Manchester, NH 03104
Phone (603) 792-1907 - Fax (603) 792-1908
jsplendore@splendorelaw.com

March 7, 2016

REGULAR EMAIL AND
FEDEX

Deerfield Planning Board
8 Raymond Road
Deerfield, NH 03037

RE: Lotline Adjustment – 4NH Homes, LLC – Tax Map 413, Lot 62

Dear Sirs/Madams:

This firm represents Myles Hogan, who is the contact person for the heirs of Emma Hogan (hereinafter “Hogan family”), the owners of a tract of land located on Middle Road in Deerfield, New Hampshire. A surveyor they hired in 2008 conducted extensive research and prepared a survey (Plan No. 35667), which disclosed a discrepancy in the boundary of the property which they own in Deerfield.

My research disclosed a number of interesting finds, which lead me to conclude that legal title to the property which is the subject of this Public Hearing (Map 413, Lot 62) is actually vested in the heirs of Emma Hogan. The facts leading to this conclusion are as follows:

1. Harriet Chauncey owned 100 acres of land in Deerfield pursuant to a deed dated September 1, 1953 and recorded at Book 1294, Page 23 in the Rockingham County Registry of Deeds (this is the same description in the deed to Emma Hogan dated December 31, 1986 and recorded at Book 2655, Page 2271 in said Registry).
2. Harriet Chauncey deeded a portion of this land to Thomas Wasson in a deed dated April 20, 1954.
3. Thomas Wasson had a survey performed on his land in Allenstown (and Deerfield) dated January of 1991. That plan was recorded February 1, 1991 at 10:51 a.m. as Plan No. 20834.

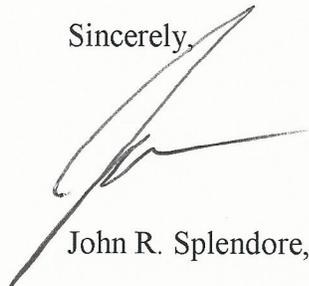
4. Unbeknownst to Emma Hogan, the deed from Harriet Chauncey to Thomas Wasson, dated April 20, 1954 wasn't recorded until February 1, 1991 at 10:50 a.m. in Book 2865, Page 1660 in said Registry.
5. Under the laws of New Hampshire, the recording of the 1954 deed was not timely, and therefore, is not effective to divest Emma Hogan and her heirs of the property described therein.

In New Hampshire, a grantee (buyer) is required to record their deed at the appropriate Registry of Deeds. Failure to record allows a subsequent buyer who records their deed first, without knowledge of the earlier deed, to have a superior claim to the property. After a review of the facts, I believe this to be the situation with the property in Deerfield known as Tax Map 413, Lot 62. Legal title is vested in the heirs of Emma Hogan because Thomas Wasson did not record the 1954 deed until 1991, after Emma Hogan received and recorded her deed for the same property.

The applicant, 4NH Homes, is aware of this issue related to Tax Map 413, Lot 62. In fact, the title discrepancy is noted on the vesting deed to 4NH Homes. Resolution of this matter is in negotiation with the Hogan family. They are in agreement to retain a ten-acre parcel of land, in exchange for releasing their right, title and interest in the remaining land. I believe the proposed land swap area is indicated on the plan before the Planning Board. The Hogan family currently objects to the lot line adjustment which is the subject of this hearing, until such time as the applicant and the Hogan family finalize the land swap (the Hogan family would release their interest in a portion of Tax Map 413, Lot 62 in exchange for 4NH Homes reciprocating and releasing a triangular 10-acre portion to the Hogan family).

Feel free to contact me with any questions or concerns. My clients look forward to resolving this matter so 4NH Homes may move forward with its plans to develop the land.

Sincerely,



John R. Splendore, Esq.

cc: Myles Fred Hogan, Mike Gallo, 4NH Homes
Enclosures