

Minutes

Strafford Planning Board Meeting

March 4, 2021

As Chair of the Planning Board of the Town of Strafford, Charles Moreno opened the meeting by stating that he finds that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically.

The Chair then summarized the following announcements: Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I (the Chair) am confirming that we (the Planning Board) are:

- a) providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means. We are using the Google Meet platform for this public meeting. All members of the Planning Board are able to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing +1 385-999-1983 and using the assigned meeting code or by clicking on the website address: meet.google.com/ghs-pddo-wmt.
- b) providing public notice of the necessary information for accessing this meeting. We previously gave notice to the public of the necessary information for accessing this meeting, including how to access the meeting via Google Meet or telephonically. Instructions were posted on the website of the Town of Strafford at www.trafford.nh.gov.
- c) providing a mechanism for the public to alert the public body during the meeting if there are problems with public access: If anybody has a problem they were directed to call or email eevans.trafford.nh@gmail.com.
- d) adjourning the meeting if the public is unable to access the meeting due to a widespread event: In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled.

The Chair opened the meeting at 7:30 PM by taking roll call attendance. Members present were Charles Moreno, Chairman, Phil Auger, ex-officio member Brian Monahan, and Donald Coker, Don Clifford, and Susan Arnold, Alternate members. The closing date for applications to appear on the agenda for the April 1, 2021 regular meeting will be 5 P.M. Tuesday, March 9th, 2021; revised materials for continuing applications must be submitted by Tuesday, March 23rd. Noting the absences of regular members, the Chairman then designated Don Clifford to vote in place of Terry Hyland for this evening and Donald Coker to vote in place of Steve Leighton. Board members turned to the minutes of the February meeting. Phil Auger then moved to approve the minutes as presented. Don Clifford seconded the motion. The Chairman called the vote: Phil Auger—aye, Brian Monahan—aye, Donald Coker—aye, Don Clifford—aye, Charles Moreno—aye. The minutes were approved by unanimous vote. It was agreed to postpone consideration of the minutes of the January hearing until after the formal business. Noting the audience, the Chairman quickly ran through the agenda for the evening, noting that there are four or five items on the agenda and one postponement.

The first item before the Board was a letter from Kenneth Pitman dated February 5, 2021. Mr Pitman is an abutter to the property of Mark and Judith Whitcher, Province Road (Tax Map 1, Lot 20). Mr. Moreno announced that he would be recusing himself for this item and asked Phil Auger to serve as Acting Chair; he then designated Susan Arnold to vote in place of Mr. Moreno. Mr. Pitman has submitted a letter requesting that the Board reconsider the final approval of the subdivision for Mark and Judith Whitcher heard and approved at the January 7, 2021 meeting. The Whitchers have completed two recent subdivisions; one at the November 2020 meeting and the most recent subdivision was approved at the January 7, 2021 meeting. Mr. Pitman has requested that the Board reopen the Whitcher subdivision application in order to discuss his concerns about the status of, and use of, Waldron Road.

Waldron Road is a Class VI road running from Province Road up to Evans Mountain Road; the Whitchers are proposing using Waldron Road as an access for the newest lot, with a driveway to be built off of Waldron Road. The Chairman asked Mr. Pitman to read his letter. Atty. Jim Schulte addressed the Board and said that he is representing the Whitcher family because Chris Berry, the surveyor and engineer, is not available. Mr. Schulte expressed his opinion that Mr. Pitman could only appeal the Planning Board's decision to the Superior Court.

Mr. Pitman summarized the concerns expressed in his letter, stating that originally Chris Berry had said that the Whitchers had no intention of using Waldron Road, so the Pitmans did not attend the January meeting, not understanding that the January meeting was a separate and different proposal from the subdivision plan reviewed at the November 2020 meeting. Mr. Pitman said that they want to get along with their neighbors but that they are concerned about what will happen in the future if the status of Waldron Road is not addressed now. He said that the newest subdivision creates a partial road in the section that applicants have said that they will use as a driveway access. That partial road could later be used to lead into a development, he noted. He said that he has had problems with situations like this with other property in the past, and he expects that problems could similarly arise here in the future. He said that in a few years, or with new owners, people are likely to feel like "that's our private road and nobody can come in", referring to the section of Waldron Road that would need to be improved in order to access the driveway to the new lot. Now that would be a major conflict, he said, noting he is also concerned about other abutters who own farther up the road. He said that he has no axe to grind about the proposed subdivision, but he wants the issues around the road clarified.

Phil Auger explained the two different subdivisions of the Whitcher property, noting that the newest lot was subdivided for their daughter Alison and has frontage on both Province Road and along Waldron Road. He said that it was Alison's choice to have the driveway come in off of Waldron Road, and he noted that the Board was split on this issue, as some Board members recognized that this potentially could be a problem in the future. He said that the Board will discuss the question and see if there is something that they can bring back to the Board; he then opened discussion to the Board. Donald Coker said that he feels that Ken Pitman's concerns are well-founded. He said that the only protection would be a very clear statement that Waldron Road shall remain open, and suggested that the Town attorney and Atty. Schulte work together to come up with wording for a note on the plan that guarantees that the road will be kept open as a Class VI road and a public right of way. Phil Auger noted that something might also be added to the deed for the new lot. He noted that Mr. Pitman's letter brought up the issue of a key, and he noted that gates are not supposed to be locked. Class VI roads can be gated but not locked to public access. Don Clifford suggested a statement that Waldron Road is a public way. He noted concern with future logging work, etc., noting that the Whitcher would be in their rights to upgrade their portion of the road, but that other users of the road should not be held responsible if their use of the road damages something that the new lots owners feel is part of their driveway. Phil Auger addressed Atty. Schulte and asked if he thought his clients would be willing to put a note on the plan, as that would be an easy way to solve this. Atty. Schulte said that he understands Mr. Pitman's concerns but that is not the case here. Phil Auger clarified that the issue is that a future owner will make improvements to the road and then begin to consider that they can block off public use. Mr. Auger noted that Class VI roads are widely seen as a public resource. Atty. Schulte said that if the plans identify Waldron Road as a Class VI road, that is all you really need. Donald Coker said that the concern is for 20, 30 or 40 years out. If there is a clear statement on the plan and future owners do their due diligence, they would be made aware that the road was a Class VI road as of 2021. Susan Arnold asked what was the objection to stating the meaning of Class VI status—that the road cannot be gated and locked.

Atty. Schulte responded to the suggestions, stating that he is concerned that if the plans were modified, it would begin another 30-day appeal period. He said that only Town Meeting can change the status of the road, so they can only acknowledge that anybody has a right to use the road for access. If the gate is currently locked, that is an enforcement issue he said. They have no problem with the public using the road, but they are concerned about altering an approved plan. Donald Coker said that the issue is to have a clear statement that the Waldron Road is Class VI, and said that this situation is different because the Class VI road is being used for access to a home. Atty. Schulte said that he feels that a note on the plan would not change anything and that this issue is for the Selectmen to enforce the rules. The Acting Chair said it seems as if the conversation has come to a loggerhead, and said that he thinks that the Board would like to see a statement on the plan. Susan Arnold asked if it would be possible to get a statement from the owner that would become part of the permanent file stating something along the lines of "we recognize that Waldron Road is a Class VI road which means that...". Phil Auger said that this would be an excellent idea. Alison Brisson said that she feels that the Board has no right to ask for this, saying that asking for this

produces a hardship. Donald Coker said that he was confused why a statement from the owner poses a hardship. Ms. Brisson said that she feels that the Board has no right to reopen the application, saying that she understands Ken Pitman's concern and the rules about Class VI roads. Atty. Schulte asked how a statement would help. Mr. Coker said that the Board is trying to alleviate the concerns of one citizen and of all citizens who might be in a similar situation; noting that not many people use Class VI roads as driveways, again saying that he was confused how putting together a quick letter would be a hardship. In the face of the impasse, Phil Auger closed the discussion. He stated that Mr. Pitman's concerns have been aired and he thanked Atty. Schulte and Alison Brisson for their input. Scott Whitehouse, the Fire Chief, then asked to speak, asking how far up Waldron Road the building site would be located. It was noted that the plans suggest about 150 feet. Chief Whitehouse advised that the property owners cannot block access on Class VI roads. He said that they can put up gates but must allow access for recreational use, emergencies, etc. He said that the section of the Waldron Road that they will be using for access will need to be brought up to NFPA 18 standards, which include a 20 foot wide surface and a 30 foot area of no obstructions for emergency vehicle access. Charles Moreno then commented, as a member of the public, that if somebody intends to make an improvement to a Class VI road, the proposal should go to the Selectmen first. He said that any paving should be done to town specifications and he said that maintaining any improvements is all on the person who invested in the improvements as the road is still open to use by everybody in the public. He said that paving for driveway standards should never be allowed. There were no further comments.

Chairman Moreno returned to the Board. The next item on the agenda was the application of KRJ FINANCE LLC for Design Review for a proposed 4-lot subdivision of land on the Northwood town line, accessed off Princess Pine Road in the Gaviat Greene development in Northwood. Mr. Moreno advised that the Board has received a communication from Chris Berry of Berry Surveying and Engineering, representing the applicant, requesting that the application be continued to the June 3, 2021 meeting. Michael Whitcher was present. He asked the Board to clarify that their application is being continued to the June meeting, so that new notices are not required in advance of the meeting. There was no further discussion; review of this application is continued to the June 3, 2021 regular meeting.

The next items of business before the Board were two requests for merger in accordance with NH RSA 674:39-a. The Chairman reminded Board members that the role of the Board is to review the applications to make sure that there is no conflict with zoning, but Strafford is all one zone. The statute provides that such mergers shall be approved if there are no concerns. He noted that mergers often simplify administrative/tax issues for both landowners and the town and are usually mutually desired. The first proposed merger request is from the BLUE HILLS FOUNDATION, a private conservation foundation, who is proposing to merge 86 separate but contiguous tax parcels into 8 larger parcels. There are no mortgages or liens on the Blue Hills Foundation land. Looking at the color-coded map of the proposed mergers and the accompanying spreadsheet detailing locations and deed references, Phil Auger noted that the Foundation is a great resource for the town, and it was agreed that the mergers will be very helpful for town bookkeeping as well as for the Foundation. There was no further discussion and Don Clifford moved to approve the mergers as proposed. Phil Auger seconded the motion. There was no further discussion and the vote went as follows: Phil Auger—aye, Brian Monahan—aye, Donald Coker—aye, Don Clifford—aye, Charles Moreno—aye.

The second merger request was from JOSHUA and JENNIFER RILEY, who recently purchased two lots (Tax Map 1, Lots 18-3 and 18-4) in the late 2020 subdivision of the land of David and Pamela Perkins on Province Road. The Rileys hope to merge the two parcels into one and build near the center of the new larger lot. Their mortgagee has provided a letter of support as required under the statute. There were no comments. Phil Auger moved to approve the merger. Donald Coker seconded the motion. There was no further discussion and the Chairman called the vote: Phil Auger—aye, Brian Monahan—aye, Donald Coker—aye, Don Clifford—aye, Charles Moreno—aye.

Next the Chairman called on David Lovely, who had requested time to meet informally with the Board at last month's meeting; Board members had agreed to look at the previous plans for development of his property in order to orient themselves. Mr. Lovely was not present.

The next item of business was to address recent correspondence. Steve Whitley, Town Counsel, was present to discuss a response with Board members. At 8:28, the Board entered non-public session with their attorney. At 8:58, Don Clifford moved to adjourn the non-public session. Phil Auger seconded the motion; there was no further discussion. The Chairman called the vote: Phil Auger—aye, Brian Monahan—aye, Donald Coker—aye, Don Clifford—aye, Charles Moreno—aye.

The Board then turned to the minutes of the January public hearing. It was agreed that not all Board members had read the draft minutes and it was agreed to postpone consideration. Mr. Moreno suggested that the Board begin meeting for work sessions again in April. There was no further business before the Board. Phil Auger then made a motion to adjourn the meeting. Don Clifford seconded the motion. The Chairman called the vote: Phil Auger—aye, Brian Monahan—aye, Donald Coker—aye, Don Clifford—aye, Charles Moreno—aye. The meeting adjourned at 9:14 PM.