

Minutes

Planning Board Meeting

January 3, 2013

Members of the Planning Board in attendance were Paul Eaton, Acting Chairman, Terry Hyland, Lynn Sweet, and Donald Coker, Alternate member. The Acting Chairman called the public meeting to order at 7:35 PM and announced the members present. The closing date for applications to appear on the agenda for the February 7, 2013 regular meeting is 5 p.m., Tuesday, January 22, 2013. The Acting Chairman reminded the audience that the Board has a policy setting time limits for meetings and that the Board will not consider any new business after 10:30 PM. Paul Eaton then asked Board members to turn to the minutes, noting that the November minutes had also not yet been approved. Mr. Eaton then requested that the word "separate" be added to the final paragraph to clarify his statement about 2 (separate) issues under consideration. Board members agreed; there was no further discussion and a motion was made and seconded to approve the November meeting minutes as corrected. The vote was unanimous in the affirmative. It was agreed to table discussion of the December minutes in order to give Board members additional time for review.

The first item of continuing business was the application of JANET CHASSE PREVATT AND TERRY PREVATT for 3-lot, revised to 2-lot, subdivision of their property located at 79 Ridge Farm Road (Tax Map 15, Lot 22). There was nobody present for this item. Chris Berry of Berry Surveying and Engineering has contacted the Board and requested a further continuation of this item, noting that they understand that they will need to re-notify abutters when they return before the Board.

The first item of new business was the application of HERMAN and JEANNE GROTH for Modification of an Approved Plan. Herman Groth was present; Randy Orvis presented the plans. Glen Tuttle and Jessie Kitz, abutters, were present accompanied by Ms. Kitz's husband and realtor, Maggie Emerson. JoAnn Brown and Steve Leighton were also present. The first question regarding the Groth plan was to consider how the Board should proceed with the application, which merely read that the applicant wished to have the Board review the original conditions of approval from the December 2011 Planning Board meeting. Board members had briefly looked at the plans at the close of the December 2012 meeting and found that a note requested by the Board was missing. When the plans were brought for signatures, a different note was put on the plan, which was contradictory in meaning to the requested note. Donald Coker noted his concern, and suggested that if the conditions of approval had not been met, the applicant might need to make a fresh start. After some brief discussion, Paul Eaton asked Mr. Orvis to explain what he was applying for, so that the Board could sort out the procedural question. Mr. Orvis agreed that the note that he had put on the plan was contradictory to the original request. He said that he had not recalled that the applicants were limited to only getting access for Lot 14 from Route 126, suggesting that he remembered at the 2011 meeting that James Graham discussed the Class VI road policy and the need to file an application with the Town for access to a lot located on a Class VI road. Paul Eaton noted that he was not yet back on the Board for the December 2011 meeting, and asked Mr. Orvis to recap the entire boundary adjustment project. Mr. Orvis and Mr. Groth explained the original boundary adjustment, which reconfigured four lots, two of which were small lots located between Route 126 and Old Parker Mountain Road, into four lots of roughly equal area. Mr. Groth advised the Board that he had asked for the rehearing because of the ambiguity of access for Lot 14, suggesting that there were multiple ways to access the lot, including Rt. 126, Old Parker Mountain Road, and Mousam Road. Mr. Groth also noted that there is precedent for landowners not necessary accessing their lots off their legal frontage. Mr. Groth said that the thought that everybody understood that the access would be from Mousam Road.

Lynn Sweet then filled in some of the background regarding the Board's earlier discussions on this application, noting that there had been some discussion of whether this was really a boundary adjustment or a subdivision, given the Board's policy against approving subdivisions on Class VI roads. It was noted that one of the original lots was already located and Mousam Road, but that the other lots originally had open town road frontage. Jim Graham had advised the applicant that accessing a lot on a Class VI road would involve upgrading the road and/or coming up with a homeowners' association for maintenance. She also noted that the other condition of approval had been the abandonment of the Class VI portion of Old Parker Mountain Road, which was approved by Town Meeting in March 2012. She noted that Don Rhodes had been particularly concerned that the plans were more subdivision than lot line adjustment because the lots had been totally reconfigured. Mr. Groth noted that there

are practical difficulties with access from Route 126 because of a gully and some wetlands areas. Board members reviewed the originally approved plans, noting that the approved plan did add one new lot with access only from Mousam Road, and that the Board had approved this change because the plans were technically a boundary adjustment and given the unique nature of Mousam Road. It was noted that lot owners would still need to comply with the Class VI road policy and file applications for access. Paul Eaton noted that the December 2011 conditions of approval stated that access for Lot 14 and that they are now asking to access the lot from Mousam Road, adding yet another lot to the Class VI road.

Donald Coker noted that he had not been present for the December 2011 meeting, but that this change appears to him to be a material change in the plans, which he feels would require a new application to modify the approved plan. Mr. Groth suggested that the conditions of approval had not been clear to him until he received a copy of the December 2011 minutes at the close of the last meeting. Lynn Sweet asked if there were any other ways to access Lot 14, such as coming in from Old Parker Mountain Road. It was agreed that this would be possible but would require an easement from the owners of the farmhouse lot. Herman Groth said that he would like an interpretation of access, noting that the state would approve a driveway for Lot 14 because the sight distance is good, but noting that they might require that the driveway open off the Mousam Road turnoff area on Route 126. It would be less of an impact to wetlands, etc. to use Mousam Road, he suggested. Paul Eaton replied that the biggest issue is the number of lots serviced by Mousam Road and the Class VI status of the road and the fact that there should not be additional homes on Mousam Road because it is not up to specifications and is not maintained. Steve Leighton asked if the Board is overcomplicating things, noting the frontage and access issues. Paul Eaton responded to Mr. Leighton's concerns about the Board's authority by asking about the fairly new Class VI road policy, and noting that the question here comes down to both procedure and precedent. A general discussion of the Class VI road policy followed. Lynn Sweet noted that the Selectmen make the final determination, but that the Planning Board is required to hold a hearing and would make recommendations. Ms. Sweet advised Mr. Groth to apply for access to the new lots on Mousam Road under the Class VI road policy. Ms. Sweet noted that Mr. Groth would still be able to apply, even with the originally required note on the plan about access for Lot 14. An applicant under the Class VI policy would still need to show hardship and the need for access from a Class VI road.

Donald Coker then returned to the question of procedure for review of this application, and noted that there is still a condition of approval for the original plan that has not been met. He noted that the request could either should be treated as a new application or the current review might be understood as a compliance hearing. He asked if it would be appropriate to consider legal review of the situation. In the discussion that followed, Lynn Sweet then suggested that Mr. Groth could go with the original conditions of approval, and allow for the plan to be signed and recorded and then come in next month, year or several years from now with an application for Class VI access for this lot or the other lots shown on this plan with frontage on Mousam Road. Mr. Groth then agreed with this approach. Randy Orvis noted that the plans had taken some time to pull together after the 2012 Town Meeting because they were marking the boundaries. He noted that he had completed the plans from his notes, and did not realize about the required note. Lynn Sweet agreed that the discussion at the December 2011 meeting had been long and drawn out, which is probably where the confusion came from.

Lynn Sweet then summarized the last proposal. Mr. Groth would accept the requirements as originally agreed in December 2011 and it is recommended that he could apply for a Class VI release in the future if still desired. He would need to prove hardship in any case when applying for a Class VI release, and Ms. Sweet noted that the plan note would not change that. Randy Orvis asked for the exact wording that he would need for the note. Referring to the December 2011 minutes, Ms. Sweet advised that the note should read: "access to Lot 14 would be off Route 126". Herman Groth noted again that various access options would be possible. Lynn Sweet advised that whoever pulls a building permit for Lot 14 would fill out a written request if they wished to access the lot from Mousam Road. They would need to explain the hardship and the Planning Board gets to review the request and make recommendations to the Selectmen. There was no further discussion. Mr. Orvis was advised to bring the final plans to the office for signatures.

Board members then turned to other continuing business. Donald Coker confirmed that he would be willing to serve as a representative to the Strafford Regional Planning Commission. Board members then unanimously agreed to recommend Mr. Coker for nomination to SRPC. It was agreed that the Board would begin working on a new Capital Improvements Program. A draft questionnaire will be forwarded to the Selectmen for distribution to various departments in coordination with budgeting. Finally, it was agreed to postpone discussion of

the steep slopes language for stormwater and erosion control to next month because we are missing Board members. It was agreed to review the language used by several nearby towns. There being no further business before the Board, a motion to adjourn was made and seconded. There was no further discussion and the vote was unanimous in the affirmative. The meeting adjourned at 10:30 PM.