

## Minutes

### Planning Board Meeting

September 5, 2019

Members of the Planning Board in attendance were Charles Moreno, Chairman, Phil Auger, Terry Hyland, Scott Young, ex-officio member, and Donald Coker and Don Clifford, Alternate members. The Chairman called the meeting to order at 7:35 PM and announced the members present. The Chairman noted that Steve Leighton is absent this evening, and he designated Donald Coker as a voting member for this meeting. The closing date for applications to appear on the agenda for the October 2019 regular meeting will be 5 P.M. Tuesday, September 10, 2019; revised materials for continuing applications must be submitted by Tuesday, September 24th. The Chairman advised 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 and that the meeting will adjourn by 11:00 PM. Board members agreed to save review of the minutes of the July until a time when more Board members are present.

The first item of continuing business was the application of CECIL C. ABELS II for Non-Residential Site Plan Review for a Concert and Outdoor Event Venue to be located at his property at 664 First Crown Point Road (Tax Map 19, Lot 73A). There was nobody present for this item. Board members agreed to come back to this item after the remainder of the formal business has been addressed.

The next item of continuing business was the application of the ROGER S. LEIGHTON and M. JUSTINE LEIGHTON REVOCABLE TRUSTS for boundary adjustment between their two properties (Tax Map 8, Lot 36, 30 Province Road and Tax Map 8, Lot 36A, off Province Road). Dan O'Lone of Berry Surveying and Engineering presented revised plans on behalf of the applicants. There were no abutters present. Mr. O'Lone advised that after the discussion at the last meeting and the site walk, the family had decided to revise the configuration. The proposed driveway to Lot 36A now runs outside the wetlands buffer, and there is no need for either a wetlands crossing or conditional use permit. Lot 36A will be increasing from 1.34 to 2.46 acres with 2.10 acres of uplands and 300.84 feet of frontage; the lot now meets zoning requirements, as does the adjacent Lot 36. Phil Auger noted the waiver requests, and that the complete topography for Lot 36 is shown on the subdivision plan, the next item on the agenda. Don Clifford thanked Mr. O'Lone for the redesign. Donald Coker said that he still thinks that Lot 36A is a very odd shape, and noted that he has concerns about dog-leg lots. Mr. O'Lone noted that there is good buildable area in the back portion of the lot. Mr. Coker agreed that his opposition has lessened dramatically and echoed Mr. Clifford's compliment on the redesign of the lot. The Chairman noted that the checklist is mostly complete; Dan O'Lone noted that they have filled in the missing dimension along the front boundary. It was noted that the plan was accepted as complete at the last meeting. Mr. O'Lone then explained the waiver requests: they are requesting waivers to full topography, wetlands delineations, and natural features on both lots, as the data is shown on the subdivision plan and the boundary adjustment plan focuses on the new lot and the boundary between the properties. Board members agreed that this is one big waiver request. Noting that all the information is available on the subdivision plan, the Chairman advised that he would entertain a motion to approve the waiver request. Phil Auger so moved, and Donald Coker seconded the motion. There was no further discussion and the vote was unanimous in the affirmative. The Chairman then opened the public hearing on the application. There were no comments. The Chairman closed the public hearing. The Chairman then asked for a motion. Donald Coker moved to approve the plans for boundary adjustment. Phil Auger seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative. The applicants were advised to bring final plans to the office for signatures and recording.

The second item of new business was the application of the ROGER S. LEIGHTON and M. JUSTINE LEIGHTON REVOCABLE TRUSTS for four-lot subdivision of their property located at 30 Province Road and Range Road (Tax Map 8, Lot 36). Dan O'Lone of Berry Surveying and Engineering presented revised plans; there were no abutters present. They are now proposing to divide the 10.36 acre lot (the strip to be added to Lot 36A is already removed from this acreage calculation) into three lots all with frontage on the Province Road and Range Road; all three would be accessed off the Province Road. Lot 36, with the existing home, will be 3.67 acres, with 2.63 upland acres; Lot 36-1 will be 2.66 acres with 2 acres of uplands, 1.76 acres of contiguous uplands; and Lot 36-2 will be 4.03 acres with 3.39 acres of uplands. The plan was accepted as complete in August, and the public hearing will be held tonight; with only three lots it was noted that the application no longer qualifies as a major subdivision. Donald Coker and Don Clifford both agreed that since there have been substantial plan revisions, it would be appropriate to run through a new checklist. There were no items missing and/or in need of clarification. The Chairman asked for a

motion to accept the revised plans as complete for consideration; Scott Young so moved and Donald Coker seconded the motion. There was no further discussion and the vote was unanimous in the affirmative. Dan O'Lone then made a formal presentation of the revisions to the plan, advising that they have eliminated the lot off of Range Road, noting that the driveway would be tight and steep. The other lots are therefore larger and they do not need a conditional use permit. A frontage chart has been added for clarification. Mr. O'Lone noted that state subdivision approval will be needed for the lots; 4K areas have been identified. Donald Coker asked about the logging on proposed Lot 36-2 and the access road. Dan O'Lone noted that he does not have experience with logging approvals, and Phil Auger noted the rules for minimum impacts to wetlands but noted it does not affect the subdivision application. Don Clifford noted that Lot 36-2 has frontage on Range Road that satisfies the frontage requirement. There being no further comments, the Chairman then opened the public hearing. There were no comments. The Chairman then closed the public hearing. Don Clifford noted that the plan was well done and Charlie Moreno noted that it sounds as if some things are cleaned up in the revised plan. Mr. Moreno asked if the driveway locations have been approved, and Mr. O'Lone indicated that he has been in touch with the Road Agent. There were no further comments. Donald Coker then made a motion to approve the plan for 3-lot subdivision as presented for this meeting, conditional upon the receipt of state subdivision approval. Scott Young seconded the motion. There was no further discussion and the vote was unanimous in the affirmative. The applicants were directed to bring the final plans to the office for signatures and recording.

The first item of new business was the application of JOANN BROWN, SUZANNE BROWN, and CARL J. BROWN for 2-lot subdivision of their property located at 498 Province Road (Tax Map 7, Lot 34). JoAnn Brown, Suzanne Brown LaPanne and Lionel LaPanne were present; there were several abutters present. David Vincent presented the application. The Browns hope to divide one 5.32 acre lot off their 74± acre property for the construction of a new home for a family member. The new lot will have about 280 feet of frontage, and the remaining 69± acre parcel with the existing home will have more than 500 feet of frontage on Province Road. Wetlands were delineated by Jack Hayes; the new lot is over 5 acres so state subdivision is not required. They have completed test pits; the data is shown on Sheet 2 of the plan set along with the well radius. The new driveway will be off Province Road; the Road Agent has agreed on the location and requested that several trees be cut for sight distance. They have completed topography and wetlands delineations on the new lot and the area down to the wetlands by the Isinglass River on the remainder lot (approximately 2 acres). They are asking for waivers to showing topography, complete boundary survey, and wetlands delineations on the large parcel. Given the large area of the remainder parcel, they are also asking for waivers to the requirement that the plans show all structures within 100 and driveways within 200 feet of the remainder parcel; they have included all structures and driveways in the area of the new lot.

Board members then reviewed the plans with the checklist. Phil Auger asked that all the abutters be listed/consolidated in one neat box. The following items were missing and/or need clarifications: plan set note and soils. It was noted that there are no culverts and bridges in the immediate detail area, as well as the items on the waiver request letter. Reviewing the plans, Charlie Moreno noted that by subdividing, the Browns may lose access to the woods road that leads to the back land because it crosses the back of the new lot to avoid the wetlands area down by the river. He suggested that the family create an easement to insure future access to the back land across the new lot. The Browns suggested that they would continue to have access from Carl Brown's separate lot, and noted that for now both lots are intended to remain in the family. David Vincent asked if a 15 foot easement would make sense, and there was some discussion of the snowmobile trail crossing the property. It was agreed that as long as the family owns both lots, this is something that could be incorporated into deeds at a later date. Mr. Moreno noted that the proposal seems straightforward, with the consideration that the applicants are requesting a waiver. The Chairman asked for a motion on the plan. Scott Young made a motion to accept the plans as complete for consideration. Phil Auger seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative.

The Board then turned to the waiver requests. There was some discussion of the back land and it was noted that under the Subdivision Regulations Paragraph 2.7.1E, the Board may make allowances for large tracts of remaining land. The Chairman began with the waiver requests, starting with the requested waiver to the requirement that the plans show complete tract boundaries, and natural features including water, soils, shoreland information, and physical features on the back approximately 60 acres of the remaining land. It was noted that the entire property is about 74 acres, so will be about 69 acres after subdivision. They are showing details on about 10 acres at the front of the parcel, so there are about 60 acres that are not detailed on the plan. Phil Auger then made a motion to grant the waiver to the requirements for complete parcel boundaries and natural and physical features on the remaining 60 acres outside the detail area. Scott Young seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative. The Board then turned to the rest of the waiver requests regarding buildings within 100 feet and driveways within 200 feet. It was suggested that only the buildings on the lots on the corner and culverts were

missing. Donald Coker asked why the buildings on the abutting lots along Roller Coaster Road would matter, as the new lot is located to the east along Province Road. Phil Auger noted that this is why the waiver is being requested. Don Clifford said that the only question is the nearby culverts, and said that the issue is that the Board should be consistent. Charlie Moreno said that it is important to be consistent about the immediate subject area. David Vincent noted that additional surveying would be required in order to locate all the houses and driveways along Roller Coaster Road. Phil Auger said that he feels that it would be important to at least include the culvert below (east of) the Brown's property on Province Road because it contributes to the wetlands issues with the new lot. There followed a general discussion of the Roller Coaster Road lots, with Board members agreeing that the Roller Coaster Road area is less important because the key information concerns the new lot. After discussion, it was agreed that the waiver request should be modified to 69 acres rather than 74 acres to reflect the subdivision. Phil Auger then made a motion to approve the waiver request to the requirement for showing the buildings and driveways for the 3 abutting house lots with frontage on Roller Coaster Road because they are located outside the relevant area for the subdivision. After discussion, Mr. Auger restated the motion to include a request that the waiver letter be amended to reflect the 69 acres. Scott Young seconded the motion. Donald Coker noted his objection to the waiver on procedural grounds, saying it would be better to have a new waiver request. There was no further discussion and the vote was majority in the affirmative with one nay vote. Board members then returned to the question of the culverts. Phil Auger noted concern with the culvert below the Brown's land on Province Road, but it was noted that showing culverts off-site does not seem to be required by the regulations. Mr. Moreno said that he feels that the culvert impacts the project, and David Vincent said that it would be easy enough to locate the culvert. The Chairman then opened the public hearing. There were no comments. David Vincent went over the list of missing items or items that need clarification: consolidate the abutters list, plan set note, soils, update the waiver request, and show the culvert below/east of the Brown property on the Province Road. Mr. Vincent agreed that he would show everything within 100 feet in the easterly direction, including woods roads, etc. Suzanne Brown noted that she had spoken with the Road Agent about the driveway location, including what trees to take down. David Vincent noted that Steve Leighton dug the test pits and that they are okay. The Chairman then closed the public hearing and asked if there was a motion from the Board. Scott Young made a motion to approve the plans for 2-lot subdivision with the condition that the above items be added to the plan. Phil Auger seconded the motion, there was no additional discussion, and the vote was unanimous in the affirmative. The applicants were directed to bring the final plans and copies to the office for signatures and recording.

Board members then returned to the application of Cecil Abels for Non-Residential Site Plan Review (Tax Map 19, Lot 73A), which has been running on the Planning Board agenda with no new activity for several months. There has been no resolution of the access issue, the Site Plan has not been approved, and Mr. Abels will also need to seek a Special Exception to allow the commercial use of the property. The Board last heard from the applicant in a brief letter received for the May 2019 meeting, stating that the applicant would attend the June 2019 meeting. The applicant did not attend the June meeting, and there has been no contact since that time. Scott Young noted that there has been no real progress for a year or more. Board members quickly browsed the internet and found multiple items under Mr. Abel's listings for Rock Maple Woods. Terry Hyland noted that there was a Facebook posting for an event the coming weekend called "Takedown Ten", with a note that tickets are \$20. Board members suggested that the Selectmen have the Code Enforcement Officer look into stopping the event as there are no approvals. Scott Young suggested that he would ask the Board of Selectmen to contact the town attorney to see if they can file a cease and desist. Phil Auger noted that there are two issues: the planned concert event, and the fact that the application is still running on the Planning Board agenda despite the fact that the Board has not heard from the applicant. It was noted that the statutes require action within a certain period of time unless the application has been continued forward, and Mr. Abel's most recent letter suggested that he would attend the June meeting; there has been no formal contact since. Board members agreed that if Mr. Abels wants to come back before the Board, he should submit a new application with a clear, engineered plan. Phil Auger then made a motion that if the application has been accepted as complete, to disapprove the application for Site Plan review submitted on August 15, 2017 as incomplete, based on insufficient information in response to Board concerns, setback issues, property line issues, concerns about camping and associated permits, and concern about public safety due to the lack of sufficient access because the existing drive is only one lane and a minimum of two lane access/egress is needed. Scott Young seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative. Donald Coker then made a motion to remove the application from the Board's agenda if it has not yet been accepted as complete, due to inaction and the lack of contact from the applicant. Phil Auger and Scott Young both seconded the motion, the Chairman called the vote, and the vote was unanimous in the affirmative. Records show that an early version of the application was accepted as complete, conditional upon the completion of a number of items, at the November 2017 meeting; Mr. Abels will be notified of the Board's decision on the plan.

The next item of informal business before the Board was the road improvement plan for Evans Mountain Road submitted to fulfill one of the conditions of approval for the application of Eric Rowe for Non-Residential Site Plan review for his proposed wedding venue and function hall to be located on Evans Mountain Road (Tax Map 5, Lot 26). The applicant has submitted a road improvement and maintenance plan for the Class VI section of Evans Mountain Road that accesses Mr. Rowe's property. It was noted that Ken Berry, an abutter on the easterly end of the Class VI road section, would like the historic stone culvert under the road by his property to be saved; the road improvement plan states that the culvert needs to be replaced with a larger culvert to accommodate widening the road. Phil Auger noted that there are ways to extend stone culverts with steel, and suggested that the Road Agent should be made aware of Mr. Berry's concerns. It was noted the work in the area of the culvert will require an application to DES, but it was agreed that it might be too late at that point to change the proposed construction plan. It was agreed that the Planning Board can connect the Road Agent to let him know that the Board would appreciate it if he would look into ways to save the existing stone culvert based on abutter concern.

Board members then turned to a complaint from a local resident who advised the town that owners of lot (Map 1, Lot 14-8) across the road from her had removed the stone wall boundary along the front of their lot. The stone wall was surveyed as the front boundary of the lot on the recent subdivision plan and it marks the edge of the town road right of way. It was suggested that the road agent should be contacted. Dave Copeland, Code Enforcement Officer, was present and took copies of the information, as did Scott Young. It was agreed that the new owners of the home should be contacted to let them know about the problem and it was unanimously agreed that the wall will need to be surveyed and replaced.

Board members then turned to the minutes of the July and August meetings. Donald Coker moved that the August minutes be accepted as presented. Phil Auger seconded the motion, there was no further discussion, and the vote was unanimous of the three members who attended the August meeting. Discussion then turned to the application of Richard Omand for Site Plan review for his mixed use structure; the plan received conditional approval in May 2019, and Board members had noted that since Mr. Omand does not live on the property, the application needs to go through the Board of Adjustment as an expansion of commercial use. Board members turned to Mr. Copeland, who indicated that Mr. Omand has still not submitted the septic system plans for formal review, so the project has not progressed. Board members reminded Mr. Copeland that the project should go to ZBA for final approval. The Board then returned to the minutes of the July meeting. Donald Coker moved that the July minutes be accepted as presented; Charlie Moreno and Phil Auger both seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative. Donald Coker then moved to adjourn the meeting. Scott Young seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative. The meeting adjourned at 10:10 PM.