

# Planning Board Meeting Minutes

**Location:** Strafford Town Hall Conference Room

**Date & Time:** July 6, 2023 6:30PM

**Voting Members Present:**

Phi Auger – Chairman  
Tim Reed – Vice Chairman  
Charlie Moreno  
Terry Hyland  
Lynn Sweet – Selectman Representative

**Non-Voting Members Present:**

Don Clifford – Alternate  
Donald Coker – Alternate  
Susan Arnold – Alternate

**Others Present:**

Blair Haney, Strafford Regional Planning Commission, Regional Planner  
Keri Roman, Planning Board Legal Counsel  
Scott Whitehouse, Strafford Fire Chief  
Robert Fletcher, Minutes Recorder

The Chairman, Phil Auger, called the meeting to order at 6:30PM, recognized Board members Terry Hyland, Tim Reed, Lynn Sweet, Susan Arnold, and Donald Coker as present. He also recognized as present Blair Haney, Keri Roman, and Robert Fletcher.

**Continuing Business**

**Major Subdivision (cumulative impact) – David P. and Susan E. Barry, 2-lot subdivision, 8 Isaac Berry Road and Second Crown Point Road (Tax Map 18, Lot 28-6)**

Terry Hyland recused himself as a voting Board member, and the Chairman appointed Susan Arnold as a voting Board member. Additionally, Charlie Moreno was not present when the meeting started; therefore, he appointed Donald Coker as a voting Board member.

The Chairman indicated that the application is considered a major subdivision due to cumulative impact. The application had been previously accepted by the Board, and the applicant had been granted a Variance by the Zoning Board of Adjustment for less than required frontage on Second Crown Point Road. The Chairman asked Attorney Kirsten Allen, representing the applicant, to address the application.

Attorney Allen summarized the Planning Board concerns regarding the application as expressed at the May 4, 2023, Planning Board Meeting and subsequent modifications as follows:

- *Creating a “dog leg” lot to satisfy lot frontage requirement on a Class V road.* Attorney Allen stated that the proposed 2-lot subdivision is not an attempt to create the maximum number of buildable lots in a large development, but a subdivision of family-owned land to provide additional buildable lots for immediate family members. Additionally, the subdivision’s proposed lot lines follow existing historical stone walls.

- *Lot 28-6 dog leg does not meet the 75-foot minimum lot width.* Attorney Allen indicated that the bulk of the dog leg is at least 76 feet, while a small portion of the dog leg along Second Crown Point Road does not meet the 75-foot minimum. A request for a waiver to meet the 75-foot lot width has been submitted.
- *Driveway access from a Class VI road, which requires Board of Selectman approval.* Attorney Allen stated that she had spoken with the Board of Selectmen regarding this issue, which could be addressed following application approval. Lynn Sweet stated that neither the applicant nor attorney Allen had spoken with or appeared before the Board of Selectmen. Attorney Allen indicated that her statement was inaccurate and that she had spoken to the Board of Selectmen administrator.

Attorney Allen stated that the Town Road Agent has provided guidance for the applicant to improve to town standards the portion of Isaac Berry Road from Second Crown Point Road to the first driveway on Isaac Berry Road. The applicant is prepared to make these improvements and the maintenance agreement will be completed once the application is approved.

The Chairman expressed concern regarding the applicant's need to obtain Board of Selectmen approval for driveway access from a Class VI road prior to plan approval, which was clearly stated at the May 4, 2023 meeting. Attorney Allen indicated that they had referred to the May 4, 2023 meeting minutes to determine required actions to be taken. It was confirmed that the minutes did not specifically indicate Board of Selectmen approval as a condition of plan approval. The Chairman indicated that the Board did not have authority over the use of Class VI roads and would not normally approve any plan without first obtaining Board of Selectmen approval. Attorney Allen indicated any approval delay would create a hardship for the Berry's. The Chairman stated that hardship was not a factor when considering plan approval. Lynn Sweet suggested that it might be possible to approve the plan contingent upon the applicant obtaining Board of Selectmen approval for driveway access from a Class VI road at their July 11, 2023 meeting.

The Chairman recognized Charlie Moreno, who arrived during the presentation, as a voting Board member, and reinstated Donald Coker as an alternate Board member. The Board resumed discussion of the proposal with respect to the irregular shaped "dog leg" lot. Tim Reed offered his opinion that there is enough area to subdivide into two lots, the dog leg is not being used to create a multiple-lot development, and this is a special circumstance that would not set a precedence for subsequent dog leg considerations. Charlie Moreno, having expressed concern at the May 4, 2023 meeting about setting a precedent, indicated that this subdivision was not an attempt to squeeze one more lot out of a multi-lot subdivision, and he agreed with Tim Reed. Susan Arnold asked if there was a way to document the special conditions that are considered for an approval. Donald Coker offered his opinion that every application is unique and considered under different circumstances. Blair Haney indicated that the Board could agree to and document findings, separate from approval, that affected the decision.

The chairman asked for a motion regarding regional impact. Charlie Moreno made a motion that the proposed subdivision does not have a regional impact, which was seconded by Lynn Sweet and voted upon verbally in the affirmative by all voting Board members. The motion passed.

The Chairman asked for a motion regarding the waiver request. Lynn Sweet made a motion to approve a waiver to Subdivision Regulation 2.6.2 Lot Configuration - Lots shall be conventional in layout. Contrived or non-conventional layout (dog legs, connecting strips, etc.) shall not be acceptable. No part of the lot shall be less than 75 feet in width, and in consideration of 2.8.1.D.B - Specific circumstances relative to the subdivision, or conditions of the land in subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations. Susan Arnold seconded the motion, which was voted upon verbally in the affirmative by all voting Board members. The motion passed.

The Chairman opened the meeting for public comment at 7:03PM. Terry Hyland commented on the applicant's intent to use historical stone walls as lot boundaries and leave them intact, which is a goal of the Town's Master Plan. There being no further comments, the Chairman closed the meeting to public comment at 7:04PM.

The Chairman asked for a motion regarding the proposed subdivision. Charlie Moreno made a motion, with the assistance of Attorney Roman, to approve the 2-lot subdivision as presented with the approved waiver and the following conditions:

- No further instructions to the Board of Selectmen regarding upgrade of Isaac Berry Road other than the Town Road Agent letter to the Planning Board as Exhibit A of Shaheen & Gordon letter, dated June 26, 2023.
- The Class VI road waiver is approved by the Board of Selectmen, and improvements to the Class VI road are made before issuance of building permits.
- The current configuration of the dog leg lot shall not be further subdivided.

The motion was seconded by Lynn Sweet and voted upon verbally in the affirmative by all voting Board members. The motion passed.

The Board stated the Findings of Fact that were considered in the subdivision approval as follows:

- Use of existing historical stonewalls for lot boundaries.
- Protection of wetlands.
- Working within the frontage Variance granted by the Zoning Board of Adjustment.
- More than 60% of the minimum buildable portion of the land is contiguous.

Susan Arnold made a motion to accept these findings as part of this approval process, which was seconded by Lynn Sweet and voted upon verbally in the affirmative by all voting Board members. The motion passed.

The Chairman recognized Terry Hyland as a voting Board member and reinstated Susan Arnold as an alternate Board member.

**Major Subdivision (cumulative impact) and Lot Line Adjustment – Bertha L. Huckins Revocable Trust, 2-lot subdivision, 22 Hillside Drive (Tax Map 11, Lot 4) & lot line adjustment with Tax Map 11, Lot 4-3 (Donna Huckins) and Lot 4-2 (Sharon L. Huckins)**

The applicant requested a continuance. Lynn Sweet made a motion for continuance to the Planning Board 6:30PM meeting on August 3, 2023 at the Strafford Town Office, which was seconded by Tim Reed and voted upon verbally in the affirmative by all voting Board members. The motion passed.

**Site Plan Review - Navigator Properties LLC (Mariner Tower), Telecommunications Facility: Proposed 160-foot lattice telecommunications tower on the property of Gail J. & Michael A. Barry Jr., 15 Strafford Road (Tax Map 11, Lot 83)**

Charlie Moreno recused himself, and the Chairman appointed Susan Arnold as a voting Board member. The Chairman recognized David Maxson, Isotrope LLC, the Town's wireless consultant, and asked Attorney Roman to address the application. She stated that the applicant submitted an objection to the use of Mr. Maxson as a third-party engineer-RF expert, which is allowed under RSA 676: 4-B. The applicant does not agree that Mr. Maxson holds the necessary expertise, questions his objectivity regarding cell towers, and suggests the use of Ivan Pagacik of IDK Communications. Attorney Roman stated that the Board must conduct a brief discussion and vote on whether to continue with Mr. Maxson as the Town's consultant in the proceedings.

Donald Coker asked if there was any evidence or information to support the applicant's statement regarding Mr. Maxson's qualifications. John Springer, attorney for the applicant, cited a case in the 1<sup>st</sup> Circuit Court of Appeals where Mr. Maxson was determined to be a broadcast engineer and rejected as a radio frequency engineer. When asked by Mr. Coker, Attorney Roman confirmed that she had worked with Mr. Maxson on other cell tower projects, and in response as to whether Mr. Maxson was qualified, Attorney Roman stated that she could not provide an answer in the public session. Lynn Sweet made a motion to enter a non-public session at 7:21PM, which was seconded by Tim Reed, and voted upon verbally in the affirmative by all voting Board members. The motion passed, and all public attendees left the meeting.

At 7:33PM, the Chairman asked for a motion to close the non-public session, which was so moved by Lynn Sweet, seconded by Susan Arnold, and voted upon verbally in the affirmative by all voting Board members. The motion passed. Lynn Sweet made a motion to seal the non-public minutes because disclosure could render the proposed action ineffective until the application is complete. Susan Arnold seconded the motion, which was voted upon verbally in the affirmative by all voting Board members. The motion passed.

Public attendees were asked to rejoin the public meeting at 7:38PM. The Chairman called the meeting to order and addressed the need for the applicant to establish an escrow account with the Town. The Board resumed discussion regarding the applicant's objection to the Town's use of Mr. Maxson as a consultant. Attorney Roman asked the applicant if they would agree to an extension of the "shot clock" if the Board entertained their objection and a continuance was warranted. Attorney Springer had no objection to a continuance with a slight extension, and indicated he wanted to address RF plots with their recommended RF engineer present. Tim Reed asked if the applicant was only objecting to using Mr. Maxson as an RF engineering consultant. Attorney Springer indicated that they did not want Mr. Maxson serving as an expert in any capacity on this application. The Chairman stated that removing Mr. Maxson as a consultant, due to the applicant's objection, would require time for the Board to arrange for a replacement. The Board and the applicant agreed to an initial period of 30 days, and possibly the need for an additional 30 days, to coordinate the scheduling of another consultant to be present before the Board. Both parties recognized the need for receipt of an engineering report that was overdue. The Chairman indicated that without a Town consultant present, the application could not be addressed at this meeting. He called for a motion to remove Mr. Maxson as Town consultant for this application, which was so moved by Lynn Sweet, seconded by Susan Arnold, and

voted upon verbally in the affirmative by all voting Board members. The motion passed. The Chairman also called for a motion for continuance of the “cell tower-east” application to the August 3, 2023 Planning Board meeting at 6:30PM, which was so moved by Lynn Sweet, seconded by Tim Reed, and voted upon verbally in the affirmative by all voting Board members. The motion passed.

The Board expressed the need to provide the public with information that was expected to be presented at this meeting. Both the Board and the applicant agreed to make this information available to the public on the town website or at the Town office.

**Site Plan Review - Navigator Properties LLC (Mariner Tower), Telecommunications Facility: Proposed 160-foot lattice telecommunications tower on the property of Jessica M. McMahon, 581 Barn Door Gap Road (Tax Map 14, Lot 13)**

The Chairman called for a motion for continuance of the “cell tower-north” application to the August 3, 2023 Planning Board meeting at 6:30PM, which was so moved by Lynn Sweet, seconded by Susan Arnold, and voted upon verbally in the affirmative by all voting Board members. The motion passed.

A member of the public asked if public comments regarding the application were allowed. The Chairman indicated that the meeting was closed for this application and the Board was not in favor of reopening the meeting for comments because the applicant and a Town consultant were not present. The Chairman encouraged the attendee to submit any comments in writing to the Board, if they were not able to attend subsequent Planning Board meetings, and assured attendees that all written comments are fully reviewed and considered by the Board.

The Chairman recognized Charlie Moreno as a voting Board member and reinstated Susan Arnold as an alternate Board member.

**New Business**

**Minor Subdivision (3 lots or fewer) - Michael R. Thivierge & Dawn S. Thivierge Revocable Trusts, 2-lot subdivision, 681 First Crown Point Road (Tax Map 19, Lot 72)**

The Chairman asked the Board to review a letter to the Planning Board from abutters, Kim and Todd Scruton, 673 First Crown Point Road, which addressed right-of-way issues regarding use of the current driveway to access the proposed 2-lot subdivision. The Scruton’s indicated the following concerns:

- Original easement was not intended to serve more than Lots 72 and 72-1.
- Owner of Lot 72 has not contributed to the construction or on-going maintenance of the driveway as required in both deeds.

The applicant indicated they had just received the letter and had not drafted a response. The Chairman indicated a reluctance to address the application without a resolution of the right-of-way issue. Lynn Sweet made a motion for continuance of the application as new business to the August 3, 2023 Planning Board meeting at 6:30PM, which was seconded by Terry Hyland and voted upon verbally in the affirmative by all voting Board members. The motion passed.

**Major Subdivision & Lot Line Adjustment - David L. & Pamela R. Perkins, 3-lot subdivision, and lot line adjustment, 1716 Province Road (subdivision of Tax Map 1, Lot 18 and lot line adjustment with Tax Map 1, Lot 19)**

The Chairman asked Raymond Bisson of Stonewall Surveying to present the application. Mr. Bisson indicated that the Perkins are proposing a lot line adjustment to Lot 19 and a 3-lot subdivision of the 112-acre Lot 18. The Lot 19 lot line adjustment will eliminate several angular lot lines and increase the Lot 19 area by approximately 27,440 square feet. All lots of the proposed subdivision (Parcel 1-2.78 acres, Parcel 2-3.62 acres, and Parcel 3-3.33 acres) meet minimum frontage requirements on Province Road. A waiver to Subdivision Regulation Section 2.7.1.E for surveying boundaries, wetland delineation, and physical features of the entire 112-acres of Lot 18 has been submitted.

Charlie Moreno questioned the Lot Calculations on the plans. It was determined that the calculations needed to be checked for accuracy and labeled differently. Flood zone locations do not impact the 3-lot subdivision. The Board determined that the application met the requirements of the application checklist. The Chairman asked for a motion to accept the application, which was so moved by Charlie Moreno, seconded by Lynn Sweet, and voted upon verbally in the affirmative by all voting Board members. The motion passed.

The Chairman requested a motion regarding regional impact. Lynn Sweet made a motion that the application did not have a regional impact, which was seconded by Terry Hyland and voted upon verbally in the affirmative by all voting Board members. The motion passed.

The Chairman opened the meeting for public comments at 8:33PM and, there being none, closed the meeting to public comments at 8:33PM.

Lynn Sweet made a motion for continuance of the application to the August 3, 2023 Planning Board meeting at 6:30PM, which was seconded by Charlie Moreno and voted upon verbally in the affirmative by all voting Board members. The motion passed.

### **Other Business**

#### **Preliminary Conceptual Consultation – Chantasiri, subdivision, First Crown Point Rd (Tax Map 18, Lot 29-1)**

Joe Berry of Berry Surveying & Engineering indicated that the Chantasiri family would like to subdivide their property on First Crown Point Road into three lots with access from an existing driveway. Lot lines would have multiple angles to provide five-acre lot minimums and allow an existing barn to remain on the lot with an existing house. Amanda Chantasiri addressed the current well and septic locations and the plan to locate a duplex home on one of the new lots.

The Board suggested the following:

- Modify angular lot lines to establish more conforming lots, which would result in the barn being located on the new lot to the northwest instead of the lot with the existing residence. Reconsider a conservation subdivision to reduce the five-acre lot minimum.

Scott Whitehouse, Strafford Fire Chief, had questions about the driveway, but the Board advised him to address any questions when a subdivision application is submitted.

### **Independence Inn**

The Chairman indicated that a letter was drafted to be sent to the owner regarding monthly “farmers markets” on the property, non-residential use of land in Strafford requiring site plan approval, the need for information on parking, noise, lighting, trash removal, sewage treatment, and safety, and the need to appear before the Board.

**KOA Campground**, Second Crown Point Road

The Chairman indicated that over the years the campground expanded beyond what was outlined in their permit. He expects they will appear before the Board to address this.

The Chairman asked if the Board was comfortable with the minutes from the June 1, 2023 meeting and the June 20, 2023 balloon float site walk. The Chairman requested a motion to accept the June 1<sup>st</sup> minutes as written, which was so moved by Tim Reed, seconded by Lynn Sweet, and voted upon verbally in the affirmative by all voting Board members. The motion passed.

Charlie Moreno suggested a minor change to the June 20<sup>th</sup> site walk minutes. The Chairman requested a motion to accept the June 20<sup>th</sup> minutes as amended, which was so moved by Tim Reed, seconded by Lynn Sweet, and voted upon verbally in the affirmative by all voting Board members. The motion passed.

Don Clifford requested that full-size drawings sets be provided for all Board members when they are part of an application.

There being no further business before the Board, Lynn Sweet made a motion to adjourn the meeting, which was seconded by Terry Hyland. The Board voted unanimously in favor, and the meeting adjourned at 9:06PM.