

March 9, 2016

6:00 PM

Page 1 of 7

Chairman Scott Burns called the meeting to order at 6:04 PM on March 9, 2016 in Whitefield, NH.

Chairman Burns took roll call:

Members Present: Everett Kennedy, Mark Lufkin – Selectman Rep., Frank Lombardi, Scott Burns – Chairman, Alan Theodhor – Alternate and Joyce McGee – Secretary. Town Attorney Christine Fillmore was present as well.

Absent: John Tholl Jr. and Michael Carifio – Alternate.

Public Present: See attached list.

Chairman Burns appointed alternate Alan Theodhor as a voting member in the absence of John Tholl Jr.

Minutes: Selectman Lufkin asked that the minutes of March 1, 2016 be tabled until later.

Administrative Decision: PB # 587 Morrison Hospital Association- who is/are requesting a reduction in the floor plan of the proposed Senior Living Community, Tax Map 231 Lot 056 – 65 Littleton Road. Under Section VII – Procedures: d-6: Allows for changes to a final plan. Minor changes to a final plan may be approved administratively by the Planning Board. Such changes may be authorized without additional public hearings.

Present was Andy Nadeau of Horizons Engineering and Roxie Severance of the Morrison. Mr. Nadeau explained that this was just a reduction in floor space. A plan was submitted showing the strip down version of the site plan that was approved and an overlay of the new foot print. The Morrison is scaling project down to be within budget.

Chairman Burns asked if there were any questions. Everett Kennedy reminded Mr. Nadeau about drainage concerns of an abutting property. Mr. Nadeau stated nothing will change from the original plan that was approved regarding this issue or any other conditions or concerns set forth.

Alan Theodhor wondered what the impact would have on the living units. Mr. Nadeau stated the common space will be taken out and smaller rooms.

Mark Lufkin asked about the open space. Mr. Nadeau said no change in open space but there would be minimal green space created.

Everett Kennedy asked when would the project start and Mrs. Severance replied that they would like to break ground in June. Alan Theodhor asked how long would it take to complete the project, Mrs. Severance stated they would like the project completed in 15 months from when they break ground.

3/9/16 Public - Planning Board

Name	Address
Jody Hodgdon	PO Box 70, Littleton, NH 03561
MARK VANDER-HEYDEN	DALTON NH
RICHARD HARRIS + JR	WHITEFIELD, NH
RALPH McLEAN	WHITEFIELD, NH
Wesley or Cleary	"
David Dodge	Boston / Whitefield
John Ritt	Lancaster, NH
Kevin Caron	237 Hall Road Whitefield
Carlene Abbott	237 Hall Rd Whitefield
TIMOTHY RICKER	12 SPRUCE LN. WHITEFIELD
Jenny Ricker	12 Spruce Lane, Whitefield
Allison Scobie Carroll	/ Milton / Whitefield
Amy Scobie Carroll	
KATHLEEN KOPP	65 ELM ST. WHITEFIELD, NH 03598

Planning Board Meeting Minutes

March 9, 2016

6:00 PM

Page 2 of 7

No other questions came forth.

A motion was made by Alan Theodhor to accept the modified plan showing a reduction in floor space, seconded by Mark Lufkin. All in favor, motion carries.

Public Hearing(s):

1. Lot Line Adjustment(s)

#595 – Owner(s): Thomas & Cheryl Fill – who is/are requesting a Lot Line Adjustment between Tax Map 239 Lot 015 & 016. Lot 015 is currently 1.84 acres. .17 of an acre from Lot 015 will be added to Lot 016 which is currently 1.61 acres, now will be 1.78 acres. Lot 015 will become 1.67 acres.

Land Surveyor Mark Vander-Heyden and Thomas Fill were both present. Mr. Vander-Heyden gave a little history of the lots that Mr. Fill owns and stated that the reason for the lot line is that the Fills are looking at building a garage on Lot 16 that is closer than the 25' setbacks. By adjusting the line this will give them the required footage to meet the setback requirements.

Frank Lombardi wondered about the elevation, Mr. Vander-Heyden stated that it's pretty evenly slopped.

No other questions came forth.

A motion was made by Mark Lufkin to accept the Lot Line Adjustment as presented, seconded by Everett Kennedy. All in favor, motion carries.

2. Pursuant to RSA 676:4-a Revocation of Recorded Approval

#596 – Owner(s): Harris Family Trust, Richard S. and Nancy J. Harris Sr., Trustees - to determine whether or not to revoke, in whole or in part, the 2008 so-called Rexford subdivision involving Map 218 Lot 51, Map 218 Lot 51.1, Map 218 Lot 51.2, Map 218 Lot 51.3, Map 218 Lot 51.4, Map 211 Lot 14 and Map 211 Lot 15, and the associated 50' right of way onto Hall Road. The Board is considering revocation because the applicant or successor in interest to the applicant has failed to perform a condition of the approval within a reasonable time specified in the approval, or if no such time was specified, within the time periods for vesting under RSA 674:39, and/or because the time periods specified in RSA 674:39 have elapsed without any vesting of rights as set forth therein, and the plat, plan or approval no longer conforms to the applicable ordinances or regulations.

A motion was made by Mark Lufkin for the Planning Board to continue the process that started a few months ago with looking at all the subdivisions in Town that could or should be revoked, seconded by Everett Kennedy. All in favor, motion carries.

Planning Board Meeting Minutes

March 9, 2016

6:00 PM

Page 3 of 7

Frank Lombardi advised that a Site Visit was done on February 23, 2016 to see if the subdivision was complete. A road was in place about $\frac{3}{4}$ of the way up the 50' R.O.W. The Board needed to determine what the road was made of and was it up to Town Road Standards. No cul-de-sac was in place nor was the remaining $\frac{1}{4}$ of the road. Scott Burns wanted to know if we found out what was put down. Mark Lufkin stated that the sub soil and bankrun was done. Frank Lombardi stated that the Board needed to look at whether it was done within the time period and was it at up to Town Standards today. Mark Lufkin is there a vested interest. Attorney Fillmore advised that that the Board needed to determine if it was substantially complete.

Mr. Harris stated that there were no conditions on the approval. Frank Lombardi stated that it's a rule not a condition. Attorney Hodgdon wondered on the timing and motive of the revocation, it should have been addressed a while ago, nothing at the Registry reflecting any issues. Mr. Harris stated that over two years ago this Board was confronted by Exit Realty and Chester Savage, a housing developer, about being able to buy this very subdivision. Mr. Harris questioned why the Board didn't take the owner to task at that time if there was an issue. Mr. Harris stated that two years later, when Dick Harris, a mobile home developer, buys the property, all of a sudden this is a big deal. Mr. Harris noted his concern about discrimination against mobile homes.

Frank Lombardi advised that we the Board were not aware of how the revoking process exactly worked until we were confronted with this project and the lot line adjustments being proposed. Our lawyer made it clear how the process works for this.

Attorney Riff felt the conversation was off base with respect to the original subdivision. The vest rights and substantial completion is irrelevant, it's not complete.

Attorney Hodgdon stated that Mr. Harris is trying to keep what he bought and there was no hint of a problem. There are existing building lots and the road is 75% substantially complete. The successor also gets the benefit. Mr. Harris is vested and we need to move on to the heart of the request.

Scott Burns indicated that Mr. Harris stated a while ago that he did not care about it the subdivision and didn't know of it. Mr. Harris bought the lot for his use and the other lots within the subdivision were not his focus.

Attorney Hodgdon felt that there would be significant loss of property value without the lots.

Frank Lombardi said that since the cul-de-sac is not complete some of the lots have no access, not substantially complete it needs to be done like the Spaulding subdivision. Mr. Harris addressed Mr. Lombardi saying that he made a statement that maybe the cul-de-sac could be moved to the end of the gravel road.

Mr. Lombardi said a partial revocation is not good, it's very messy.

Planning Board Meeting Minutes

March 9, 2016

6:00 PM

Page 4 of 7

Mr. Harris wanted to know what he proposed to revoke. Mr. Lombardi stated to move the cul-de-sac down the road. Mr. Harris asked if the Board would entertain a proposal. Attorney Fillmore advised that any modifications would impose a revocation. Was the road completed within the time frame or not.

Attorney Riff is not in favor of accepting the 75% - the road still needs remaining finishes. It does not meet substantial completion it was a good logging road.

Planning Board Meeting Minutes

Mr. Harris stated then you can have a professional dig down or go to Superior Court.

Attorney Hodgdon is against accepting a revocation, the subdivision was approved a decade ago.

Mr. Carroll (Butch) Rexford was present at this time. Mr. Rexford said that his father Wendell Rexford was the previous owner at the time of the subdivision. That he and his brother had started the development with construction of an access road, all the work to be done to a class 5 road specifications. A class 5 would allow for the Town to take over the road. They had engineering plans with culverts placed and sized. We grubbed, put top soil down and bankrun, no we did not complete the road more bankrun and crushed gravel is needed.

Attorney Riff said the reason to be concerned is that all Mr. Harris wants to do is expand the park by going back to the original subdivision. Road is not complete in any respect and no lots are sold.

Mr. Harris said the Board suggested that he take out one of the lots so that's why it was done, because it was suggested. One house lot restriction has nothing to do with what Mr. Riff is talking about.

Mr. Rexford stated that a substantial amount of work was done on the road, \$30,000 to \$40,000 that is vested. We were going to finish it when lots were sold and continue on, but then my father passed and the property was given to a family member. Mr. Rexford confirmed that the dollar amounts noted were his cost, rather than a retail cost.

Chairman Burns said that all points have been heard.

Alan Theodhor brought up that he felt he had a conflict as he rents a unit from Mr. Harris. The Board did not feel this was a conflict.

Mr. Vander-Heyden asked what the Board had found on other subdivisions from prior years. Chairman Burns said we just started looking into this. Are the other Selectmen aware of this? Mr. Lufkin stated that they had discussed it and that the Board wanted to make sure if they are doing it for this one that you better do it for everyone. Mr. Lufkin wants to make this very clear. Attorney Hodgdon stated that if you start doing this, you are opening up pandora's box and litigation issues, massive legal fees all around.

Planning Board Meeting Minutes

March 9, 2016

6:00 PM

Page 5 of 7

Frank Lombardi stated that the Town's Comprehensive Guide says this. Mr. Harris said it's a guide not law. Attorney Fillmore read from the guide page 3 and 5 regarding authority provisions of adoption of law and procedures.

Frank Lombardi stated that we needed to look at the lots. Mr. Vander-Heyden said that he had an option relative to the subdivision that he would like to present on behalf of Mr. Harris. Attorney Hodgdon said it would be moving the turn around on the road, a modification.

Mark Lufkin wondered if the Board could entertain the plan.

Frank Lombardi – what is this going to mean for Mr. Harris, a partial revocation. Partial is not as simple as it sounds.

Mr. Harris - we will bring it up in court.

Attorney Fillmore – If entertained the Board still needs to determine if it is complete, substantially complete or not. If partial then board needs to figure out what will be revoked and what lots will be put back to the original way they were, all part of Lot 51. The Board's authority is to revoke in whole or in part. Process all or some and determine the road and where it ends.

Mr. Harris – Revoke cul-de-sac and move it. Mr. Vander-Heyden stated that Mr. Harris would not want to give up lots.

Mark Lufkin – Compromise in good faith. **A motion was made by Mark Lufkin to entertain at looking at Mr. Harris' modification to the 2008 Subdivision, seconded by Alan Theodhor. All in favor, motion carries.**

Attorney Riff – You are just looking at it not acting on it. Chairman Burns – That is correct.

Mr. Vander-Heyden approached the Board with a modification plan of the road. As a solution it was offered to bring the cul-de-sac back with a good road, provide plenty of road frontage, construct road to safety needs, a driveway out to the back 120+ acre lot and given a reasonable time frame to complete. We feel this is moving forward and wouldn't revoke plan. Attorney Hodgdon feels this is a win, win solution, a reasonable compromise yet protect Mr. Harris' investment and predecessors. (No plan was left as Mr. Harris felt since the Board did not act on it they didn't need it).

Attorney Riff is wondering the long term effects.

Attorney Hodgdon stated that the development will have to come before the board.

Attorney Riff stated that the Master Plan and lack thereof, any future plans. That is the problem!

Planning Board Meeting Minutes

March 9, 2016

6:00 PM

Page 6 of 7

Frank Lombardi stated that the Board needed to get back to making a motion and the revocation issue. The subdivision is being used for other than what it was being designed for, as single family lots.

Mr. Harris stated if the Board would have addressed the original lot line adjustment we wouldn't be talking about this.

Attorney Hodgdon stated that the intent and use of the lots should not get mixed up with what is in front of the board, it's a different process.

A motion was made by Mark Lufkin to recess, seconded by Everett Kennedy. All in favor, motion carries. Time 7:15 PM

The meeting continued at 7:30 PM.

Chairman Burns stated that the meeting needed to move along to revoke or not.

Attorney Hodgdon stated since the Board is not willing to hear the modification in whole and given the significance of the vote he would like a continuance on the hearing as it's only fair to get the actual records from Mr. Rexford before the vote is taken.

Attorney Fillmore advised that the time and notice of the hearing is required within the statute.

Frank Lombardi asked Mr. Rexford if he new the estimated cost to do the whole project. Mr. Rexford stated that not off the top of his head, his brother took care of project cost he was just the operator.

Attorney Riff stated that he had no objection for the continuance.

Chairman Burns asked for a motion for a continuance or continue to deal with the revocation process.

A motion was made by Alan Theodhor to continue the public hearing on Tuesday, April 12, 2016 at 6:30 PM, seconded by Mark Lufkin. All in favor, motion carries.

Attorney Hodgdon asked if this would be a prerequisite of all applications. Mr. Harris stated that he agreed to continuing the Lot Line Adjustments and Master Plan Hearings as well as the revocation hearing.

A motion was made by Mark Lufkin to extend the continuance of the Lot Line Adjustments and Master Plan Hearings to Tuesday, April 12, 2016 at 6:30 PM, seconded by Alan Theodhor. All in favor, motion carries.

Planning Board Meeting Minutes

March 9, 2016

6:00 PM

Page 7 of 7

Mr. Harris stated for the record that the Brown Builders – Spaulding Inn subdivision that Mr. Lombardi referred to as that is how things are suppose to be done is now in financial trouble and is belly up. That is why people don't do it that way, it's a financial impact. It's a guide to mitigate.

Other Business:

Minutes: A motion was made by Everett Kennedy to approve the March 1, 2016 minutes as written, seconded by Frank Lombardi. All in favor, motion carries.

Building Permit(s):

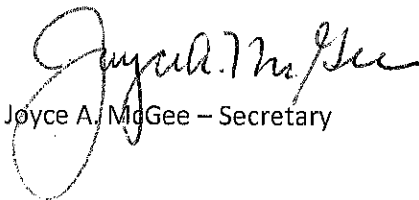
Brittany Berwick, Map 212 Lot 5 – 511 Lancaster Road: to construct a cement slab for an existing storage shed and make some alterations. No change in size of structure. Add a detached chicken coop 5' x 6'. **APPROVED**

Chief James Watkins was present and asked to approach the Board. He stated that he had inspected a local establishment and asked that the Board not approve things until everyone is aware of the changes. The establishment was a restaurant and is now going to be a Hair Salon and Day Spa, yes it's commercial but it's a different use. Chairman Burns stated that conditions were given but the property owner had already started work before that Board got the application. The Board has had problems with the property owner before. Attorney Fillmore advised that the applicant is proceeding at their own risk. There is standard language that can be added: Example: No work is to be done until all the conditions are met. The Board thought this was a good idea and thanked Jay for coming.

Secretary McGee advised the Board that three (3) members were up for reappointment: Scott Burns, Everett Kennedy and Frank Lombardi. She asked them to advise her before the 28th of March if they were staying on.

A motion was made by Everett Kennedy to adjourn the meeting at 7:58 PM, seconded by Mark Lufkin. All in favor, motion carries.

Respectfully submitted:


Joyce A. McGee – Secretary

Scott Burns - Chairman 