

Planning Board Meeting Minutes

September 3, 2019

6:30 PM

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Chairman Scott Burns called the meeting to order at 6:30 PM.

Members Present: Scott Burns – Chairman, Tim O’Neil, Alan Theodhor, Frank Lombardi, Peter Corey – Selectmen’s Rep., and Joyce McGee – Secretary.

Members Absent: Steve LaRoza – Alternate

Public Present: Patricia Smith, Tom Smith – Surveyor, Sarah & Roger Doucette.

Minutes: A motion was made by Tim O’Neil to approve the minutes of August 13, 2019 as written, seconded by Frank Lombardi. All in favor, motion carries. **APPROVED**

Consultation: Smith Survey re: Hubert & Patricia Smith/Shawn Margerison & Kathleen Shute – Boundary Line Adjustment, Tax Map 219 Lots 50, 51 and 53 and Merger for Lots 50 & 53.

Tom Smith, Surveyor and Patricia Smith were present to advise the Board of a Boundary Line Adjustment and Merger of Land. Lots 50 & 53 are owned by Hubert & Patricia Smith with a 20’ strip separating the lots that is part of Lot 51 owned by Margerison/Shute. The 20’ strip was the access point to Lot 51 but the Smith’s had problems with their well years ago and needed to hook onto the Town’s system by using the 20’ strip for the water line. The proposal is for the 20’ strip to be part of the Smith’s property and merge Lots 50 and 53 together and then take approximately .65 of an acre and add it to the Margerison/Shute property giving them 96.5’ of new road frontage access.

Concerns from the Board were meeting the setbacks of 25’ for the driveway access for Lot 51 as possible wetlands may exist, a variance may be needed. The Board advised to check with NHDOT regarding driveway access as off of Rte 3 North and NHDES on wetland setbacks.

Mr. Smith had another survey to discuss with the Board as follows: Carroll & Marion Rexford/ Larry & Kathy Rexford – Boundary Line Adjustment, Tax Map 233 Lot 036 & 035 and Merger for Tax Map 233 Lots 037 & 037.2.

Tom Smith, Surveyor advised that Carroll & Marion Rexford are putting a large tract of land into a Conservation Easement but would like to do a Boundary Line Adjustment giving Larry & Kathy Rexford an additional 12 acres to Lot 36. The merger will be Lots 037 & 037.

The Board had no concerns with the merger however, Peter Corey stated that Lot 036 is a non-conforming lot and it would be making it more of a non-conforming lot by adding the 12 acres which the Board is trying to get away from. RSA 674:41 – Erection of Buildings on Streets; Appeals (See attached) was reviewed along with the Development Code, Article XII – Non Conforming Uses “Grandfathering”.

Chairman Scott Burns suggested maybe adding the ROW of the existing driveway to the lot to make it a conforming lot. Other Board members felt since it was already an established lot that they had no problems. The surveyor will pass along the comments.

Other Business:

Septic Design(s):

Keddy, Arthur – 61 Bethlehem Road, Tax Map 253 Lot 005: Septic for a two-bedroom house with a 1250 gallon tank and 600 gallon pump chamber. **A motion was made by Frank Lombardi to approve the Septic Design as submitted, seconded by Alan Theodhor. All in favor, motion carries. APPROVED**

Wright, Stephen & Tina – 395 Old East Road, Tax Map 204 Lot 001 (newly subdivided): Septic for a three-bedroom house with a 1250 gallon tank. **A motion was made by Frank Lombardi to approve the Septic Design as submitted, seconded by Peter Corey. All in favor, motion carries. APPROVED**

Demolition Permit(s):

Murphy, Barry & Diana, 99 Union Street, Tax Map 231 Lot 003: To gut interior of home down to the studs with a possibility of demolishing entire house. Permit was approved on 8/20/19. **APPROVED**

Development Permit(s): Laflamme, Christina – 30 Middle Street, Tax Map 102 Lot 118: To place a pre-built 10'x12' shed next to garage on said lot. Setbacks are met. **A motion was made by Peter Corey to approve the Development Permit as submitted, seconded by Alan Theodhor. All in favor, motion carries. APPROVED**

Secretary McGee advised the following permits were approved prior to the meeting:

Scalley, David – 52 Liberty Drive, Tax Map 226 Lot 071: Exterior renovations/repairs – roof, siding, doors and windows; Interior renovations/repairs – remove old fireplace. Permit was approved on 8/19/2019. **APPROVED**

Scalley, David – 93 Union Street – Silverstone Apts., Tax Map 231 Lot 002: Exterior renovations/repairs – roof and siding, (5) sliding doors; Interior renovations/repairs – (2) bedrooms #1 & #5. Permit was approved on 8/19/2019. **APPROVED**

Murphy, Barry & Diana – 15 Johnson Drive, Tax Map 233 Lot 052: To place (2) sheds on said lot; 11'x16' and 6'x6'. After the Fact Permit given with \$150.00 fee. Permit was approved on 8/15/2019. **APPROVED**

Violation Letters: Tax Map 102 Lot 054 & Tax Map 217 Lot 023 received violation letters with a deadline of 8/30/19 to submit applications, to date no applications have been filed. The Planning Board request that the Board of Selectmen take further action.

Roy, Claude & Sara – 13 Lookout Lane (Arena), Tax Map 231 Lot 043: The Board reviewed RSA 674:32-a Agricultural Uses of Land – Presumption (see attached) allowing agricultural activities if not explicitly addressed in the Zoning Ordinance as long as conducted in accordance with the Best Management Practices adopted by the commissioner of Agriculture and with federal and state laws, regulations and rules. Chairman Burns wondered about the boarding of horses, under RSA21:34-a (5) The breeding, boarding, raising, training, riding instruction, and selling of equines. The Board advised a letter should be sent to the Roy's emphasizing Best Management Practices and the health and safety of the public. Secretary McGee will draft a letter.

Capital Improvement Program (CIP): CIP helps prioritize anticipated large expenses and is a legal prerequisite for some other land use tools. When the CIP was created it was assumed that the Planning Board or a committee would do it. As Peter Corey stated over time it's been harder and harder to get members to come and participate in the meetings. The Selectmen already look at the larger expenses and decide which ones to address with the help of the Department Heads. His suggestion is to have the Planning Board and other members come to the budget hearings to express any concerns. Everyone felt this was a good idea.

Correspondence:

- Board received more information on Short-Term Rentals.
- Informational: Planning Board should be notified of any demolition or new construction for the Town.
- Letter from Division of Historical Resources re: 10 Main Street (see property file Tax Map 103 Lot 120).
- Letter from ACER Associates re: AT&T/NEPA Survey – Cellular Antenna Facility located at 39 Freds Way in Whitefield, NH.
- Revenues received from fees as of today \$4,239.55.

Development Code: The Board is looking at changing the setbacks for in-town, a village district map was found which was part of an old Master Plan the Board reviewed the map and felt that it was a good start. The Board would like to create a new appendix for the downtown section, looking at 10' setbacks.

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RSA 674:41 needs to be addressed (see attached). Minimum lot size and 60' for driveway area. The Board continues to work on the Code.

Proposed Landfill in Dalton: Sara and Roger Doucette were present to address the Board regarding how the updated Master Plan would address an issue like this. After looking through the Draft Master Plan, Sarah felt the maximum language that could strengthen the regional impact area under North Country Council section should be used, Tim O'Neil chairman of the Master Plan Committee made note of this. Sarah feels that the Town needs to engage in this project. The Board thanked the Doucette's for coming in. Attached is a handout given to the Board by Sarah.

A motion was made by Peter Corey to adjourn the meeting at 8:27 PM, seconded by Alan Theodhor. All in favor, meeting adjourned.

Respectfully submitted by:


Joyce A. McGee – Secretary


Scott C. Burns - Chairman

TITLE LXIV PLANNING AND ZONING

CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS

Regulation of Subdivision of Land

Section 674:41

674:41 Erection of Buildings on Streets; Appeals. –

I. From and after the time when a planning board shall expressly have been granted the authority to approve or disapprove plats by a municipality, as described in RSA 674:35, no building shall be erected on any lot within any part of the municipality nor shall a building permit be issued for the erection of a building unless the street giving access to the lot upon which such building is proposed to be placed:

(a) Shall have been accepted or opened as, or shall otherwise have received the legal status of, a class V or better highway prior to that time; or

(b) Corresponds in its location and lines with:

(1) A street shown on the official map; or

(2) A street on a subdivision plat approved by the planning board; or

(3) A street on a street plat made by and adopted by the planning board; or

(4) A street located and accepted by the local legislative body of the municipality, after submission to the planning board, and, in case of the planning board's disapproval, by the favorable vote required in RSA 674:40; or

(c) Is a class VI highway, provided that:

(1) The local governing body after review and comment by the planning board has voted to authorize the issuance of building permits for the erection of buildings on said class VI highway or a portion thereof; and

(2) The municipality neither assumes responsibility for maintenance of said class VI highway nor liability for any damages resulting from the use thereof; and

(3) Prior to the issuance of a building permit, the applicant shall produce evidence that notice of the limits of municipal responsibility and liability has been recorded in the county registry of deeds; or

(d) Is a private road, provided that:

(1) The local governing body, after review and comment by the planning board, has voted to authorize the issuance of building permits for the erection of buildings on said private road or portion thereof; and

(2) The municipality neither assumes responsibility for maintenance of said private roads nor liability for any damages resulting from the use thereof; and

(3) Prior to the issuance of a building permit, the applicant shall produce evidence that notice of the limits of municipal responsibility and liability has been recorded in the county registry of deeds for the lot for which the building permit is sought; or

(e) Is an existing street constructed prior to the effective date of this subparagraph and is shown on a

subdivision plat that was approved by the local governing body or zoning board of adjustment before the municipality authorized the planning board to approve or disapprove subdivision plats in accordance with RSA 674:35, if one or more buildings have been erected on other lots on the same street.

II. Whenever the enforcement of the provisions of this section would entail practical difficulty or unnecessary hardship, and when the circumstances of the case do not require the building, structure or part thereof to be related to existing or proposed streets, the applicant for such permit may appeal from the decision of the administrative officer having charge of the issuance of permits to the zoning board of adjustment in any municipality which has adopted zoning regulations in accordance with RSA 674, or, in municipalities in which no board of adjustment exists, to the local legislative body, or to a board of appeals, whichever is appropriate, in accordance with RSA 674:14 and 674:15, including the requirement for a public hearing. In a municipality which does not require building permits, direct application may be made to the zoning board of adjustment, or the local legislative body, or the board of appeals for permission to erect the building. In passing on such appeal or application, the board of adjustment, local legislative body, or board of appeals may make any reasonable exception and shall have the power to authorize or issue a permit, subject to such conditions as it may impose, if the issuance of the permit or erection of the building would not tend to distort the official map or increase the difficulty of carrying out the master plan upon which it is based, and if erection of the building or issuance of the permit will not cause hardship to future purchasers or undue financial impact on the municipality. Any such decision made in this connection by a board of adjustment, local legislative body, or by a board of appeals pursuant to this section and RSA 674:14 and 674:15 shall be in writing, together with the reasons for the decision, and shall be subject to review in the manner described in RSA 677.

II-a. Municipalities may except any lot, including island lots for islands served exclusively by boats, from the requirements of paragraphs I and II by an affirmative vote of the local legislative body pursuant to RSA 675, first submitted to the planning board for its approval and:

(a) If approved by the board, approved by a majority of those present and voting at a regular or special meeting of the local legislative body; or

(b) If disapproved by the planning board, approved by not less than 2/3 of those present and voting at a regular or special meeting of the local legislative body.

III. This section shall supersede any less stringent local ordinance, code or regulation, and no existing lot or tract of land shall be exempted from the provisions of this section except in accordance with the procedures expressly set forth in this section. For purposes of paragraph I, "the street giving access to the lot" means a street or way abutting the lot and upon which the lot has frontage. It does not include a street from which the sole access to the lot is via a private easement or right-of-way, unless such easement or right-of-way also meets the criteria set forth in subparagraphs I(a), (b), (c), (d), or (e).

IV. In addition to the requirements for the erection of buildings in paragraph I and notwithstanding the exceptions provided in paragraph II, the planning board for a county in which there are located unincorporated towns or unorganized places shall require every building which is erected on leased land located within an unincorporated town or unorganized place to have a building permit. A building permit shall be required under this paragraph regardless of the proximity of the building to any street or highway. The county shall, by resolution, authorize the planning board to issue building permits under this paragraph.

Source. 1983, 447:1. 1988, 131:2, 3. 1989, 266:20. 1995, 291:10. 1998, 344:6. 2002, 270:1, 5. 2004, 154:1, 2. 2005, 226:1, 2, eff. Sept. 3, 2005.

TITLE LXIV PLANNING AND ZONING

CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS

Agricultural Uses of Land

Section 674:32-a

674:32-a Presumption. – In accordance with RSA 672:1, III-d, whenever agricultural activities are not explicitly addressed with respect to any zoning district or location, they shall be deemed to be permitted there, as either a primary or accessory use, so long as conducted in accordance with best management practices adopted by the commissioner of agriculture, markets, and food and with federal and state laws, regulations, and rules.

Source. 2000, 279:3, eff. July 1, 2001.

North Country Alliance for Balanced Change

ABOUT THE PROPOSED DALTON DUMP

THE ISSUE

Casella Waste Systems wants to build a dump on 1890 acres in an area of fragile wetlands and lakes and streams between the Ammonoosuc River watershed and Forest Lake. The first three phases of the dump will cover 180 acres on the site. Plans call for the dump to be built just 300 yards from Forest Lake State Park: at one point **the dump boundary would be 50 feet from the park.**

The land is in Dalton, close to the border of Dalton, Littleton and Bethlehem and next to Whitefield.

THE PROBLEMS WITH DUMPS

Landfills have a documented history of **posing public health and environmental concerns and diminishing property values and quality of life.** A dump in Dalton would have a profoundly negative effect on four local towns and on the entire North Country. We've learned from other New England dumps, many owned and managed by Casella, that dumps have the potential for:

- **Water and groundwater pollution** from leachate composed of volatile organic compounds and high concentrations of chemicals, often including phenols, pesticides, solvents and heavy metals that could flow into the Ammonoosuc River watershed. These toxins contaminate soil, surface water and ground water, and potentially pollute area wells.
- **Air pollution**, including unpleasant odors that carry for miles.
- **Heavy truck traffic** on our local roads — estimated by Casella at 90 trucks per day making round trips through Whitefield, Twin Mountain and surrounding towns.
- **Garbage imported from elsewhere.** The majority of the garbage would come from Southern New Hampshire. More than 30% of the garbage in Casella dumps comes from out of state.
- **Fecal contamination** of our lakes, streams, wetlands and nearby properties from landfill scavengers like seagulls.
- **A massive and growing waste mound** visible from neighboring homes, plus windblown trash caught in trees and fencing around the dump.
- **Negative impacts on property values** and citizens' abilities to even sell their property.
- **A diminished tax base** in affected towns due to reduced property values.

WHAT'S HAPPENED SO FAR

In January 2019, North Country Environmental Services, a Casella subsidiary, entered into an option to buy 1890 acres of land in Dalton, Littleton and Bethlehem owned by J.W. Chipping Corp. At the time, Dalton was one of only a handful of NH towns with no zoning to protect its land and its citizens from this kind of development.

In April Casella announced it planned to open a 100-acre landfill on the site. In May Casella expanded its plans to a 180 acre, three-phase dump.

In July Dalton citizens voted for an Emergency Temporary Zoning Ordinance to strengthen the town's position relative to industrial and commercial development. A permanent zoning ordinance will be developed and considered at Town Meeting in 2020 or 2021.

But implementing zoning in Dalton may only slow Casella. We expect Casella to begin filing applications for dump permits as early as this December.

This will be a long battle: permitting a new dump is at minimum a three to five year process, and Casella is a well-funded, well-organized and formidable opponent.

CASELLA'S TROUBLING HISTORY

In the past 20 years Casella has been fined multiple times and issued Notices of Violations by environmental departments in several states, including New Hampshire, Massachusetts, New York and Pennsylvania.

Casella currently faces a lawsuit from the Toxics Action Center and the Conservation Law Foundation alleging illegal discharges of pollutants from its Bethlehem dump into the Ammonoosuc River — a violation of the Federal Clean Water Act.

WE'LL PUT YOUR DONATION TO WORK TO

- **Pay for legal and environmental engineering professionals whose expertise is critical to assess and counter Casella's plans. These experts — many of whom were central to NCABC's success in defeating the Dalton Drag Strip — include environmental attorneys, wetlands specialists and groundwater experts.**
- **Monitor the multi-stage landfill permit process and respond rapidly to Casella's actions.**
- **Support Dalton in its work to develop and adopt a Permanent Zoning Ordinance.**
- **Collaborate in developing statewide legislation to protect sensitive environmental areas from garbage dumps.**
- **Inform and Educate our local communities about the impact of the dump on their environment and quality of life and coordinate the actions of concerned citizens to oppose the dump.**

ABOUT NCABC

NCABC was formed in 2008 to balance natural resources and economic development in the North Country. For ten years we successfully opposed a drag strip in Dalton near the same area now proposed for the dump. We identified, contracted with and managed the efforts of the legal and environmental engineering experts central to defeating the drag strip.

As we take up the new challenge of opposing the dump, we're working in close cooperation with other dedicated groups, including Save Forest Lake, the Forest Lake Association, Bethlehem's environmental activists, the Toxics Action Center and State legislators.

Contact us: NorthCountryABC.org — NorthCountryABC@gmail.com — PO Box 553, Littleton, NH 03561