

MINUTES OF February 3, 2010 ADOPTED 3/4/10 WITH CORRECTIONS



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Hebron Planning Board

Minutes of Public Hearing 02/03/2010

Members Present: Roger Larochelle (chair), Ellie Lonske (vice chair), John Dunklee (selectman), David Wall (member), Chuck Beno (member), Martha Twombly (alternate), Joe Hogan (alternate), Mitch Manseau (alternate), and Sheila Oranch (secretary).

Others Present: John Matthews, Henry Lynch, Donna and Edward Gregory, Alan Barnard, Greg and Jackie Melton, Lee Alexander, Alan and Priscilla Toshack, Dian West, and Mike Ethier.

Time Convened: 7:00 PM **Time Adjourned:** 10:45 PM

Next Meetings: February 8, 2010 CIP public hearing, March 3, 2010 regular hearing

Agenda:

1. Administrative Matters and Announcements.
2. Review minutes of prior meetings for additions, corrections and adoption.
3. Continuance of Jaques ET AL subdivision and boundary adjustments.
4. Subdivision Application by Double E Land (Mike Either) Map 8, Lot 6 on George Rd
5. Informational for a voluntary boundary line adjustment by Rod Davis on Route 3A across from Onaway Point Road in East Hebron.
6. CIP (Capital Improvement Plan) committee review and plan for public hearing.
7. Any other matters that come before the Board.

Administrative Matters/Announcements

Roger Larochelle noted that all five voting members were present. John Dunklee announced that the Board of Selectmen had received a letter of resignation from Richard (Dick) Cowern as an alternate on the Planning Board. Ellie Lonske suggested that the chairman write a letter of appreciation to Dick Cowern. Agreement was unanimous. Mr. Larochelle welcomed the public, asked Board members to introduce themselves, and reviewed the agenda and protocols for a hearing.

Review Minutes

Corrections to **Minutes of 1/6/10 hearing:** pg 1 second line up from bottom, change "appointment" to "appointed." Pg 2, second paragraph, fourth line add a colon after "whether" to clarify that this is a list of concerns. Pg 3, last paragraph, first line add "them" between "hit" and "with." Pg 5 second line, add "e" to "rational" to make it "rationale" and end the sentence after "denial." Next sentence add "Mr. Dunklee stated reasons."

John Dunklee moved/ Chuck Beno seconded a motion to adopt the minutes of 1/6/10 with corrections noted. PASSED

Continuance of Jaques ET AL subdivision and boundary adjustments

Alan Barnard requested and was granted continuance to 3/3/10, due to the fact that David Jaques has been unable to locate the deed showing an easement to the Town.

MINUTES OF February 3, 2010 ADOPTED 3/4/10 WITH CORRECTIONS

Subdivision Application of Double E Land (Mike Ethier) Map 8, Lot 6 on George Road

Alan Barnard and Mike Ethier were present to represent the application for a 3-lot subdivision off George Road. Martha Twombly recused herself as an abutter. Mr. Larochelle noted that all regular members were present and voting. Alan Barnard presented an updated plan and an aerial map with the plan outline overlaid. Mr. Larochelle reviewed the protocol for public comments and explained that the Board would first review the completeness of the application for acceptance. If accepted, the Board could consider the application's merits in relation to the 2009 Subdivision Regulations on pages SD-12 to 15. After all requirements were reviewed, possible waivers discussed, and NHDES permits that would be required were noted, Mr. Larochelle called for a motion. Ms. Lonske told Alan Barnard that he had done a good job of assembling the materials according to the new regulations, which the Board had taken directly from the State RSA. All agreed that the Board will develop a checklist form to add to the Regulations to facilitate the application process.

David Wall moved/Chuck Beno seconded a motion to accept the Subdivision Application of Double E Land (Mike Ethier) for Map 8, Lot 6 on George Road as complete. PASSED

Mr. Larochelle then opened consideration of the application for approval. Mr. Barnard said the resulting Lot 1 would be 3.772 acres and Lot 2 would be 4.614 acres. He reviewed their location, features and abutting properties as noted on the Plan for reference. Mr. Ethier already has septic system approvals from the State and driveway access from the Town. Mr. Barnard showed where the snowmobile trail crosses the remainder of the land, which will be Lot 6 on the Tax Map but Lot 3 in the Subdivision. He discussed the easement to the Town through Lot 2 for a possible future Town road to access Lot 6-3 and that he had to move it somewhat due to topography. The Plan shows setbacks with an offset of 62 feet from the center line of the proposed traveled way. This will allow for a 50 foot setback from the road which is designed to be 12 feet rather than the minimum 10 feet, to better accommodate emergency vehicles. The building site on Lot 2 is near the septic system test pits near George Road at the far end of the property and the set-up is similar on Lot 1. The next map he displayed showed Very Steep Slopes in red, which are discounted from calculations of usable land. Blue areas are wet and also discounted. White areas indicate 0-15% slopes and gray areas are 15-25% slopes only 50% of which count towards usable area. After all calculations, Lot 1 has 2.04 acres of usable land and Lot 2 has 2.06.

Chuck Beno asked if where the road easement is located, a road could actually be constructed. Alan Barnard said yes, with possible slope waivers. John Dunklee explained that when the Selectmen met with Mike Ethier they were looking for access for maintenance and emergencies, not passageway for travel. Ellie Lonske noted that Jane Ramsay, former Planning Board secretary, told her that in the minutes of the hearing 7/10/2002, the chair, Jay Mathews, had addressed the topic of creating a road through the property (on file). A portion of the Fret land (prior owner) was not set aside for a future road as discussed. The concern is for Scattered Development, not of these two lots but the balance of the land. Alan Barnard said there were four or five months of further discussion in 2002. The former Fret piece is now named Moose Hollow. Ms. Lonske said the Board should exercise foresight so a road would be possible. Mr. Beno said there are topics that may require discussion according to Subdivision Regulations on SD-16.a (4). For tracts greater than 20 acres, the Board may require Common Open Space of not more than 5%. SD-17 and 18(f) requires storm water management and erosion control plans. Do those only apply to subdivisions with three or more dwelling units and are therefore not applicable to this application? Alan Barnard responded that open space is for dense subdivision development but here there are large open lots. Ms. Lonske added that the language is: "For Subdivisions consisting of ten (10) or more Lots, or on tracts of land greater than twenty (20) acres, whether the Subdivision is planned or completed at one time or in stages, not more than five

MINUTES OF February 3, 2010 ADOPTED 3/4/10 WITH CORRECTIONS

percent (5%) of overall acreage shall be required to be reserved as common open space as shall be determined by the Board. The area to be reserved as common open space shall be shown in the Subdivision Plat. "

Mr. Larochelle called for Public Comment:

John Matthews, abutter on Cooper Road, asked how owners would access the two lots. Alan Barnard said from George Road. Mr. Matthews said his concern is allowing the developer to piecemeal cut off this lot. Cooper Road is now over a half mile. Rather than a right-of-way off George Road, they should restrict the rest of the property from being developed without a road.

Greg Melton, a neighbor, asked John Dunklee to describe where a possible future road would be in the remaining part of the land.

Priscilla Toshack asked to see Hickon Road on the map. She showed pictures of the recently-logged land abutting her property and expressed concerns. They bought their land 25 years ago as a retreat. The photos today show cleared areas right up to her property line and junk from the old cabin. The land is stripped bare down to the beaver pond, with no setback or buffer, scraped down bare and logging trucks left deep ruts, so there is no access to her property. She said Mr. Ethier intends to further subdivide.

Ellie Lonske questioned how Ms. Toshack knows Mr. Ethier's intentions. Ms. Toshack said he told her that earlier in the day. She said you can't even walk in to her property. Mr. Ethier destroyed the culvert under the road and the area is just stripped. Ms. Lonske said she had not been in there but George Brook or Bog Brook, whichever it is, is designated and protected.

Henry Lynch said he agrees a road from George Road should not be paid for by the town. He also said the stone wall on George Road has been knocked down and driven over and should be restored as that is a Scenic Road. He questioned the type of septic system that would be possible for Lot 2 because the land is shallow with lots of stone.

Martha Twombly spoke as an abutter and chair of the Conservation Commission, which has not reviewed the application. The Farm, as the area is called, is within George's Brook designated area of wetlands, prime flood control area, and riparian buffers, so they should set aside some open area. As for the connection of Cooper Road, even if the road is not intended for travel, people will take shortcuts, so they should make that a permanent road.

Ellie Lonske said perhaps the Conservation Commission should be involved in helping Mr. Ethier designate an appropriate open area for protection. The upper limit is 5%, determine which parts are most valuable from an environmental perspective.

Roger Larochelle said for the record, the Board cannot demand that a developer put land into conservation, only that a developer set aside common open area, which is not a public interest but for the benefit of the residents of that subdivision.

Mike Ethier said for the record, there are two pieces of property and this does not abut George or Bog Brook (also known as George Brook).

Ms. Lonske said she was talking about this lot which is greater than 20 acres and looking to help create a collaborative effort.

Alan Barnard said the remainder of the land would be about 62 acres, including Cooper Road. Any common open space would be for the residents of that subdivision.

MINUTES OF February 3, 2010 ADOPTED 3/4/10 WITH CORRECTIONS

Donna Gregory, abutter, asked what impact there would be on Moose Hollow, if any. Would it affect their view?

Alan Barnard explained that Moose Hollow has a view easement and the angle of view is past the two proposed lots on George Road so there would be no impact.

Ms. Lonske responded that with two more houses there would be a little more traffic and asked if they would be able to see the two new houses.

Alan Barnard said no, they would not see these two houses.

Mr. Larochelle took discussion back to the Board and Applicant replies.

Alan Barnard responded that there is ledge on the lots, the Lot 1 septic location is State approved, Lot 2 has test pits for subdivision purposes with about 4,000 square feet appropriate and the State will review that prior to approval. About John Matthews' point on connectivity of the road, they may not need to connect if they can put in a loop road. They might only subdivide into two lots with a loop road. As for intentions, Mike Ethier should respond.

Mike Ethier said that's it for now. If he ever goes into the farm piece, he knows he will need to develop a road for any subdivision.

Roger Larochelle asked about the stone walls on George Road. Mr. Ethier said the stone walls are at the entrances of the two driveways. The stones are piled because he has not yet been able to finish the entrances. Mr. Larochelle addressed the impact on Moose Hollow. Mr. Ethier said there should be no impact to Moose Hollow. If the farm went into development there could be more questions.

David Wall said if Lot 3 was being subdivided it would be different, thinking of Mr. Ethier clearing all the trees, but an owner had the right to log and it is not a Planning Board concern other than if it affects brooks and streams.

Chuck Beno said there was a site walk of Lots 1 and 2.

Ellie Lonske said they only looked at the George Road piece, no problem, but should be concerned about development of the remainder of the land. It should be a condition of any development that the developer must build a road. Cooper Road is already greater than a half mile, so a lollipop road doesn't help.

Joe Hogan said if there were any subdivision of fewer than 3 lots in the farm area, a connecting road to George Road would not be necessary. A cul-de-sac would be enough.

John Dunklee said if you look at it from the Fire Department point of view, if there were a house fire or forest fire, it would be very difficult to handle it. It would be better to keep emergency vehicles moving all in one direction.

David Wall asked Mr. Dunklee if there were further development of the remainder of the land won't that be relevant to that application? What does it have to do with this application?

Mr. Dunklee said it already would be a challenge to deal with a forest fire beyond the end of Cooper Road. The developer should know that if there is any further development he will be required to build a road to Town specifications to connect George Road to Cooper Road.

Mr. Larochelle asked if the Town would hold a deed to that road easement.

Alan Barnard said yes, it would be a legal document.

MINUTES OF February 3, 2010 ADOPTED 3/4/10 WITH CORRECTIONS

Ellie Lonske asked about the difference between an easement and a deeded right-of-way. Alan Barnard explained that an easement is more comprehensive including utilities, etc. which may include a road right-of-way, but a right-of-way does not necessarily include any easements.

Mr. Larochelle said one condition would be no approval of a subdivision until the Town approved the easement terms. The Select Board has the most experience with this easement and if they approve, the Planning Board would see the terms. The Planning Board has no knowledge of the remainder of the land in subdivision terms, and so has no real basis to require a road. Is that what would be best for neighbors and/or conservation? If the remainder were sold whole or divided in two, it might not need a road.

Ms. Lonske said if it is divided in two, then each of those is divided, that would be kicking the ball down the road and delaying the decision. John Dunklee liked Mr. Larochelle's idea about not making it a requirement but reserving the right when any further subdivision of the remainder of the land might be applied for. Ms. Lonske said the Board just would not want that to be lost in the mists of history.

Mitch Manseau said he shared Ms. Lonske's concern about unlimited development and incremental decisions.

Mr. Larochelle said about the open space question, on this 3-lot subdivision, it seems impractical for common open space to benefit these lots. It doesn't benefit conservation of areas on the remainder of the land.

Mr. Beno commented that the board could reserve the right to open space.

Mr. Larochelle said if there is future subdivision, the application could include the areas of Lots 1 and 2 for calculation of open space.

Mr. Beno said for future development they could request a waiver or put on the plan that open space would be confirmed at the time of subdivision application for the remainder of the land.

Mr. Lonske went over the wording in the Subdivision Regulations of "not more than 5% of Common Open Space as determined by the Board." Essentially, the Planning Board and Developer would work together to determine the location of Common Open Space. It is not something the Board needs to address with the current Subdivision Application for Lots 1 and 2.

Mr. Beno said in the informational hearing Mr. Ethier did mention two more lots out of the remainder, so maybe he should just design it now as a 5-lot subdivision.

Mr. Larochelle asked the Board to get down condition language for Common Open Space, Scenic Road stone walls on George Road, which Mr. Ethier said would be put back, and give Mr. Ethier a chance to reply. Language for the road could be "may require design and construction of a road to Town specifications."

Mr. Ethier replied that originally, when he met with the Select Board they were not concerned about a Town Road, only emergency access, which could be gated. Right now it would only be for highway, Town Garage and fire access. When the current Subdivision Application gets approval from the Planning Board, he will get an agreement drawn up by his attorney, Brian Ray. The stone wall is where driveway access is being constructed. Stones may be used around the driveway to make it more attractive.

Alan Barnard said the State permit allows removal of stone walls for access. Mr. Ethier owns to the middle of the traveled way, and is also allowed to cut trees. Stones also delineate the road edge, so no removal is permitted other than for functional access.

MINUTES OF February 3, 2010 ADOPTED 3/4/10 WITH CORRECTIONS

Henry Lynch said back when Mr. Ethier was logging, there was a lot more disruption, knocking off stones, and moving a lot. The Town needs to pay attention and make sure stones are put back.

Mr. Larochelle said enforcement is a Select Board responsibility. He is just making sure everyone is aware of the protections for Scenic Roads. George Road is the only Scenic Road Hebron has.

John Matthews said Cooper Road is more than a half mile to his house already and there is more development beyond. His concern is with the density of development. A loop would not do any good for emergencies as there is no other way out. Back in 2002, this board dealt with this question and don't pass it on again. There is no problem with Lots 1 and 2, but include a condition that no additional lots being serviced by Cooper Road could be created without a connecting road. Additional lots serviced from George Road are not an issue.

Ms. Lonske questioned whether if two more lots accessed from George Road were developed after Lots 1 and 2 in the current application, would there be any objections.

Mr. Dunklee said no. Ms. Lonske said but it doesn't make sense.

Mr. Larochelle asked if there would be any objection by the neighbors to a connecting road.

Greg Melton said he would object to increased traffic.

Alan Barnard said conditional language is appropriate but not to take away an owner's right to develop land with so much frontage on an existing Town Road.

Mr. Ethier replied you need to give leeway to anyone who might want to develop the third lot. If you require a road even for two lots which might be sold at \$50,000, you are shutting out possible development.

Mr. Larochelle said the Board could spend a lot of time on the future of the remainder of the land but there is not enough information. The Board needs to focus on the language of conditions.

Mr. Beno got clarification that Cooper Road continues as a Town Road all the way in to the old farm house. It's been a mystery piece of land. Now he can see where it is. Would it be unreasonable to ask where a connector road might go? Could confirmation that a road could be built there be requested? Is it physically possible to build it?

Mr. Lonske said she appreciated the site walk of Lots 1 and 2 and would like a site walk of the whole area.

David Wall said he supports the concept that the Planning Board might require building of a road in the remaining land were ever developed.

Mr. Larochelle suggested the Board focus on if it is satisfied with the lay of the land on Lots 1 and 2.

Ms. Lonske said she is looking at this as a subdivision of the whole property into a 3-lot subdivision.

Mr. Larochelle said Lot 3 is synonymous with "the remaining land."

Alan Barnard requested a waiver of the 2-foot contour map on Lot 3.

John Dunklee moved/Chuck Beno seconded a motion to grant a waiver of the 2-foot contour map requirement for Lot 3 in the Double E Land Subdivision Application Tax Map 8, Lot 6. PASSED

Chuck Beno moved/David Wall seconded a motion to approve the Double E Land Subdivision Application Tax Map 8, Lot 6 with the following conditions.

MINUTES OF February 3, 2010 ADOPTED 3/4/10 WITH CORRECTIONS

- 1. Language of the easement for a possible future road through Tax Map 8, Lot 2 on George Road will be approved by the Board of Selectmen and noted on the Plan.**
- 2. The Planning Board will include the areas of Lots 1 and 2 in calculating Common Open Space in any Subdivision Application for Lot 3, as per SD-16, Section VII.A (4).**
- 3. As a condition of subdividing Lot 3 (the remaining land), the Planning Board may require that the Developer design and construct a road to Town Specifications from Cooper Road to George Road using the Easement noted in Condition 1. Notice of this Decision will be recorded with the Easement and Conditions on the Plan.**
- 4. NH DES Subdivision Approval is required for the Final Plan.**
- 5. Setting of monuments and notation of their location is required for the Final Plan.**
- 6. Any areas of the stone wall on George Road that have been disturbed will be restored as appropriate and approved by the Board of Selectmen.**

PASSED unanimously

Roger Larochelle noted the 30-day appeal period for a Subdivision Approval. He asked Alan Barnard if he records the plan right away. Mr. Barnard said in some towns it is not considered approved until it is recorded. That is how he has been doing it.

9:20 PM

CIP (Capital Improvement Plan) Committee Review

Mitch Manseau, committee chairman, asked David Wall, prior chairman, to give a brief history of the CIP committee. Mr. Wall led the review three years ago, and prior to that it had been more than a decade since the previous review. This year's team had more people with a variety of backgrounds. Dian West will format the spreadsheet into readable graphics. Mr. Manseau said he expected to see his article about the CIP and notice in the paper (Record Enterprise) the next day. The RSA suggests forecasting 6-10 years, so the Committee did 10 years. Some things are more predictable, like the Fire Department. They asked all town departments for requirements and got them ranging 5-10 years. They sequenced the requirements to be able to level-fund them by putting funds into Capital Reserves. Mr. Wall said a public hearing now is not to affect plans for 2010, but when voters look at the Warrant Articles at Town Meeting, they don't know what is in the minds of the department heads. By having hearings, the CIP Committee can help inform, educate and show townspeople there is a body within the town that advises the Select Board but has no power. He said most of their work was on the level-funding concept, to keep spending at or below levels in the past while not having a negative impact on the tax rate. They did spread-loading of expenditures so when it is time for bonding, the town is in good shape. They looked at projections and kept below the last few years' averages. Mr. Manseau said the figures help the Selectmen put the budget together. He went over the figures on the handout, explained the format and got suggestions for improved readability.

Ellie Lonske had several questions because neighbors ask her about everything, such as a new Town Hall. A major concern is to preserve the land for a Town Hall. Did the Town ever vote to build one?

Alan Barnard said if it had not been voted on at Town Meeting, there would not be more than \$300,000 in the Capital Reserve fund for it. He served on the Facility Needs Committee in 2002, and several projects they identified have been completed, such as the Town Shed, and updating the Land Use Building. The Town purchased the Rogers land and it was determined that the new Safety Building was a more immediate priority than a Town Hall. There is enough land for a Town Hall,

MINUTES OF February 3, 2010 ADOPTED 3/4/10 WITH CORRECTIONS

new cemetery and other needs identified by the Committee. Then the opportunities to purchase the Town Beach land and then the Town Forest property set back plans for a Town Hall. They had a plan to put a Town Hall on the land where the old Fire House is, but since then, the current Town Hall committee has decided that it is best on the Rogers property due to space and utility constraints. Anyone can read details of those constraints in the Town Hall Committee minutes. Also, the department heads said the old Fire Station is needed for storage of Fire and other equipment. If that were taken away, they would need to find new storage areas.

Mr. Dunklee said this year there is a Warrant Article for \$5,000 to start design and architecture and that's a 4-year Warrant Article which is level-funded.

Ms. Lonske said the only thing in the 2005 Master Plan is that the land should be obtained for a Town Hall. Are the Selectmen sure the townspeople want a Town Hall? There needs to be more public discussion to educate and persuade.

Mr. Wall asked if the Town Hall Committee meetings are open to the public. Mr. Dunklee said yes. Meetings are at 7 PM the last Thursday of the month in the Safety Building. 2/25 will be the next. He said our town buildings, other than the Safety Building, do not meet ADA requirements, which has been mentioned in State audits. The other big reason for a new building is security.

Mr. Beno asked if any Federal money could be obtained. Mr. Barnard said it has to be shovel-ready.

Mr. Dunklee said the CIP report is an excellent document. As a Selectman he is delighted. It gives real information and real direction. It gives options from a management perspective.

Mr. Larochelle said the CIP is under the Planning board because it relates to the Master Plan.

Mr. Wall said what the Bristol CIP Committee is doing is putting things into their Plan that department heads have not requested. The Hebron committee is just trying to make information available and get people interested in thinking long-term. They may see a future need and want to accelerate it.

Mr. Manseau encouraged people to attend the CIP hearing 2/8/10 and future Selectmen's budget hearings and the Town Hall Committee meetings to learn more and share their input.

Ms. Lonske encouraged the Selectmen to get more documents on the Town website, make more information and reports available. All the Boards' annual reports should be on the website.

Mr. Dunklee noted that Kathleen, the person who updates the website, had hip surgery and will be out for about two months. After that, they can move forward with getting more posted.

Mr. Manseau thanked everyone for attending and participating in the review.

10:00 PM

Informational for a voluntary boundary line adjustment by Rod Davis on Route 3A across from Onaway Point Road in East Hebron.

Alan Barnard showed the map and explained the purpose of the adjustment would be to keep the whole driveway within the same lot. There were no issues, so he will prepare an actual plan.

MINUTES OF February 3, 2010 ADOPTED 3/4/10 WITH CORRECTIONS

Other Matters

Chuck Beno suggested a future discussion of the concept of the Conservation Commission reviewing Subdivision Applications.

John Dunklee moved/Chuck Beno seconded a motion to adjourn at 10:08 PM. PASSED

SUMMARY OF MOTIONS 2/3/2010

John Dunklee moved/ Chuck Beno seconded a motion to adopt the minutes of 1/6/10 with corrections noted. PASSED

David Wall moved/Chuck Beno seconded a motion to accept the Subdivision Application of Double E Land (Mike Ethier) for Map 8, Lot 6 on George Road as complete. PASSED

John Dunklee moved/Chuck Beno seconded a motion to grant a waiver of the 2-foot contour map requirement for Lot 3 in the Double E Land Subdivision Application Tax Map 8, Lot 6. PASSED

Chuck Beno moved/David Wall seconded a motion to approve the Double E Land Subdivision Application Tax Map 8, Lot 6 with the following conditions.

- 1. Language of the easement for a possible future road through Tax Map 8, Lot 2 on George Road will be approved by the Board of Selectmen and noted on the Plan.**
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PASSED unanimously

John Dunklee moved/Chuck Beno seconded a motion to adjourn at 10:08 PM. PASSED