



Town of Hebron
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Hebron Planning Board
Minutes of Hearing 7/2/08

Members Present: Roger Larochelle (chair), Ellie Lonske (vice chair), John Matthews (Selectmen's representative), David Wall, Chuck Beno, Martha Twombly (alternate), Joe Hogan (alternate), and Sheila Oranch (secretary).

Others Present: Alan A. Barnard, Bruce A. Barnard, J. Robert Bengtson (Camp Mowglis), Fran Casella Denesiuk, Robert Casella, Roger LaFontaine, David Crane (PSNH arborist), Sheryl Cayer, Tim Cayer, and Mike Ethier.

Time Convened: 7:00 PM **Time Adjourned:** 9:308 PM

Next Meetings: 7/21/08 work session, 8/6/08 monthly hearing

Agenda:

1. Administrative Matters & Announcements
2. Review minutes of prior meetings for additions, corrections and adoption
3. Continuance of Jaques ET AL subdivision and boundary adjustment applications
4. Hebron Country Estates Limited Common Area boundary adjustments
5. Pasquaney Trust BLA c/o Youngman, Boundary Line Adjustment Map 7, Lots 6 & 6-1
6. Informational: Roberto Redondo Wendt, Tax Map 7, Lot 5 on Mayhew Turnpike
7. Scenic Road public hearing of PSNH request to do brush cutting on George Road
8. Excavation Permit Regulations public hearing
9. Any other matters that come before the Board

Administrative Matters/Announcements

Roger Larochelle introduced Board members and welcomed the public. He reviewed the agenda and added two items.

1. Excavation Permit, Davis Farm by Mike Ethier, George Road
2. Informational: Voluntary boundary line adjustments on Cilly Brook Road.

Mr. Larochelle announced that Tim Bates has retired and been replaced by Jae Whitelaw in the Mitchell Municipal Group. Ellie Lonske asked John Matthews if the Town will continue using the firm as Town Counsel and whether the Planning Board can continue having regulations and ordinances reviewed before publication. Mr. Matthews responded that the Board should be frugal in its use of attorney time when material needs review.

Mr. Larochelle announced the Supreme Court decision in favor of Limited Editions' appeal. This means the Board will continue hearing the original application if the applicants so choose.

Review of Minutes

David Wall moved/Chuck Beno seconded adopting the minutes of 6/4/08 as submitted.
PASSED

ADOPTED AS SUBMITTED AUGUST 6, 2008

Jaques ET AL subdivision and boundary adjustment

Alan Barnard submitted a letter from the attorney who is reviewing the agreement incorporating all the changes discussed in meetings last month (on file). If the agreement is acceptable to all, they can proceed. With luck, this will be the next-to-last continuance, if not the last. He requested a continuance to 8/6/08 which was granted.

Hebron Country Estates Limited Common Area boundary adjustments

Alan Barnard said Larry Kill would like to delay the action pending completion of a refinance. Mr. Barnard requested a continuance to 8/6/08 which was granted.

Informational: Cilly Brook Road lot adjustment at Tax Map 1, Lot 13-1, Lots 2 and 3.

Alan Barnard asked that the agenda be modified to allow him to move into this brief informational. Stanley Jackson Jr., Convex LLC, developed this five lot subdivision off George Road in 2005. The new owners of lots 2 (Rod and James Davis) and 3 (Art and Sandra Cummings) want to adjust their boundaries to improve the lots. After reviewing the maps, the consensus of the Board was that this will be an improvement. Mr. Larochelle said it will be added to the agenda for 8/6/08.

Excavation Permit, Davis Farm by Mike Ethier, George Road

Alan Barnard again begged the indulgence of the Board to do a review of completeness of the Excavation Permit application for Mike Ethier, as the Board had taken such pains to provide Mr. Ethier with the forms and instructions. Mr. Ethier presented his materials, with Mr. Barnard providing support. Among the documents presented was a Land Use Plan prepared by a local engineer licensed in Massachusetts. There was discussion of the procedure for applications. Ms. Lonske suggested that presenting the materials was a reversal of the procedure outlined in the new regulations. Mr. Larochelle ruled that this could be regarded as an informational to help the first applicant under the new regulations to understand the process and materials required. The Board was empowered to hear the plan and provide feedback. Mr. Ethier explained his intention to work an acre at a time. David Wall asked for clarification of the location. Chuck Beno requested a Site Walk. Ms. Lonske asked about inflow and outflow. Mr. Larochelle explained to Mr. Ethier about the adopted Excavation Permit Regulations and Checklist, saying that he will work with an application if any requirements are not clear. Mr. Ethier responded that this informational is a good faith gesture that he is willing to abide by current regulations. He has been trying to resolve these issues since 2002. Mr. Larochelle said he will return the prior Site Plan Application and check. Mr. Ethier should submit 10 copies of materials two weeks before the hearing, with reduced size maps. Martha Twombly offered to help Mr. Ethier with any questions regarding wetlands. She showed on the topographical map where the property is adjacent to a future wetlands protection area.

Boundary Line Adjustment, Pasquaney Trust c/o Youngman Lot, Route 3A, East Hebron

Alan Barnard represented the application with Bob Bengtson of Mowglis providing support. Sheila Oranch reported that abutters' notices were sent by certified mail June 20, 2008. Mr. Barnard showed on the map where the new lot will be created with 12.5 acres, therefore eliminating a non-conforming lot. Water rights and a right of way to the "White Footed Mouse Trail" used by Camp Mowglis will be extinguished when the Camp owns the land all as one lot. Mr. Larochelle called for a motion on the completeness of the application.

Ellie Lonske moved/Chuck Beno seconded a move to accept the Pasquaney Trust Boundary Line Adjustment application as complete. PASSED

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Boundary Line Adjustment, Pasquaney Trust c/o Youngman Lot Application

Mr. Barnard presented the application with a request for a waiver of the lot ratio limit.

Ellie Lonske moved/Chuck Beno seconded a move to approve the Pasquaney Trust Boundary Line Adjustment lot ratio waiver request. PASSED

David Wall asked if anything precludes this lot from being sold and subdivided in the future. Alan Barnard explained that they are not combining lots because they are in the process of getting financing on one part. If all were combined into one big lot, there would be more risk of subdivision if the land ever changed hands. Bob Bengtson presented the purposes of the change:

1. To protect their own camp, Mowglis, from development across the street.
2. The camp owns 65 acres across the street from the property but it is mostly land-locked with no road access. This lot adjustment would make the right-of-way unnecessary.
3. To protect the land for itself and preserve the environment for the camp. They have been a camp since 1903 and have no intention of changing the use of the land. They need to finance in order to purchase the other 40 acres, and the separation helps facilitate that.

David Wall asked how the land across the street is being used by campers and what will change. Mr. Bengtson explained that there are two trails up Plymouth Mountain, but they are sometimes obstructed. They want to protect access to the trails. There is no intention of developing the land. Roger LaFontaine asked what it would take to get the camp to buy the other 12.5 acres. If we fall on hard times, and the camps need operating funds, they could put land on the market. Could the approval carry conditions? Or, when the note is paid off, could the lots be merged into all one? Bruce Barnard said that having worked at Mowglis as a youth, he can say it has gone through hard times and has improved. The Town of Hebron accepts a donation in lieu of taxes (PILOT), and the camp will be around a long time. The 12.5 acre parcel already creates two lots as there is a lot around the house. Less land is at risk than if all the lots are combined. This adjustment is a win-win situation overall. Roger LaFontaine asked for clarification of the lots. Roger Larochelle and Alan Barnard showed the area and how the .64 acre lot goes into the 12.5 acre lot. Alan Barnard then showed how they would have to combine all the lots to do any subdivision. The land behind is very steep ledge land and would have to be counted as usable land. Bruce Barnard said the NE Forestry Foundation has land up behind, Stokes (a friend of Mowglis) takes it up to Wade Road, Phelps has another parcel, and so there is a lot of protection and continuity going on. Bob Bengtson spoke more on the financial health of Camp Mowglis. They have extinguished all debts and are in their first endowment campaign. Mr. Larochelle called the question.

Ellie Lonske moved/Chuck Beno seconded a motion to approve the Boundary Line Adjustment application by Pasquaney Trust BLA c/o Youngman, on Map 7, Lots 6 and 6-1. PASSED

Informational: Roberto Redondo Wendt, Tax Map 7, Lot 5 on Mayhew Turnpike

Alan Barnard presented the information. This is a proposal to subdivide into three lots, but the back lot would not have frontage. They could create frontage, but would have to disturb a lot of wetlands. They want to create a Right of Way through the existing lots, where they already use an existing road to access the cabin at the back of the lot, rather than disturbing wetlands. They will need a Special Exception for the ZBA before the Planning Board could approve the subdivision. Lot 3 will have boundaries that zigzag to achieve its two acres of usable land and meet zoning.

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Mr. Barnard is seeking the Board's impression before submitting the application. Ms. Lonske asked why not create just two lots. Why push for three? She also commented that the Planning Board should not pre-judge for the ZBA. Mr. Barnard said it is common practice and courtesy to show the Planning Board a proposed plan before going to the ZBA to get a sense of whether the Planning Board would accept it if the ZBA granted the Special Exception. The question he was asking is, "How do you want to address a Special Exception?" The trade-off is less impact on wetlands. The owner has been using the cabin on proposed Lot 3, and loves the big trees and seclusion. He wants to make his home there. David Wall said conceptually it makes a lot of sense to him. Alan Barnard asked directly if the ZBA grants a Special Exception, would the Planning Board consider approval of the subdivision, given that all else meets the Subdivision Regulations. Martha Twombly said she appreciates not having more impact on wetlands than necessary. She is only troubled by having a Right of Way transect a lot the family lives on both sides of. Mr. Barnard said the Right of Way will be deeded into the other two lots, so anyone who considers purchasing one of them, if his family sells it, will know that. Chuck Beno asked if the two lots have access from one driveway, could Lot 3 be condominiumized as a subdivision after the fact. Mr. Barnard said you could not subdivide two acres, so it couldn't happen. Ms. Lonske discussed the history of concerns about back lots with no road frontage. Mr. Barnard strongly disagreed with Ms. Lonske's perspective on the topic. He said he was trying to discover whether he needed a Planning Board denial to go to the ZBA, or if he could get the Special Exception first. But then there would not be a plan to show that only needed the Special Exception. Mr. Larochelle ended the discussion. He stated that he did not believe a Special Exception needs a denial first. Mr. Barnard said he believed you cannot request an exception for a lot that doesn't exist. Approval of the lot could have the ZBA approval as a condition. Mr. Larochelle proposed a joint hearing after the application is accepted. Ms. Lonske said it would be similar to the Whip-o-Will application where they were denied acceptance because the plan would violate zoning and were referred to the ZBA. Mr. Barnard and Mr. Larochelle agreed that they could make the Special Exception part of the process. Both will discuss the situation with the ZBA Chairman.

Scenic Road public hearing of PSNH request to do brush cutting on George Road

David Crane, arborist, presented the information for PSNH. They trim trees on an average 4-5 year cycle and this area is now due. They have the same specifications as 5 years ago when he came before this board. They take down trees that are 4 inches in diameter or less within 8 feet of the lines to 10 feet below or above the lines. They also take down larger dead or decayed trees if they are a threat. They are using the same contractor and many of the same crews. They must contact the land owners to resolve any possible issues before cutting. David Wall asked about the easement along roadways. Roger Larochelle replied the permission is needed because George Road is a Scenic Road and the Town has an interest in protecting it. John Matthews commented that only the land owner can cut without approval. He suggested that any trees considered dead by the arborist or contractor should be flagged so the Selectmen can have them reviewed. Mr. Crane said he drove George Road and identified three trees that should be removed. The contractor may recommend more and the land owners may also. He can limit the contractors or have them notify the Town. Ellie Lonske asked where they trim back to on the tree, the trunk or the crotch or what. Mr. Crane explained trying to keep the proportions natural for keeping a branch and trimming back to lateral branches. The objective is not how many feet of clearance, but how many years of clearance. It is species dependent because of different growth rates. Joe Hogan asked about the cycles. Mr. Crane explained that they were able to wait five years in Hebron because of the reliability factor. This speaks well of the work of the crews last time. We have had a slightly lower rate of outages due to tree problems. Martha Twombly said she liked the comment on keeping natural qualities of trees but has noticed pine trees trimmed all the way up and stripped.

ADOPTED AS SUBMITTED AUGUST 6, 2008

Mr. Crane explained that 15 feet is the minimum. Pine is a challenging species. The wood is brittle and weak; the tree has foliage in winter so it collects snow; branches grow out to shade others and cause bare branches; the lateral branches are too small and can't sustain the limb. If they leave lateral branches, by the second year the tree looks terrible with long, dead branches. He explained the chemical boundary that forms when they cut at the branch collar and protects the tree from invasion by pests and diseases. Cutting farther risks the tree. Ms. Twombly asked about George Road above Cilly Lane. Mr. Crane said PSNH serves $\frac{3}{4}$ mile in from North Shore Road. Bruce Barnard said he spoke for the Town and asked Mr. Crane for the records from 5 years ago that show where they cut. He explained that power is supplied to George Road by both PSNH and NHEC, and ownership is complicated. Mr. Crane said he will do the following things.

1. He will get those records from 5 years ago to the Selectmen.
2. He will make sure that dead trees will be flagged, beginning with the 3 already identified.
3. He will be happy to go out with a designee of the Selectboard to review the trees.
4. He agreed to give at least 7 days notice prior to cutting to allow time to drive up and look.

John Matthews moved/David Wall seconded a motion to approve PSNH cutting brush and encroaching limbs on George Road in 2008. PASSED

Excavation Permit Regulations public hearing

9:04 PM Bruce Barnard was the only additional person present. He had some questions and comments, not having read the regulations in advance. Is there a fee schedule? Yes. What is on the authority page? The Town of Hebron. Is the boundary of the project not the property? Yes. Did you specify how many copies had to be submitted? Yes.

Other Matters

Bruce Barnard suggested that the Planning Board obtain copies of the new ZBA application forms and review criteria, as there are some new rules. Roger Larochelle reminded the Board that it is very helpful for applicants to come and give informational presentations for the Board to get a sense of the project and to clarify procedures. Chuck Beno suggested that it's difficult with an applicant with whom everyone has done business with. That's life in a small town. As long as individual Board Members are comfortable, they should not recuse themselves unless there is a direct conflict of interest. Let the regulations speak for themselves. Keep it objective and impersonal, and speak to the facts. For example, Martha Twombly said she will have to recuse herself both as an abutter and as Chair of the Conservation Commission if there is a public hearing for Ethier's excavation permit. She would designate a Commission member to address sensitive wetlands issues. Various members discussed how to keep demeanor civil during hearings when feelings get volatile. Ellie Lonske also expressed concerns about attitude and everyone being treated with respect in meetings. David Wall suggested sending a letter to each applicant providing guidelines for protocol at hearings. John Matthews suggested that Roger Larochelle or whoever is chairing a hearing might borrow the gavel from the Selectmen. If anyone gets out of order, stop the hearing and tell them to control themselves or they will be shown the door. Joe Hogan said that excavation permit regulations are new and the paperwork can be overwhelming. The Board needs to work with applicants to help them get through. Roger Larochelle said it may also be appropriate to send a letter to any member of the public whose behavior is unacceptable with a suggestion to maintain their composure. Bruce Barnard suggested that before an applicant comes to a hearing, Roger Larochelle could go over the rules of the meeting. He should borrow that gavel and use it. David Wall asked if a Land Use Plan that comes

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with an Excavation Permit Application should be done by a NHPE (professional engineer licensed in New Hampshire). Is a landscape plan adequate? The regulations do not specify this yet. It should be added and be on the checklist. Bruce Barnard said it should specify a PE who is a civil engineer or licensed surveyor. Martha Twombly asked about procedure for handling renewed applications. Mr. Larochelle said the Board will take that up another time.

John Matthews moved/Chuck Beno seconded a motion to adjourn at 9:30 PM. PASSED

SUMMARY OF MOTIONS

David Wall moved/Chuck Beno seconded adopting the minutes of 6/4/08 as submitted. PASSED

Ellie Lonske moved/Chuck Beno seconded a move to accept the Pasquaney Trust Boundary Line Adjustment application as complete. PASSED

Ellie Lonske moved/Chuck Beno seconded a move to approve the Pasquaney Trust Boundary Line Adjustment lot ratio waiver request. PASSED

Ellie Lonske moved/Chuck Beno seconded a motion to approve the Boundary Line Adjustment application by Pasquaney Trust BLA c/o Youngman, on Map 7, Lots 6 and 6-1. PASSED

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