

MINUTES OF September 2, 2009 APPROVED 10/5/09



Town of Hebron
PO Box 188
Hebron, NH 03241
Phone: 603-744-2631
hebronnh@metrocast.net

Hebron Planning Board
Minutes of Public Hearing 9/2/09

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

Others Present: Mary Nell Allen, Hugh Sycamore, Pete Carey, Dan Merritt, Neil McIver, Bill Robertie, Alan Barnard, and Debby Sycamore.

Time Convened: 7:07 PM **Time Adjourned:** 9:12 PM

Next Meetings: 10/7/09 hearing, (no work session in September)

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. Continuance of Limited Editions (Rogers Ledge West).
5. Site Plan Review Application for Change of Use by Bill Robertie on Tax Map 17, Lot 3.
6. Voluntary Lot Merger by (Mary) Nell Allen on Tax Map 2, Lots 16 & 17.
7. Any other matters that come before the Board.

Administrative Matters/Announcements

Roger Larochelle noted that Chuck Beno had an excused absence. Martha Twombly was appointed as voting. Mr. Larochelle had the Board members introduce themselves and reviewed the agenda. For the convenience of the public, he moved the Jaques continuance to the end of the agenda.

Review Minutes of 8/5/09 Hearing

David Wall moved/Ellie Lonske seconded a motion to adopt the minutes of 8/5/09 as submitted. PASSED

Continuance of Limited Editions (Rogers Ledge West)

Continuance was requested by email and postal mail and granted to 10/7/09.

Site Plan Review Application for Change of Use by Bill Robertie on Tax Map 17, Lot 3

Bill Robertie, Neil McIver and Alan Barnard were present to present the application materials. Mr. Larochelle noted that as abutters had not yet been noticed, the application could only be reviewed for completeness and merits of the application could not be discussed. Mr. Barnard displayed aerial photos of the property as defined by USGS maps and asked if these could be accepted in lieu of a topographical map of the entire lot. He suggested that only the immediate area proposed for use should have a detailed survey. He then presented the 1935 survey, with reduced scale copies for board convenience. The annotated photograph includes structures, well area, property lines, the public road, driveways, the Cockermouth River and other natural features. He pointed out that the river has moved over time and will continue to do so, and the photograph is current. Mr. Larochelle

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acknowledged sketches of the proposed building; the 8/27/09 site plan sketch showing proximity to the river bank and approximate location of the proposed parking area in The Field; a plan showing the location of existing buildings, distances from boundaries, power poles, snowmobile trails and North Shore Road; and an abutters list. Mr. Robertie said they are still working on test pits for the septic plan application. He stated that the existing cleared area (The Field) may be maintained within the Shoreland setback as it is grandfathered, and the State has verbally approved its use for short-term parking of trailers and boats waiting to be repaired or serviced, or as seasonal parking for owners' use. Ms. Lonske commented that allowing user parking increases the number of boats and trailers being parked at any given time. Mr. Robertie said they plan to cap the number at forty for all reasons. They plan to use water from the existing well. There is not a lot of water usage, just washing boats. They will use natural drainage. Mr. McIver said it will be ground treatment, like a dry well. Ms. Lonske asked what materials are used to wash boats and whether they contain phosphates. Mr. Robertie said the State issues a frequently-updated list of approved materials and they adhere to the State list. They will not need an enclosed wash station, as was required for the marina, because they will be farther from the lake. Mr. Larochelle asked if any other permits are needed from the State and Mr. Robertie replied only for the septic system. Ms. Lonske asked if the existing driveway permit is valid for a commercial driveway. Mr. Robertie replied that a representative from the State came down to inspect the property and said they will upgrade the filing to commercial with the same permit number, but they could not commit to when that would be done. Mr. Larochelle asked about status with the Town, and noted that the code enforcement officer, Dan Merritt, was present. John Dunklee informed the Board that the Town issued a Cease and Desist order until a Site Plan is approved. Mr. Robertie must remove all boats and equipment by 9/15/09. Mr. Robertie asked if he could get a temporary permit while the application is being considered. Mr. Larochelle clarified that there is no such thing as a temporary permit and the Planning Board has no authority to allow such usage. Mr. Robertie asked Mr. Dunklee to make sure the equipment needed to do test pits would not be prohibited, so they can get septic design approval from the State. Discussion moved on to specifics of the application requirements. Mr. McIver's drawings show elevations in the relevant area with other buildings, poles and boundary markers. Mr. Larochelle referenced the checklist of requirements for a Site Plan Review application. He asked if there will be any rentals. Mr. Robertie said there will probably be some rentals of canoes and kayaks, and maybe outboard motor boats. Going down the list in order:

Applicant Name: Hebron Boat Sales, LLC. A through J are fulfilled, with the following points of discussion. L, R, S and T are fulfilled. Other points are discussed below.

D. Is the 1935 survey accurate and adequate? Mr. Barnard said the aerial photograph is at 6-10 foot resolution and the boundaries are given from abutters' recent surveys. Mr. Larochelle said although the river has moved, technically the river is the boundary. If the property was certified by the original surveyor, Mr. Keniston, and it is the same lot, it probably stands. Mr. Barnard said the purpose of the photograph was to show the lot's river frontage, which is about 3500 feet, although that is not relevant to the proposed building. There will be more discussion of validity later.

G. Mr. Larochelle asked how elevations were derived. Mr. McIver said he benchmarked elevations at a corner of the barn using the USGS map and GPS as reference for the 20-foot contours. Mr. Barnard said there is a third-order benchmark on the southwest corner of the bridge. Mr. McIver said he will tie into it for the next version of the plan.

H. Peak height of the proposed building is 26 feet from grade, but there were questions about the elevation relative to North Shore Road. The concern is visibility from the road.

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J. Mr. Larochelle ruled that the photograph will suffice for locating structures and roads, so Mr. Robertie should request a waiver.

K. The Planning Board will require a parking plan showing areas where boats and trailers will be parked. Ms. Twombly suggested that the parking plan should specify areas for particular uses. Questions arose as to what kinds of boats, particularly rentals, would be kept at this site, and where any might be launched. Mr. Robertie asserted that no rental power boats will be kept at this site and if launching were added in the future it could be at the state park or with a boom crane into the river. Mr. Dunklee said the Board would need a written statement that no power boats will be stored there. Mr. Robertie said that any canoes or kayaks may be stored in his barn. Power boat rental permits and inspections by the State must be obtained each year as of the first request. Mr. Larochelle said if such a thing were to be done it would have to be designated on the plan.

M. The State regulations on “dark skies” down-lighting have passed, so the single outside light planned for the site would have to meet those requirements.

N. A landscaping plan will be developed, pending Mr. Barnard’s determination of the angles for trees needed to accommodate snowmobiles.

O. Mr. Larochelle said the Board would circle back to this point after finishing the checklist.

P. There are no existing draining facilities located adjacent to the site. See minutes of 8/5/09 informational discussion about flooring, drainage and wetlands safety requirements.

Q. Will require a separate document.

Mr. Larochelle reviewed the materials submitted to date in relation to having enough information to accept and review the merits of a plan. The Plan itself needs a signature-approval block. The Board would need all the information shown on one plan, combining the building plan, boundaries and distances, for the files. Site plans do not have to be recorded like deeds. They do have to be legible with wall structures, showing parking areas, well and septic areas and edges of the field. The septic system plan is separate. He asked for Board comments.

Ms. Lonske said before discussing the validity of item D, the Board should discuss whether this Site Plan meets Zoning Ordinances as required in O. Mr. Larochelle asked Ms. Lonske to begin the discussion. Ms. Lonske said at the informational presentation 8/5/09 there was some discussion of the definition of a marina according to Hebron ordinance IV, ZN -17. She has read the ordinance and research the State definition of a marina according to DES as well as definitions from other towns. Nothing in the proposed plan involves waterfront, which seems to be integral to all the definitions. It would be uncomfortable to proceed without a legal opinion. If this usage is not automatically permitted in the Lake District, the application would have to go to the ZBA before the Planning Board could consider it. Mr. Wall said that is sound reasoning. Ms. Twombly said it is a valid question. Mr. Larochelle opened the floor to public comments.

Hugh Sycamore said he appreciated the opportunity to hear the discussion. He came to listen to information about a proposed marina, but this is not a marina, it is a marine repair facility. He appreciated Mr. Robertie’s comments and ask several questions. If this site has a 40-boat capacity but rentals are at an off-site location, where is that? Where would the excess boats be stored? He would like to see this clearly set back from the Cockermouth River so there is no possible

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contamination. The name Hebron Boat Sales clearly indicates retail and may be possible through a ZBA use variance, but it is not permitted within Zoning. He said he was glad to have a chance to comment and to hear that abutters will be noticed before an application is heard.

Mr. Wall pointed out that the comments seemed to be segueing into discussion of merits before an application had been accepted. Mr. Larochelle said no, they were discussing whether the Planning Board has jurisdiction. Mr. Wall asked if that should not be up to Town Counsel. Ms. Lonske said that was the point. Ms. Twombly and Mr. Hogan agreed. Mr. Barnard said if the Board gets an opinion from Town Counsel, at that point the Board would know whether it is able to accept the application to approve or deny, or that this application does not fit zoning and should be sent to the ZBA, because you need a reason to apply for a ZBA hearing. Mr. Wall said there should be no further discussion that might prejudice an application until the Board knows if it has jurisdiction. Mr. Larochelle asked for a motion. There was discussion of the motion because Ms. Lonske and Mr. Cowern were concerned about whether the State definition is more restrictive than the Hebron Zoning Ordinance definition and would take precedence. Mr. Larochelle said in the discussion last month he felt the application narrowly qualified by definition.

John Dunklee moved/Ellie Lonske seconded a motion to request advice from Town Counsel on the definition of a marina, and whether the Hebron Boat Sales LLC application would constitute a marina within Hebron Zoning and the State definition. PASSED

Mr. Larochelle summarized for Mr. Robertie and allowed him to comment. Mr. Robertie said at the informational last month he had mentioned moorings on the river and the Board had said that was not necessary, so they tailored the application according. If Town Counsel says it is not a marina without them, then they will add them back into the plan. They can launch canoes and kayaks and put in moorings for small motor boats on the river. Mr. Cowern said he would like to see the request to Town Counsel expedited in fairness to the applicant. Mr. Larochelle agreed and said he will notice the Planning Board when he has an appointment so any available members can attend with him. Mr. Sycamore asked about where Mr. Robertie could launch boats from his property and Mr. Barnard gave him a brief reply and showed him on the map. Mr. Larochelle ended discussion at 8:48 PM.

Voluntary Lot Merger by (Mary) Nell Allen on Tax Map 2, Lots 16 & 17

Nell Allen explained that last Friday she purchased the half-acre lot that abutted her property on Lot 17 in three places, with the intention of merging the two properties. The deed just arrived yesterday. She could not find a specific fee for this procedure, although a fee is mentioned on the application form. The merger makes the resulting lot more in conformance with Zoning. Her purposes are for convenience and reduced taxes. Mr. Larochelle asked if she intended to remove the structures on Lot 16, and she said she plans to remove the buildings. Mr. Barnard pointed out that she only needs to remove facilities/utilities so the buildings would be merely accessories, which would allow her more time to complete removal of the buildings. Ms. Allen said she wants to get them down before winter. Mr. Dunklee checked the Regulations and noted that no fee is specified. Mr. Larochelle said it could be treated as a Lot Adjustment and set the fee at the minimum \$25.

David Wall moved/Martha Twombly seconded a motion to approve a Voluntary Lot Merger by (Mary) Nell Allen of Lots 16 & 17 on Tax Map 2.

Mr. Larochelle pointed out that the deed will need to be recorded and ask Ms. Allen if she would take responsibility for that action. She agreed to get the deed recorded and submit a copy to the Town. Mr. Larochelle signed the form.

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Continuance of Jaques ET AL subdivision and boundary adjustments

Mr. Barnard reported that Paul Sugrue has signed the agreement. Subdivision reviews will begin with the Jaques property. An updated abutters list will be submitted in time to send notices before the next hearing. Continuance was granted to 10/7/09.

Other Matters

Mr. Larochelle announced the NH Office of Energy and Planning (OEP) Annual Fall Conference being held Saturday, October 17, 2009 at the Mountain Club on Loon, Lincoln, NH. Registration materials are available at www.nh.gov/oep or by phone from Michele Zydel at 271-2155. Ms. Twombly asserted that when she joined the board, these educational sessions were very valuable.

Mr. Dunklee announced that the Selectmen will be attending the Municipal Law Lecture Series and anyone else who wants to attend can plan to car pool. The lectures are being held Wednesday evenings from 7-9 PM in a variety of locations on September 16, 23 & 30; and October 14, 21 and 28, 2009. Pre-registration one week prior to the event date is required and space is limited. You can register online at www.nhlgc.org and get reimbursed or have the Town invoiced. If you want more information, check their website, or get a brochure at the Selectmen's office. Mr. Dunklee will have information about the series sent to all Boards.

Mr. Dunklee also announced that anyone can let Kathleen (hebronnh2@metrocast.net) in the Selectmen's Office know if they want to be on the list to receive all such notices automatically.

Mr. Manseau reported that the CIP committee has been meeting and will present a draft in October.

Martha Twombly announced that the NLRA's final presentation on the Watershed Master Plan will be held at Bridgewater Town Hall on Monday, 9/28/09 at 7:00 PM. She reminded everyone that the Watershed Plan Support Letter deadline is 9/3/09.

Next meeting will be 10/7/09 as by consensus there is no need or a quorum for a work session this month. Planned absences for the October meeting include Ms. Lonske, Mr. Wall and Ms. Twombly. Ms. Lonske will also be absent for November 4. The Board will plan for an October work session to begin surveying Zoning and Regulations updates for the next Town Meeting.

Ellie Lonske moved/John Dunklee seconded a motion to adjourn at 9:12 PM. PASSED

SUMMARY OF MOTIONS

David Wall moved/Ellie Lonske seconded a motion to adopt the minutes of 8/5/09 as submitted. PASSED

John Dunklee moved/Ellie Lonske seconded a motion to request advice from Town Counsel on the definition of a marina, and whether the Hebron Boat Sales LLC application would constitute a marina within Hebron Zoning and the State definition. PASSED

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