

**MINUTES OF 3/2/11 ADOPTED AS WRITTEN 4/6/11**



**Town of Hebron**  
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**Hebron Planning Board**  
Minutes of Public Hearing 3/2/2011

**Members Present:** Ellie Lonske (chair), Roger Larochelle (member), John Dunklee (Select Board representative), (Curt Mooney (Select Board alternate), Chuck Beno (member), Mitch Manseau (member), Joe Hogan (alternate), Arthur Cummings (alternate), Kathleen Kearns (alternate) and Sheila Oranch (secretary).

**Others Present:** Larry Kill, Don George, Chuck Braxton, Martha Twombly, Greg Melton, Alan Barnard, and Jim Bolduc.

**Time Convened:** 7:00 PM    **Time Adjourned:** 8:44 PM

**Next Meetings:** 4/6/2011 regular hearing

**Agenda:**

1. Administrative Matters and Announcements.
2. Review minutes of prior meeting for additions, corrections and adoption.
3. Continuance of Jaques ET AL subdivision.
4. Subdivision Application for Sughrue portion of George Road relocation.
5. Subdivision Application and lot adjustment for Double E Land - Mike Ethier, Map 8, Lots 5 & 6.
6. Unit Boundary Line Adjustment for Hebron Country Estates, Radius Realty Group II LLC.
7. Any other matters that come before the Board.

**Administrative Matters/Announcements**

Ms. Lonske noted that the 2/2/11 hearing had been cancelled due to weather. A letter was received from Jae Whitelaw, Town Counsel, stating that Jae Whitelaw's brief in the Delaney appeal to the NH Supreme Court is due on March 11th, and that the case would probably be heard no earlier than May. Minutes of 1/5/2011 were corrected to remove Ellie Lonske from the Present list.

**John Dunklee moved/ Chuck Beno seconded a motion to adopt the minutes of 1/5/11 as corrected. PASSED**

**Continuance of Jaques ET AL and Subdivision Application for Sughrue** Alan Barnard requested and was granted a change in the agenda, so Larry Kill could dispose of the Boundary Line Adjustment.

**Unit Boundary Line Adjustment for Hebron Country Estates, Radius Realty Group II LLC.**

Alan Barnard explained that new State terminology applies within condominium subdivisions so each parcel is called a "unit" rather than a lot. The boundary line will now be called a "unit line." In this adjustment of Map 18, Lot 30, Units 1 and 26 with access to Skyline Drive, the unit lines move but the areas remain the same. After reviewing and discussing the materials, no objections were raised.

**Roger Larochelle moved/Mitch Manseau seconded a motion to accept the application for a Unit Boundary Line Adjustment for Hebron Country Estates Map 18, Lot 30, Units 1 and 26 as complete. PASSED**

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**Roger Larochelle moved/Chuck Beno seconded a motion to approve the application for a Unit Boundary Line Adjustment for Hebron Country Estates Map 18, Lot 30, Units 1 and 26. PASSED**

### **Continuance of Jaques ET AL and Sughrue Subdivision Application.**

Alan Barnard reported that Arthur David Jaques expressed considerable upset that although his subdivision had been approved long ago, he was prevented from selling any lots because the final agreement is contingent on the Sughrue subdivision being approved. Mr. Sughrue's offer for the property was not acceptable. Mr. Jaques mentioned possible consequences to the Town if matters are not moved along in a timely manner. Mr. Barnard said he took full responsibility with Mr. Jaques and as soon as the snow is gone will move at all possible speed. Mr. Barnard presented an updated Plan for the Sughrue property showing the relocated road and said the engineering is done for the entire road. A temporary turn-around adequate for fire trucks would be built after the curve, then gravel road per Town specifications up to the easterly line between Lot 3-2 and Lot 3-1. John Dunklee said after the recent Selectboard review of the plan there are no objections and they can accept that scenario. Ms. Lonske polled the Planning Board and there were no objections.

### **Subdivision Application and lot adjustment for Double E Land - Mike Ethier**

Ms. Lonske noted that Alan Barnard had informed the Board that because the updated plan included a boundary line adjustment on the Davis Farm property (the remainder lot), additional abutters who had purchased new lots on George Road would need to be notified. As a result, all material at this hearing would only be regarded as informational. Jim Bolduc, Lepene Engineering & Surveying, presented a modified plan with two lots, a single driveway off Hickin Road and the other by the Town Shed road. A letter from the wetlands scientist as of frost and snowfall was submitted and the updated plan shows wetlands flags. The scientist will assess erosion controls after spring thaw. This information is to address progress on the Administrative Order. Ms. Lonske said the Board did check with Town Counsel and the response was that the Board has to accept the application to review, but any decisions would be conditional on the Administrative Order. Mr. Bolduc said negotiations with abutters, like a site walk are under snow. Ms. Lonske said there must be discussion of whether the proposed "single" driveway can be a driveway, and continue to serve the original dwellings from the 1979 subdivision. Mr. Beno said if there are three driveways off Hickin Road then it is not a driveway and needs to be considered a road. If it is not two-way a waiver would be required for it to be narrower than Town Road standards. Mr. Bolduc said the idea is that after the second house it becomes just a driveway. Ms. Lonske said proximity to the brook means exercising caution. Mr. Bolduc said this is information only, no proposal is presented for consideration yet, they are still discussing "what if" scenarios with abutters and their new attorney. They will need language about drainage in the agreement and they seem close in finalizing the language, he estimates about 95% there, and should not conjecture. Ms. Lonske said the Board is offering ideas and feedback. The plan seems like two different subdivisions. The one off Hickin Road is complex and the other lot has completely different access. Why are they presented as one application? Mr. Bolduc said they piggyback each other. If they are not able to come to resolution about Hickin Road, they will have to approach the other access. Ms. Lonske said they shouldn't be together. Why not bring Hickin Road to the one lot without including the second alternative? Mr. Beno and Mr. Bolduc agreed that they couldn't approve the first lot without creating a non-conforming lot behind it, and they must have an access solution to Lot 5-2. Mr. Larochelle asked if there is a 50-foot Right-of-Way to access Lot 5-1, would the road by the Town Shed be built to Town standards. Mr. Bolduc said no. Mr. Larochelle asked if it were, could

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they access all three lots? He said put a premium on Bog Brook and seek alternatives. If possible, put in access by the Town Shed road and put a limit on future development of Hickin Road to therefore protect Bog Brook. Ms. Lonske said Mr. Ethier owns all the land, including the Davis Farm property. Could he merge the two properties and try a different approach? If you have to look at the whole property together, why not merge Davis Farm and approach the lots from Cooper or another way. She asked the Board for comments. Arthur Cummings asked if there was concern about putting a road behind the Town Shed and how close it would be to wetlands. Mr. Beno asked about the fate of the Davis Farm land and whether some features, such as the brook and bogs, need to be shown on this plan that need to be taken into account. Ms. Lonske recalled that when the subdivision on George Road was approved, a condition for any future subdivision of the Davis Farm was that the Planning Board reserved the right to require a road connecting George Road to Cooper Road. John Dunklee said from the point of view of the Selectboard, Hickin Road would have to be constructed so two fire trucks could pass most of the way and turn around at the end. There is no water source, so they would need tanker access. For the other driveway along the Town Shed property, having just walked it, he failed to see where they can get a road there due to steep banks. Towards the west of that property, Town Shed property abuts a very steep embankment. Would the Town give permission for an embankment within ten feet of the line? They might require fifty feet. They can't use the Town Shed road as 10-wheelers use it regularly. As soon as Mr. Ethier wants to subdivide the Davis Farm, the Town will want an access road for fire trucks. Ms. Lonske noted that Cooper Road is already beyond the Town limit of a half mile without another access. She asked the public for comments. Martha Twombly asked Mr. Bolduc to please indicate all driveways existing and proposed. Mr. Barnard assisted. Ms. Twombly said for the Planning Board to consider in looking at the road/driveway proposal, also consider wetlands overlays, buffers, precedents being set, and wetlands impacts from waivers. Referencing Mr. Dunklee's comments on a subdivision at George Road, if there is any further subdivision they will need an access road. Greg Melton, abutter, said there hasn't been a lot of discussion recently on an agreement. Mr. Ethier is away. They thought they were close to agreement but new material raises concerns. Ms. Lonske asked if they would want to put a driveway in Hickin Road and Mr. Melton said no, but if the Toshacks ever sell, there would be no telling what the new owners would want. His property is on the right side as you go in Hickin Road and it gets very narrow by Bog Brook. There are vernal pools and areas that need to be protected. Alan Barnard spoke as an abutter for Cold View LLC which he owns with his wife. Their property is behind the Toshack's lot. They have a boundary line overlap in the corner and have yet to achieve an agreement with Mr. Ethier. If there is no agreement, the Plan should show the overlap. Mr. Ethier could do a Boundary Line Adjustment and merge the lots so then he would have land for the access. The other point, although it has prevented digging, is Mr. Ethier's Right-of-Way pre-dates the other subdivisions. Mr. Toshack is encumbered by the Right-of-Way and he would need to have a waiver or adjustment. As was mentioned at the prior informational, the Wilder driveway was not supposed to be off Hickin Road but was designed to access from Cooper Road. Mr. Larochelle said Mr. Ethier is asking for a subdivision on that lot, so the access does need to be addressed. Mr. Melton said an issue is that the 50-foot Right-of-Way is not on the deeds of the two lots on Hickin Road. Ms. Lonske stated that is a legal issue, not a Planning Board issue. As a point of information they can discuss it, but not resolve it. Mr. Barnard said a Boundary Line Adjustment would simplify things. Mr. Bolduc said if you bought the Toshack lot, you'd have the right to get a building permit to access the lot by Hickin Road. Mr. Bolduc said that's what derailed the agreement before, when someone asked if the Town would issue a building permit for the Toshack lot. Mr. Merritt said of course not. That took the discussion back to zero. Ms. Lonske clarified the role of the Planning Board. Mr. Melton said he was not trying to deny Mr. Ethier the right to develop his property, but

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when he wants to subdivide and access two more lots, he can't do it. Ms. Lonske said Mr. Ethier isn't trying to access two lots, as the Planning Board can't consider that. Mr. Larochelle referenced Mr. Mooney's comment, when trying to access a lot on a cul-de-sac, such as the Clark lot and the Davis Farm lot, you must consider public safety; whether you can get fire trucks in and turned around. Optimal design is required to accommodate safety equipment and to assure erosion control. Mr. Dunklee agreed. Ms. Lonske agreed there is a legal obligation to allow development but you have to look at the big picture to avoid scattered and premature development. There was Moose Hollow subdivision, then the next two lots on George Road, and now this. Find another way. She suggested they back off, look at the whole picture and think of ways to approach getting what you want without endangering the environment. This is a complex situation. Mr. Larochelle summarized that the Planning Board couldn't recommend abandoning the Right-of-Way to Lot 5-2 and creating a non-conforming lot. Mr. Barnard asked if the Board would consider it if they made a cul-de-sac with an adequate turn-around. Ms. Lonske said that is too detailed for an informational hearing. Mr. Beno said there is so much potential for environmental sensitivity obvious even with snow. There is enough concern with wetlands and Bog Brook that anything considered should go to the Conservation Commission for full approval, as they are more aware of the conditions.

### **Other Matters**

It was noted that Alan Barnard's information of a change in State terminology for condominium subdivisions to a parcel being called a "unit" rather than a lot should trigger an updated definition in the Subdivision Regulations.

Ms. Lonske announced that she and Ileana Saros did a presentation for the combined boards and will do a briefer presentation at Town Meeting on their proposal to apply for a Hebron Village planning charrette from Plan NH. Plan NH will be meeting with us in Hebron in April before deciding whether or not to give Hebron the charrette grant. If we get the grant, the charrette would likely be held in September.

She asked the Planning Board to consider supporting the idea.

**Roger Larochelle moved/Chuck Beno seconded a motion to adjourn at 8:44 PM. PASSED**

### **SUMMARY OF MOTIONS**

**John Dunklee moved/ Chuck Beno seconded a motion to adopt the minutes of 1/5/11 as corrected. PASSED**

**Roger Larochelle moved/Mitch Manseau seconded a motion to accept the application for a Unit Boundary Line Adjustment for Hebron Country Estates Map 18, Lot 30, Units 1 and 26 as complete. PASSED**

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