

**OSSIPEE PLANNING BOARD
MEETING MINUTES
December 3, 2019**

Minutes have been recorded to be summarized by Laura Nash, Planning Board Secretary; any amendments to the minutes are noted in ***bold & italic*** type.

REGULAR PUBLIC MEETING

Call to Order: Connie Billings called the meeting to order at 7: 00 PM.

Pledge of Allegiance: was recited by all in attendance.

PB Attendance by Roll Call: – Connie Billings, Roy Barron, Tim Otterbach, Sharon “Sharie” Cohen, Alternate- Krystal Eldridge and Steve McConarty, ZEO.

Absent: Peter Zavas, Bruce Stuart, and Sue Simpson (Select. Rep)

Chairman Billings raised Alternate - Krystal Eldridge up to voting status in place of Peter Zavas.

Public Input: Billings called for public input unrelated to any case being presented. None was heard.

Meeting Minutes: Review to approve Meeting Minutes of 11/19/2019.

A **Motion** by Barron to approve the minutes of the November 19, 2019 Planning Board meeting as submitted. Otterbach seconded. No discussion. A unanimous vote was taken by a show of hands. **Motion passed.**

Financial:

- Budget Report: N/A

Informal Discussion: N/A

Unsatisfied Conditions: (continued from previous PB Mtgs):

- See separate sheet with details. (No other updates)
- **Case #19-3-BLA:** Duane & Pammy Berry and **Case #19-3-SUBD:** Ernest Berry was conditionally granted SUBD pending the Fire Chief official letter of inspection. The letter was received on 11/26/2019.

A **Motion** by Billings to approve **Case #19-3-BLA** – Boundary Line Adjustment between Duane & Pammy’s Tax Map: 227 Lot: 021 of 168 Dorrs Corner Rd. and Ernest Berry of Tax Map: 231 Lot: 023 of 172 Dorrs Corner Rd. and **Case #19-3-SUBD:** Subdivision Approval for Ernest Berry of 176 Dorrs Corner Rd. Tax Map: 231 Lot: 022 for the 4 – Lot Subdivision with the deeded right of way road known as Eva’s Way per plans dated 11/19/2019 Barron seconded. No discussion. A unanimous vote was taken by a show of hands. **Motion Passed.**

Unfinished Business:

- **Gravel Pits:** Barron and Cohen conducted site inspections on December 3, 2019 on the following gravel pits:
 1. Heckel Gravel Pit –Evans Brothers: Lease Agreement for the Heckel gravel pit is contingent on solar farm. Gravel pit found to be in Excellent Condition.

2. Berry Gravel Pit (pending sale to Evans Brothers)– Evan’s Brothers found that the green seeding did not take because of draught. Didn’t clean up stumps and brush in the reclamation area to this date. Found to be in: Additional Inspections needed.
3. Jeddrey Gravel Pit – owner is John Jeddrey found to be in Excellent Condition.
4. Chickville Gravel Pit – owner is Brad Leighton - gravel pit found to be Inactive. Board discussed available options to take towards Leighton to complete his Reclamation process and his outstanding conditions. Billing requested to send a letter to Brad Leighton asking for his presence at the next Planning Board meeting on December 17th, 2019.

New Business:

PUBLIC HEARING

- **Case #19-4-SUBD:** Van E. Hertel, Sr. Blake Hill Rd. Tax Map: 223 Lot: 003 Sub: 003 & 002 is looking to subdivide the lots. Lot: 3-2 = 11.23 acres, Lot: 3-3 = 10.734 acres and Lot: 34 = 6.223 acres. All three lots will exceed the required 200 ft. of road frontage.

Van Hertel was here to present his request for subdivision. Hertel confirmed the property had previously been subdivided.

A **Motion** by Barron to accept the application for **Case #19-4-SUBD:** Van E. Hertel, Sr. Blake Hill Rd. Tax Map: 223 Lot: 003 Sub: 003 & 002 as complete. Otterbach seconded. No discussion. A unanimous vote was taken by a show of hands. **Motion Passed.**

Van Hertel explained that last year he subdivided the property into 4 lots. At that time, he considered building a development road and dividing it into 5-6 lots out of the 15.27 acres lot. But he has since decided not to move forward with that plan. The new plan going forward is to take 1.7 acres from lot: Tax Map: 223 Lot: 003 Sub: 002 and create a new lot Tax Map: 223 Lot: 003 Sub: 004 to = 6.26 acres with 4.5 acres coming from the 15.27 acre lot of Tax Map: 223 Lot: 003 Sub: 003. The remaining parcel for Tax Map: 223 Lot: 003 Sub: 003 will consist of 10.734 acres and Tax Map: 223 Lot: 003 Sub: 002 will consist of 11.234 acres.

Board discussion: Otterbach questioned demarcations on one of the plans but no soil lines are in the key chart. Otterbach question if the roadway shown on the plans to the back field is an existing driveway. Hertel confirmed it was and it’s for the scenic view.

Public Input: None heard.

A **Motion** by Billings for **Case #19-4-SUBD:** to Approve the Subdivision for Van E. Hertel, Sr. Blake Hill Rd. Tax Map: 223 Lot: 003 Sub: 003 & Tax Map: 223 Lot: 003 Sub 002 to create a new lot of record for Tax Map: 223 Lot: 003 Sub: 004 per plans dated November 2019 with the following conditions:

Point of Order by Otterbach noting the engineer had not signed the plans.

1. The Monuments to be set per plans
2. Two signature lines on plans for Planning Board to approve
3. Engineer signs final plans and Mylar
4. Mylar plan demonstrating conditions 1 & 3 and recording fees for the Registry of Deeds.
5. All Federal, State and Local Regulations shall be followed.

Otterbach seconded. No discussion. A unanimous vote was taken by a show of hands. **Motion Passed.**

Billings announced the motion passed and ***Noted: The Selectmen, any party to the action or any person directly affected has a right to appeal this decision within 30 days. To avoid lapsing of the approval, there should be substantial construction or liability within 2 years of the decision. See New Hampshire Revised Statutes Annotated, Chapter 677, available at the Ossipee Town Hall.***

- **Case #19-8-SPR:** Frank Varney of 44 Route 28. Tax Map: 126 Lot: 018 is requesting a Site Plan Review to formalize a gravel driveway (4,097 sq. ft.) and construct a 4,800 sq. ft. building to store and maintain his own vehicles and trailers. Mr. Varney will not take in outside vehicle or trailer service work and will not be open to the public.
 - Waiver Request 6.04.4 (G) (3) – Scale: the scale shall be a minimum scale of 1 inch = 20 ft. Due to size of lot of the initial plan is scaled at 1 inch = 70 ft., to show the entire parcel. The second plot identified as sheet 2 is a 1 inch = 30 ft. scale to show greater detail for the area in question.
 - Fire Chief's letter received 12/03/2019

Billings addressed Mark McConkey, representing agent asking if he has revised the plans to take into account the Fire Chief's comments. McConkey stated they would adhere to the Fire Chief's suggestions, but that the suggestions came in after the plans were submitted. Discussion ensued over concerns with adjusting the road from 16 ft. to 20 ft. wide per the Fire Chief's letter of recommendations. McConkey noted they have received NHDOT Driveway Approval, but the letter was sent directly to Frank Varney. Varney will provide a copy for the Planning Boards records.

A **Motion** by Billings to accept the application for **Case #19-8-SPR:** Frank Varney of 44 Route 28. Tax Map: 126 Lot: 018 request for a Site Plan Review is complete. Barron seconded. No discussion. A unanimous vote was taken by a show of hands. **Motion Passed.**

McConkey began his presentation with reiterating NHDOT has approved the driveway permit application. The property is a reclaimed gravel pit with a driveway that is shared by NHDOT to their back property. McConkey explained the driveway pattern. Varney wants to create a driveway off the shared gravel road to his property. He wants to construct a 4988.25 sq. ft. building to store and maintain his vehicles and trailers. Varney will not take in outside vehicles or trailer service work and will not be open to the public for service or repairs. McConkey presented the plans to Board showing the overall layout and locations of the proposed driveway and building. The building meets the Zoning Ordinances for setback requirements, is not visible from the road and shows where he can potentially put a well and septic system and shows the location for parking including handicap parking.

Board Discussion: The driveway will be adjusted to accommodate the Fire Chief's recommendation to widen the road from 16 ft. to 20 ft. thus making it a road with a name.

A **Motion** by Otterbach to accept the Waiver Request from Article 6.04.4 (G) (3) – Scale: the scale shall be a minimum scale of 1 inch = 20 ft. Due to size of lot of the initial plan is scaled at 1 inch = 70 ft., to show the entire parcel. The second plot identified as sheet 2 is a 1 inch = 30 ft. scale to show greater detail for the area in question. Barron seconded. No discussion. A unanimous vote was taken by a show of hands. **Motion Passed.**

Billings called for Public Input:

Dave Kolias addressed the Board with several concerns:

1. In order to access the driveway off Route 28 anyone has to cross over his property to access the right of way. He wants the right of way staked out because he does think it's in the right location.
2. Does not want snow plowed onto his property – Barron informed Kolias that he believes there is a state law which prevents a property owner from not allowing snow on their property in order to keep a road plowed and winged back.
3. Wants McConkey to mark the boundaries – McConkey agreed to mark boundaries

Discussion ensued on addressing Mr. Kolias's concerns. Billings read from the deed concerning the boundaries marked for road/driveway. McConkey met with NHDOT and they were satisfied with the roads location, but Mr. Kolias believes it to be incorrect.

A **Motion** by Otterbach to have the applicants representative provide a review of the documents relative to the easement for the right of way at Route 28 and submit his findings to the Planning Board before the approval of the Site Plan Review.

Billings noted it was probably recorded by Lucy Edna Hayes for owner. McConkey agreed to review the documents with NHDOT.

Otterbach withdrew his previous motion. Billing inquired if two weeks was enough time to review. McConkey agreed to two weeks.

A **Motion** by Billings to continue **Case #19-8-SPR**: Frank Varney of 44 Route 28. Tax Map: 126 Lot: 018 request for a Site Plan Review until a date certain of December 17, 2019 for the next Planning Board meeting. Otterbach seconded.

Discussion: Lee Gridley spoke on the history of the property and concern with the salt usage on the road so close to the wetlands. Discussion ensued.

Kolias spoke of more concerns of having a well and/or septic system put on the property if no one will be living at the location. Asked if the applicant was going to be asking for a variance, special exception or a special use permit. McConkey denied any request for a variance, special exception or a special use permit, and noted Mr. Varney does not have the need to have a set well or septic but they want it on the plans for the appropriate locations.

Kolias claimed it's in the Zoning Ordinance it states that any public building shall water and septic. Mr. Kolias was informed that he is mistaken because Mr. Varney's building is a private building not a public/commercial building and as long as building is not habitable; water and septic system is not required. Kolias read a reference from Z.O. 4.3 for Sanitary Protection "***All buildings for human use or occupation shall have sanitary septic system constructed and maintained in accordance with standards set by The New Hampshire Water and Pollution Control Division.***" Under Sanitary Protection 4.3 on page 12 of the zoning ordinance.

But the actual ordinance reads:

"4.1 SANITARY PROTECTION

All buildings for human use or occupancy shall have sanitary systems constructed and maintained in accordance with standards set by The New Hampshire Water Supply and Pollution Control Division, by the Town Subdivision Regulations and applicable health and sanitary codes."

McConkey clarified for Mr. Kolias , according to "The New Hampshire Water Supply and Pollution Control Division if water does not come into a building, it does not have to have a septic system. Once water comes into a building, a septic system must be installed."

Kolias asked Varney if there will be any cutting chipping or processing of trees on-site. Varney commented not after the initial cutting.

Kolias questioned if there would be any paving to cut down on the dust issue. McConkey stated there are no plans to pave. Barron noted in order to cut down on the dust; they would need to put down calcium which is not good for the aquifer and there is no law stating they would have to pave.

Kolias asked if there would be a buffer where Varney recently cut all the tree to the boundary line and referred to Zoning Ordinance ... Barron questioned why he's giving Varney a difficult time when he is creating a lot of dust with his own machinery. Discussion ensued over screening of dust on each other's properties. McConkey offer to show on the revised plans a row of white pine trees to create a buffer between the two properties. Otterbach clarified, the buffers are required if there is some adverse impact on the abutting land use, but the existing abutting land use is a gravel pit. Discussion ensued over buffers along both properties.

Kolias then questioned the difference between maintenance and a repair shop and how it will impact the aquifer. Billings explained in the ordinance under repair shops, which is a commercial business open to the public. This is not open to the public, it is a private building, which is similar to Kolias changing the oil on his property for his equipment. Kolias challenge the interpretation siting the ordinance for a Special Use permit. Billings commented to Kolias for being difficult and questioned why he has no permits for operating an unlawful gravel pit and selling screened loam.

Ruth Gridley questioned what a Special Use Permit is within the letter she received. The secretary noted that was her mistake and it should have said Site Plan Review. She expressed concerns for logging trucks, dust, directionality of the road and outside lighting. McConkey explained the lighting would be downward casting per Zoning Ordinance Regulations.

Billings called for more discussion, with none heard Billings called for a vote on the motion.

A **Motion** by Billings to continue **Case #19-8-SPR**: Frank Varney of 44 Route 28. Tax Map: 126 Lot: 018 request for a Site Plan Review until a date certain of December 17, 2019 for the next Planning Board meeting. Otterbach seconded. No discussion. A unanimous vote was taken by show of hands. **Motion passed.** The case is continued until December 17, 2019 with the following items for McConkey & Associates to address:

1. NDOT letter for driveway approval
 2. Survey Driveway and Right of way
 3. No Salt to be use on gravel road.
 4. Varney will be pushing snow on his property
 5. Does Varney have a State agreement to use road of right of way
 6. White Pines to create a buffer
 7. Private Building
- **Case #19-1-Modification of the Terms and Conditions of the Approval for Case #19-2-SUBD**: owner – John Howell of 95 Leavitt Rd. Tax Map: 031 Lot: 031 for a 2 - Lot Subdivision was granted a Conditional Subdivision Approval pending occupancy of proposed apartment in the existing garage with the following conditions:
 1. Issuance of a Certificate of Occupancy from the Zoning Enforcement Officer for the proposed apartment of the existing garage on proposed lot 2.
 2. In accordance with Zoning Ordinance: “9.5 - EXPIRATION OF APPROVAL: If the (industrial) use has not commenced within two (2) years, the approval for such use shall be null and void. (Amended March 14, 2017)”
 3. Submittal of Final Mylar Plat Plans and Fees for Recording
 4. All Federal, State, and Local Regulations shall be followed.

John Howell and Kevin Mulhern (Father-in-Law) were here to request from the Planning Board the removal of condition 1: Issuance of a Certificate of Occupancy from the Zoning Enforcement Officer for the proposed apartment of the existing garage on proposed lot 2 from the list of conditions. Howell explained it has caused a hardship on his family, and a financial hardship. No abutters have contested his plans. He changed jobs to be closer to his family and became a teacher with less pay, thus now he can't afford his house he built and needs to sell it. He plans on converting the garage into an apartment for his family to live but needs to subdivide the property, so there is not 2 dwelling on one lot of record that is not an ADU.

Billings noted that Howell has two properties and by subdividing he would then have three properties. McConarty noted that Howell does have a parcel on the water. So yes, he does have two properties. Billings reported the ZBA granted Howell's request for a variance to have 2- dwelling on the same lot. Billings noted that Howell wants to remove the certificate of occupancy and subdivide the lot. But he still has the condition of completing this project within the two-year timeframe in accordance with zoning ordinance 9.5 or he has to rip it down. McConarty noted the is a condition imposed by the ZBA.

A **Motion** by Barron to remove the condition for obtaining a certificate of occupancy from **Case #19-1-Modification of the Terms and Conditions of the Approval for Case #19-2-SUBD**: owner – John Howell of 95 Leavitt Rd. Tax Map: 031 Lot: 031 for a 2 – lot subdivision. Cohen seconded.

Discussion: Billings noted the address is not Leavitt Rd, but Broad Bay Rd. Howell conveyed the new address is 84 Broad Bay Rd. Barron modified his motion to reflect the address as 84 Broad Bay Rd. Billings stated the motion should reflect the conditions from the ZBA and mention article 4.4 (a). Barron and McConarty both stated the condition imposed by the ZBA have no reflection on this case. Discussion ensued.

A **Motion** by Barron to remove the condition for obtaining a certificate of occupancy from **Case #19-1-Modification of the Terms and Conditions of the Approval for Case #19-2-SUBD**: owner – John Howell of 84 Broad Bay Rd. Tax Map: 031 Lot: 031 for a 2 – lot subdivision. Cohen seconded. No further discussion. Billings abstained. All others voted in favor. **Motion passed.**

Billings announced the motion passed and ***Noted: The Selectmen, any party to the action or any person directly affected has a right to appeal this decision within 30 days. To avoid lapsing of the approval, there should be substantial construction or liability within 2 years of the decision. See New Hampshire Revised Statutes Annotated, Chapter 677, available at the Ossipee Town Hall.***

- **Land Technical Service Corp.** submission of existing boundary survey for John Jeddrey, Jr. Polly Crossing Rd, under RSA 676:18 IV for information purposes only and recording of said plat under RSA 676:18 III.

Notices:

- Lot Merger -15 Birch Tree Lane letter

The secretary informed the Board she has forwarded a copy of the file to Town Attorney Rick Sager. She has periodically received calls from various individuals stating the Town must reverse the lot merger on these two lots in accordance with RSA 674:39-a. Because they should have been merged in the first place.

McConarty questioned that the lots are not legal lots. Billings stated all the lots in that area have 36 ft. of frontage when its supposed to have 40 ft. of frontage by today's standards.

Billings stated Elizabeth Clow legally merged the lots. The mortgage was only on the house lot not the vacant lot. With the merger it all became one lot with the house lot of record.

Billings noted the Planning Board cannot unmerge the lot for the following reasons:

1. Unless they go before the ZBA and obtained Special Exceptions because there is not enough frontage.
2. Acreage was 0.491 and 0.375 for a total acreage of 0.866 acres

A **Motion** by Billings allowing the secretary to make copies of the documents and forward them to the Town Attorney Rick Sager. Barron seconded. No discussion. A unanimous vote was taken by a show of hands. **Motion passed.**

Job Opportunities:

- Superintendent of Works – **Applications due by December 4, 2019 at Noon.**

Upcoming Deadlines & Meeting:

- **Wednesday, December 11, 2019** - Last day to accept petitions to amend zoning ordinance, historic district ordinance or building code for consideration at the 2020 town meeting
- **Wednesday, January 8, 2020** - Last day to post and publish notice for first hearing on proposed

adoption or amendment of zoning ordinance, historic district ordinance or building code if a second hearing is anticipated.

- **Monday, January 20, 2020** - Last day to hold first public hearing on adoption or amendment of zoning ordinance, historic district ordinance or building code if a second public hearing is anticipated.
- **Wednesday, January 22, 2020** - Last day to post and publish notice of final planning board public hearing on proposed adoption or amendment to zoning ordinance, historic district ordinance or building code.
- **Monday, February 3, 2020** - Last day for planning board to hold final public hearing on adoption or amendment of zoning ordinance, historic district ordinance or building code. Planning board must also determine final form.
- **Tuesday, February 4, 2020** - Last day for official copy of final proposal to adopt or amend zoning ordinance, historic district ordinance or building code to be placed on file at the town clerk's office.
- **Tuesday, March 3, 2020** - Last day to submit zoning ordinance protest petition to require 2/3 vote at town meeting.

Any Other Business Which May Come Before This Meeting:

Adjournment:

Next Meeting & Public Hearing: **December 17, 2019 @ 7:00 pm**

A **Motion** by Barron to adjourn. Otterbach seconded. No discussion. A unanimous vote was taken. **Motion passed.**

Meeting adjourned at 8:38 pm.

Minutes approved by majority vote of the Board on –

_____ Date

Condict (Connie) Billings, Chairman