

Members

Meeting of Planning Board, Antrim, N. H..... November 19, 1979

At our meeting on November 15, we discussed the proposal of William Lindsay to divide his woodlot in Antrim into two parcels and sell one parcel, as a woodlot, to Peter Marciniak. The principal issue was whether Lindsay's proposal constituted a subdivision.

We have consulted with Town Counsel Henderson on this matter. The key rests in the definition of "subdivision" in Section II B of the current Antrim Subdivision Regulations: "Subdivision shall mean the division of a tract or parcel of land into two or more lots for the purpose, whether immediate or future, of sale or building development, and requiring: (1) the extension of municipal utilities, or (2) the creation of one or more new streets, public or private or (3) the extension of existing streets; provided, however, that development for agricultural purposes is expressly excluded..." (underlines are mine.) The growing and harvesting of wood can be considered "agricultural purposes," so the Lindsay plan would not be subject to subdivision regulations.

If this basis for exclusion were deemed invalid, it could be argued that Lindsay's proposal does not involve any of the three requirements that are specified in the definition of "subdivision." But if Lindsay or Marciniak contemplated creating a private street to gain access to their lots, then the proposal might be claimed to be a subdivision. In this case, the Planning Board would have jurisdiction. In this unlikely event, the Board would very probably give its approval, since (1) both lots could have 210' road frontage (Section IV G.); since (2) "road" and "street" are synonymous (Section II E); and since (3) the definition of "street" (Section II E) "...includes any public or private street...;" and since (4) the definition of "street" in the Antrim Zoning Ordinance (Article IV A. 21.) "...means a public or private thoroughfare which affords the principal means of access to abutting property"; and since (5) the Zoning Ordinance (Article IV A.11) states that "frontage means the length of the lot bordering a right of way..." which could be a private right of way.

Based on the above arguments, but particularly on the exclusion for agricultural purposes, I have advised Mr. Lindsay that his proposal does not need Planning Board approval, and have returned his rough plan to him.

J. T. Dennison., Chairman

