

MINUTES OF THE MEETING
OF THE
CANTERBURY PLANNING BOARD

March 8, 2011

BOARD MEMBERS PRESENT: Jim Snyder, Chair; Tyson Miller, Vice Chair; Christopher Evans, Art Rose, Doug McCallum, Chris Blair, Alice Veenstra and Joshua Gordon.

BOARD MEMBERS ABSENT: Seth Cohn, Ken Stern and Briggs Lockwood, Selectman Representative.

The meeting opened at 7:00 p.m. with the Chair presiding.

Draft minutes of February 8, 2011. Motion by Christopher, seconded by Chris, to move the minutes.

Tyson suggested amending the minutes starting on Line 24 to the end of the paragraph so that they read as follows: There was a large contingent present from the North Country that opposes the Northern Pass transmission lines. He reported that a fiscal impact study by PSNH indicated a \$555,000 annual increase in tax revenue for Canterbury. He also reported that town attorney, regardless of any proposed amendment to the state law, has advised the board to support its proposed Zoning Ordinance amendment on the automatic merger of contiguous lots, which is based on the law as it stands today.

Motion by Christopher, seconded by Chris, to amend the minutes as stated.
Motion passed unanimously.

Christopher questioned the meaning of the wording in the sentence on Lines 81 and 82. The Chair suggested the following wording would make it clearer: The Chair commented that, as building inspector, an application for a building permit would trigger a review of the site plan to see if conditions have been met.

Motion by the Chair, seconded by Christopher, to amend the minutes as stated.
Motion passed unanimously. The original minutes were approved as amended.

Continued review of the conditional approval of the site plan application granted to Ralph and Irene Boles on March 11, 2008, for a 60-unit manufactured housing park on Route 106 (Tax Map 17, Lot 0011-000). Mr. Boles was present for this discussion. The Chair commented that this is not a public hearing. The board just wants to know the status of the conditional approval that was granted a few years ago. He introduced Mr. Boles and asked him to give an update of where the project stands right now.

47 Mr. Boles noted that Paul Darbyshire did not request an extension of his
48 alteration of terrain permit and it expired. Had there been a request to extend it
49 before it expired, the extension would have been automatic. Once it expires, you
50 have to start over. The rules have all changed dramatically since the original
51 permit was granted. He has been told that it would be a minimum of \$25,000 to
52 get this permit back. He has no intention of letting this project go by the way, but
53 he has no idea when they will start building. Maybe this year, maybe next year.
54 He wants to see the project done. It can't be done right now, even if he had the
55 permit, as no bank in the world is going to finance it.

56
57 He stated that he knows Ken Stern is very concerned about the conservation
58 easement. He has no intention of giving away 65 acres of land just to give it to
59 the Conservation Commission. It was his understanding that it was part of the
60 deal, but if the project doesn't go through, he doesn't plan to go through with the
61 easement. He said he knows what he needs to have done, and when he can do
62 it, he will, but he can't say when that will be.

63
64 The Chair commented that what the board should have done was to set a time
65 limit on the project, and we didn't do that. At this point he thinks the conclusion
66 that the board drew is that we are probably not in a position to set a time limit on
67 it now. The concern is that, as time passes, the project gets pushed further and
68 further back, and different people are on the board. Would you say it is in your
69 interest to let the board leave it open? Mr. Boles asked if the board would like
70 him to say that he will come back in a year or at some point and say what his
71 plans are? It is his intention to build this project. He doesn't want to throw away
72 all of the money he has put into it.

73
74 Doug commented that the rules keep changing, and we have a mandate for
75 workforce housing. It would be nice if you just got your terrain permit. It is
76 possible, as years go on, that you may want to change the use of the property.
77 How well would your current scheme include workforce housing? That is
78 something the town needs to have by mandate. Mr. Boles responded that he
79 didn't think that would be a problem.

80
81 Art told Mr. Boles that he may want to look into that. He may be better off with a
82 project like that because you could get federal funding with that. You may want
83 to talk with someone about the alteration of terrain permit. Because of the
84 economy, they are looking at projects on a case-by-case basis. Even though the
85 rules have changed, there are some things that can be waived. Mr. Boles stated
86 that they told him that some of the fees would not have to be paid again. It is
87 \$150 for each house, and there are 60 of them. He wouldn't have to pay that
88 again. There is always something new; that is what the engineer has told him.

89
90 Art commented that the reason the topic came up is what we could do to
91 memorialize this approval process. You have pretty much told us what we

92 already knew. It would probably be a good idea to have you come in once a year
93 and bring us up to date.

94
95 The Chair told Mr. Boles that he will put in his calendar a note to re-invite him
96 back for the March meeting in 2012. In the meantime, if anything develops, we
97 would be happy to have him come in before that time. Mr. Boles commented that,
98 if he gets the alteration of terrain permit done, he will let the board know.

99
100 The Chair noted that there are two pre-application conceptual consultations
101 tonight. He explained the parameters for these consultations. We can help with
102 the process. We can't vote on anything and we can't get into a lot of detail.

103
104 Pre-application conceptual consultation with Alecia Farquhar regarding her
105 request to return a non-buildable lot (Tax Map 233, Lot 6) to a buildable lot status.

106 Alecia stated that this lot, once owned by William Ham, is an abutting property to
107 her lot. She and her husband knew that there had once been a house there. At
108 one time it was an old schoolhouse. She and her husband decided to clean up
109 the property, and they just kept pulling junk out as they dug up the ground. At
110 that time they assumed that the building had been buried, although no one could
111 confirm whether the house was buried or taken down. If the building was buried,
112 they did not consider it to be a buildable lot, and, at their request, the town
113 changed the lot status to non-buildable with a 30% decrease in the value of the
114 property and a decrease in their taxes. They did a little more research, and they
115 found out that Waste Management had professionally torn down the house in
116 1996. Now that she knows that, she wants to return the lot to a buildable status.
117 The assessor's office told her they would have to come before the board in order
118 to do that. She understands that she had a tax benefit during those years, and
119 she would be willing to do whatever is necessary to compensate for that. The
120 property is now in her father's name, and she brought a letter from him telling the
121 board that he would like the lot to be returned to a buildable lot.

122
123 The Chair asked her if she lives on Lot 7 next to this lot, and she replied that she
124 lives on Lot 5. The Chair asked if Lots 5 and 6 were ever in the same ownership
125 at the same time, and she replied that they were. The Chair stated that the
126 reason he asked that question is that it is complicated now by action of the
127 legislature. There was a point in time when there was a non-conforming lot
128 which Lot 6 is. If you own two contiguous lots and one is non-conforming, they
129 have to be merged. Alecia stated that in the past it was in her name and her
130 husband's. Her father took it over in November, she believes. It was split from
131 her ex-husband's name in October.

132
133 The Chair stated that the Zoning Ordinance says that, under that circumstance,
134 the lot cannot be conveyed separately. This situation exists most often in
135 Sherwood Forest, which is a lot of real small lots and it is not unusual to have
136 quarter acre lots contiguous. They are deemed to be merged. Tyson added that

137 that is so even though they get separate bills. He told Alecia that she should
138 review Articles 4.0 and 4.1 of the Zoning Ordinance and also 4.2 which was just
139 added. He suggested that she could take land out of her lot to make this into a
140 five-acre lot and add the necessary frontage. The Chair commented that it looks
141 like she is a little short on frontage.

142
143 The Chair told Alecia she may have a problem with some of the conditions.
144 The lot is no longer in the same ownership. As it stands now, if it weren't for the
145 language in the article about merging lots, as far as this board is concerned, that
146 lot would be buildable for residential lots because her father doesn't have any
147 contiguous lots. The only problem with that is the assessor's office. The only
148 question that he would have is whether or not that sale was tainted by the fact
149 that that lot should have been merged, according to the Zoning Ordinance.
150 Tyson read the ordinance to the board.

151
152 Alecia mentioned that the old Route 132 used to go behind Lot 4. Doug
153 commented that the lot was never merged, so it is still the original plan, probably
154 in conformance with the zoning at the time. The Chair asked if she knew when
155 the road was changed, and she responded that she believes it was 1961. The
156 Chair commented that fundamentally the ordinance says that, if the lot was
157 created before zoning, you can use it for residential purposes so long as you
158 meet the zoning. Alecia stated that she doesn't know what will happen with this
159 property. If it is returned to a buildable lot, her thought is that they would put a
160 small shed on there. As far as selling it, she would have to have more
161 information for the realtor who has it listed.

162
163 Tyson stated that he thinks that this lot, when she owned it, became merged.
164 When she sold it to her father, the town mistakenly allowed it to be sold but that
165 means it was with building rights. The town should have never allowed it to be
166 conveyed, but they did. Christopher stated that, regardless of who did what and
167 when, he agrees that it was a new lot, the creation of a new lot. Tyson
168 commented that it was a new lot that wasn't up to standard for building.

169
170 The Chair stated that this is very complicated. The board can't do anything for
171 her because she isn't the owner of record. Alecia noted that her father's letter
172 says that he wants her to represent him. Tyson said that she does have enough
173 acreage to create a buildable lot. Alecia stated that her father is now the owner
174 of the lot, and the bank is taking her property. She can't do a subdivision on that
175 property. There is no clear intention of what she wants to do. Doug stated that
176 he believes that she needs a lawyer to look at this. Tyson stated that the town
177 fouled up. He believes a lawyer will say the lot can be sold, but it doesn't have
178 building rights. Doug suggested that she could go to the ZBA for a variance, and
179 the Chair agreed. He stated that he doesn't believe the board has a role in this.
180 This happened and it was a mistake.

Art commented that he doesn't think it ever lost its status as a lot, even though it was non-conforming, and, other than having an abatement on it, it wouldn't lose its status. It sounds like it was a lot that hasn't lost its status since the beginning. The Chair said he will be happy to run this by town counsel. He doesn't see any way this board can change this. He will make a call to town counsel and also talk with the selectmen, specifically requesting their opinions on lots that have been merged but have been conveyed separately. There is no action that the board can take that would change anything. He told Alicia that if this isn't clear after all of this, her best bet is to go to the ZBA to get a use for it, one way or the other.

Pre-application conceptual consultation with Martin and Betsy Vaughn regarding their request to use their property on Southwest Road (Tax Map 263, Lot 48) to open a disc golf course. Marty and Betsy were both present. Marty explained that this game is played like regular golf, but, instead of hitting a ball, you throw Frisbees into a metal basket with chains on it. There are different Frisbees for what would be different clubs in regular golf. He explained that there will be 18 holes. Most holes are 300 feet, some are 500. It is the fastest growing sport in the country, and there are currently 11 courses in New Hampshire. When they had their property logged, they came up with the idea of putting in a disc golf course. It is pretty well laid out. There are trails through the woods. It is environmentally friendly. If your Frisbee lands behind a branch, you can't cut down the branch. If you do, you can be thrown off the course. It is family oriented. There is no noise involved. The course is about 6000 feet, and it will be the longest course in New Hampshire. It is all within their property, and it will be a private course. They are going to charge people. It will cost \$5.00 to play 9 holes and \$8.00 to play all day. There will be a parking lot. He presented a diagram of the course, and he showed the board members some of the different Frisbees that are used.

The Chair commented that the board's role today is to decide whether this meets the threshold to require site plan review. Theoretically we can't make any decision. Tyson noted that the ZBA has already granted a special exception. In the Table of Uses, it is allowed under golf courses. The Chair asked if they are going to have any facilities, and Betsy responded that they are thinking about putting in a port-o-potty.

Art commented that it appears that there doesn't seem to be a noise issue, they can't play in the dark, so there is no lighting issue, and they are not going to build any structure. They are not going to pave any parking lots. The Chair stated that, if we decide that it doesn't reach the level of site plan review, the minutes should show what would trigger a need for that. Art responded that he is saying that it doesn't reach that level.

Tyson mentioned that there is a parking issue and a traffic issue. If we don't go for site plan review, neighbors won't get a chance to weigh in on this.

228 Tyson noted that the board, under Article VII, can waive a site plan review where
229 it finds that such regulation does not apply to the proposed development. He
230 doesn't see how the board can do that without an application. The Chair
231 suggested hypothesizing that someone comes in and wants to have a disc golf
232 course and they are not charging anything, it is just for friends. That just doesn't
233 meet the threshold for site plan review. He agrees somewhat with what both Art
234 and Tyson are saying here. He is concerned about them not going before
235 abutters. The secretary noted that all 14 of the abutters were notified about the
236 ZBA hearing on this matter. Marty stated that only two abutters were at that
237 hearing.

238
239 Art noted that, if the Vaughns were to come in for site plan review, they would be
240 limited to what has been presented to the board on the site plan. If they change
241 it at any point, they would have to come back before the board. Doug said it
242 would be nice to have it documented that they aren't going to put up a building.

243
244 The Chair stated that the Vaughns originally were just going to apply for site plan
245 review, and he suggested that they come in for a conceptual consultation. Chris
246 commented that, if you have a commercial venture without site plan review, there
247 is nothing to trigger it. The Chair responded that a building would trigger site
248 plan review. Art said there is going to be some impact on parking; you can't
249 argue about that. The Chair asked Marty if he is going to use the existing
250 driveway, and Marty responded in the affirmative.

251
252 The Chair stated that the reason for site plan review would be to memorialize the
253 details of what this is going to be. Alice suggested getting a letter from the
254 Vaughns stating what they are going to do and noting what will not be included.
255 The Chair noted that what would trigger site plan review in the future is either an
256 application for a building permit that is non-residential or a complaint from
257 someone asking if they are allowed to do something. Then this gets investigated
258 and they go back in for site plan review.

259
260 Tyson stated that it would be nice if the Vaughns gave the board a letter
261 describing what they are going to do. Then it doesn't require site plan review.
262 The Vaughns agreed to present such a letter to the board.

263
264 Other business. Tyson reported that representatives from PSNH came to the
265 selectmen's meeting last week so that they could catch up on what is happening
266 with Northern Pass. He expects there will be future meetings. The money would
267 mean \$555,000 a year in additional taxes. They say the installation will follow
268 the current right-of-way. The poles would be moved over 75' to 130'. There two
269 configurations of towers. There could be a problem with the right-a-way going
270 too close to the airport in Concord.

272 Briggs joined the meeting at this point to give the results of today's vote. Both
273 Jim and Art were re-elected for three-year terms on the Planning Board. Tyson
274 was elected for a three-year term as Selectman.

275

276 Motion to adjourn at 9:00 p.m.

277

278 Nancy Lilly, Secretary

279

280 Next Meeting: April 12, 2011, 7:00 p.m., The Meeting House.