

THE PLANNING BOARD
Town of Francestown
Francestown, New Hampshire 03043

Sept 15, 2009
PROPOSED MINUTES

Planning Board Members Present: Bob Lindgren – Chair, Lisa Stewart, Mike Tartalis, Sarah Pyle, Linda Kunhardt, Larry Johnson. Stewart joins that board at 7:20pm.

Members of the Public: Mary Frances Carey, Helene Harbage, Ed Frost, Roon Frost, Bob Carey, Betsy Hardwick, Kris Stewart, Gerri Bernstein, Kris Holmes, Maureen Von Rosenvinge, Dennis McKenney, Charles Bohnsach(?), Martine Villalard-Bohnsach(?) Janet Griffin, Joe Robitaille, Judy Bado(?), Ron Cheney, Mike Palmer, Dennis Calcutt, BJ Carbee, Polly Freese, Leigh Robinson, Francois Ceauthier(sp?)

Melissa Stewart is taking the minutes.

Chairman Lindgren brought the meeting to order at 7:07pm.

Preliminary Consultation with Francestown Conservation/Francestown Land Trust/Kris Stewart. Map/Lot 3-51, 3-46 & 3-46.1

Lisa Stewart addresses the board and states that a Lot line adjustment is being proposed. There are three lots involved Map/Lot 3-51, 3-46 and 3-46.1 Stewart is proposing to create a lot line adjustment to decrease lot 51 from 100 acres and increase lot 46 from 10 acres to approx 52-55 acres. There is 200' of frontage on lot 46 and it will provide the Conservation Commission with approx 4000' of frontage on Ranbrook. Abigail Arnold asks the Board about variances and if the board at this point feels any would be needed. Lindgren states that considering this meeting is non binding, he does not believe so. Lindgren moves to waive the \$25.00 application fee. Pyle seconds, all in favor.

Continuation of Public Hearing on Palmer Subdivision (Case#08-SD-6) – Proposed 2-lot subdivision on Bible Hill Rd and Palmer Rd.

Lindgren reads the summary of requests made by the board to the applicant on 7/7/09. (Found in 7/7/09 minutes)

1. Stamp needed for wetland scientist – Satisfied
2. Sediment and Erosion Control Plan and stamped by a CECS – Lindgren reads memorandum from Robert Todd, board reviews Pyle makes motion that the applicant Change line 6 on plan to read erosion control procedures shall be in conformance with NH Storm Water Manual volume and that language #1, 2, & 3 from the Robert Todd memorandum be added to the plans. Tartalis seconds. All in favor
3. Turnout – A question was raised by Linda Kunhardt regarding gravel driveway being considered a structure, and if so it was less than 100' from the wetlands. Conservation Commission was consulted and it was determined that a gravel driveway is not considered a structure and this was not the intent of the ordinance when it was created. Stewart moves to approve the sediment and erosion control plan with condition that the Sediment and Erosion control plan needs to be stamped by CECS and language needs to be added from the memorandum. Pyle seconds vote: All in favor.

Pyle moves to approve the application with the following conditions. Topography on sheet 2 not sheet 1, applicant to supply 4 paper copies of each plan and Mylar for registry, and final payment of \$90.00. Lindgren seconds. All in favor.

site Plan Review/New Cingular wireless/AT&T – Case # 09-SP-02 located on Rte 136/New Boston Rd, Map 6, Lot 63-1 as well as Case #09-SP-3 located on Dennison Pond Rd, Map 6, Lot 61-2 both are located in the Rural District

Lisa Stewart recuses herself at 8:02pm.

Lindgren asks Sarah Pyle if she would be sitting on the board for this case or if she was recusing herself. Pyle states she would be sitting on the board because she does not feel that she needs to recuse herself at this time.

Lindgren states that this meeting is not to discuss the merits of either case but to discuss and possibly determine which if any independent consultant the board may want to hire.

Lindgren gives an overview of the Zoning Ordinance, and Site Development Regulations in regards to wireless Communications. He also reviews what the ZBA looks at when reviewing a special exception.

Discussion ensues regarding the ZBA and the Planning Boards roles and responsibilities when reviewing applications and/or applications with special exception involved. Lindgren does not believe the PB should be hiring the independent consultant as the PB should only be looking at landscaping and site issues. The PB will not be basing their decision on the location of the site or the possible impact it may have on abutters as this is the ZBA's role in determining the special exception. The ZBA's decision trumps any decision the PB may determine regarding location, therefore Lindgren feels it is a waste of time for the board to even look at those areas.

Sarah Pyle strongly disagrees with Lindgren and states that it is the PB responsibility to look at all aspects of the site including location and impact to the abutters and the PB may determine a different outcome from the ZBA, and although the ZBA may trump the PB it is the Board's responsibility to consider all aspects of the case. Pyle also states that the ZBA, applicant and abutters are all in agreement and anticipating that the PB would review, discuss and move forward with hiring an independent consultant. This is what this evening's meeting was for. It is not fair to all parties involved to change directions now.

Charles Pyle from the ZBA states that the ZBA has been under the impression that the PB would be hiring an independent consultant to review the applications and provide feedback to both boards. It would be a great disservice to everyone if this did not happen this evening.

Members of the public also voice their concern that this will be a significant setback for all parties involved and urge the board to determine an independent consultant as agreed upon at the Sept 1st meeting.

Pyle moves to hire an independent consultant to represent both the ZBA and the Planning Board to consult about suitability of the proposed sites, the RF studies presented to the sites and any other items that the consultant may feel are pertinent to the cases. Johnson seconds the motion. Johnson in favor, Pyle in favor, Kunhardt opposed, Lindgren opposed, Tartalis in favor. A consultant will be hired.

Attorney Anderson agrees with a lot of what is being said tonight. AT&T has made it clear that they are willing to pay for an independent, qualified, unbiased consultant to perform appropriate, scientifically based information. They have also indicated that they have an issue with one of the consultants they are looking at for purposes stated previously.

Anderson references the beginning of the meeting when Lindgren asks Pyle if she was recusing herself or sitting on the case and would like to know why Pyle would need to recuse herself. Pyle states that she is a Real Estate Broker and in the past she personally or her firm has represented the Carey property. Anderson asks if Pyle had any interest in any of the abutting properties, Pyle states that at one time she represented the Hersey (now Jones) property but not in the sale to the Jones family. Anderson meets with Marchant and raises concern to the

board about Pyle sitting on the case. At prior meeting allegations have been made by other abutters regarding property values etc. and due to Pyle's prior involvement with the properties he would like Pyle to step down.

Anderson also states that should Pyle decide to step down, Anderson would like a procedural fix to Pyle having done the research regarding independent consultants. Anderson would like the boards and the applicant to meet at the ZBA's next meeting to determine a consultant.

Lisa Stewart asks to address the board and states that if Pyle is not representing anyone in either of these cases then she should not have to step down.

Lindgren reads chapter 673:14 - disqualification of member.

Pyle asks to discuss this matter with Town Counsel and get his input. Pyle also states that she has carefully considered all aspects of sitting on the case and feels that she can be impartial. Pyle does not feel that her prior history with the abutting properties will impact her decision in any way.

Attorney Robert Carey asks about a procedural standpoint. Carey asks the Board to consult Town Counsel regarding the earlier motion that was made by Pyle and what should happen regarding the motion now that Anderson is challenging Pyle's credibility and Carey asks again why the questions were raised by Anderson after the meeting had already commenced and a vote was taken.

Attorney Anderson states he was not given the information until after the meeting had commenced.

Polly Freese, member of the Conservation Committee states that Sarah Pyle was the chair for the PB for many years and has always used good judgment and if ever there was a conflict, Pyle has always recused herself. If Pyle does not feel there is a conflict then there is no reason she should not sit on the board.

Joe Robitaille states that at the beginning of the hearing when Lindgren asked Pyle if she was recusing herself and she said no, Anderson should have questioned Pyle then and not waited until an hour later after a vote had been made.

Pyle would like to discuss this matter with Town Counsel and bring her decision to the next scheduled hearing.

Board moves to continue to hear both cases until September 22, @ 7pm to review and attempt to determine a consultant for this case.

Pyle will provide Lindgren with the websites to the potential independent consultants and he will disperse them to the members of the board for review.

Board will review minutes at the September 22nd meeting.

Meeting is adjourned at 9:47

Respectfully Submitted,
Melissa J. Stewart
Minutes Clerk