

**Official**  
As of 7/108/08

**HOOKSETT ZONING BOARD OF ADJUSTMENT  
MINUTES  
TUESDAY, June 10, 2008  
HOOKSETT MUNICIPAL BUILDING  
35 Main Street**

**CALL TO ORDER**

Chair T. Murphy Roche called the meeting to order at 7:00 PM.

**INTRODUCTION OF THE BOARD**

T. Murphy Roche, R. Savoie, R. Bairam, J. Gorton, J. Levesque,  
G. Hyde arrived at 7:15  
Conservation Commission: D. Hess, S. Couture, J. Walters

**JOINT DISCUSSION WITH CONSERVATION COMMISSION**

**HOMES FOR LIFE/JOAN ELLIOTT/STEPHEN AUSTIN**

Hackett Hill Road/South Bow Road, Map 12, lot 13  
Low Density Residential

Special Exception from Article 18, Section E. for construction of access roads; driveways, water impoundments and drainage ways at proposed subdivision "Austin Woods"

J. Levesque recused himself as an abutter.

J. Coughlin: This is a new cluster subdivision, which includes THREE (3) parcels Map 16, lot 53, and Map 12 lot 13. The other subdivision is six (6) lots. This is the 126 acres and the six (6) lots are represented off of Mountain View Road. We have Maryann Road, which is the town's Right of Way, and in that road there are historical landmarks including an animal pound and a cemetery. There was a stone causeway, which we saw, and we made a change so that it would not be affected. This has historical significance. Pictures of the cemetery and the culvert were distributed. We impacted the wetland a few hundred square feet to do that. We have applied to the ZBA for a Special Exception for three (3) of the properties in the subdivision and a Special Exception for a wetland crossing. We are also looking for a Special Exception and a Variance. Abutters will be notified for all the locations.

There are six (6) crossings on the conservation subdivision. The six (6) crossings include wetland impact buffers; therefore we must file for a variance. The Labonville project is only a wetland impact and will only file for a Special Exception. There was a state permit granted a few years ago, which is good until 2011. We are reapplying and we will file jointly and the State will record it as an amendment with the same filing number. 72 acres will be open space, which we are willing to put in a conservation easement. We are trying to integrate our plan into the walking trails.

S Couture: How many acres is the town owned parcel shown?

J. Coughlin: 15 to 16 acres

S. Couture: Where is the conventional subdivision. Is that approved at the Planning Board level?

J. Coughlin: No, we will be submitting a joint application. The total wetland impact is 6.4 acres and the conservation is 1.84 acres. All the wetland impact areas are associated with the wetland crossings.

J. Savoie: The bottom of the map shows the PSNH easement?  
Bruce Philmore, Homes for life: The small one is AT&T. I have them researching that.

S. Couture: Have you submitted a final DES wetland application?

J. Coughlin: No, we are waiting for input from Conservation and the Planning Board before we submit so we don't have to do as many revisions. We will do a function and values and a wildlife study, but that has not been done yet. We have not done soil tests.

S. Couture: Depending on the wildlife, it may impact the crossing locations. There will have to be a holder of the easements as well.

The hatched areas indicate resource potential and therefore have a high priority.

B. Philbrook: The new zoning regulations changed the 100 foot buffer and puts the determination in the hands of the Planning Board. We will work it out with Planning Board.

John Hill, abutter: You mentioned an AT&T easement. If they release that, will it open up more development?

J.Coughlin: No

J. Hill: I'm still concerned about the use of salt on the roads so close to the wetlands.

J. Coughlin: We could discuss disallowing the use of salt in that area.

D. Tatem, representing the Town Planning Board. I am here at the request of Jo Ann Duffy, representing the Planning Board. We have not seen a response to the letter, which was sent. Have any of the issues stated in that letter been addressed?

J. Coughlin: We have the grading and the slope, but we thought those were design issues. When a full set of plans are submitted, they will include our response.

D. Tatem: This did not include design criteria. The comments were specific to the wetland crossings. We felt that if those comments weren't addressed, you could look at a plan that had extended culverts and you could have impacts that were greater than necessary. The letter was written on April 3<sup>rd</sup>. We made comments and we typically obtain responses.

T. Murphy Roche asked that communication be improved between the Town Engineer, the Planner and the Zoning Board.

B. Philbrook: As the developer, it is a catch 22. The Planning Board says they don't want to see us until we get the Special Exception from the ZBA. The Planning Board will want things changes. We are trying to thread the needle by having this joint meeting and I realize that this will not be the final design, but to require that we have the head walls and all the soils done at this point is unfair.

T. Murphy-Roche: You are asking for three (3) Special Exceptions and two (2) variances. This Board is entitled to get the appropriate information to make the necessary decision.

J. Coughlin: We believe these are the best locations for the wetland crossings.

S. Couture: The Conservation Commission would never approve a plan without the level of detail that Stantec is requiring.

D. Tatem: The comments were to show a head wall and the slopes should be at 2%. They were not unrealistic requests.

T. Murphy Roche: We cannot establish a site walk without proper notification of the abutters and this is not a public hearing.

The applicant was supposed to provide abutter notifications for this meeting but that was not done.

J. Coughlin stated the site walk would take 3-4 hours.

J. Levesque asked about the two (2) streams that do not appear on the map. There is no topography on this plan to show the run off.

D. Tatem: I believe at the last meeting, J. Duffy asked that this be shown as one (1) subdivision. She is still requesting that this be processed as one (1) and this would reduce confusion with abutters.

J. Coughlin: We will have one (1) application to the State and one (1) to the Planning Board, but for this, we have two owners and each owner must sign the application for their wetland impacts. The variance for the conservation subdivision has two (2) owners, so we must divide up the applications.

Ann Hill, 10 Mountain View Road: I am sandwiched between the two (2) subdivisions. My request last time was for the Conservation Commission to review this as a cul-de-sac off a cul-de-sac but this is a totally different plan.

J. Coughlin: They will continue with the same application number at the State but the subdivision with the cul-de-sac is dead.

Ann Hill: You are not considering the impact on my road. The road goes where there isn't a road and it wasn't approved by anyone and is not a done deal. It is not on my land and I am a direct abutter. The two (2) little streams go by my land.

J. Coughlin: We are not showing the wetland or the stream on her property.

S. Couture: I agree with her that the complete plan set should show all the parcels. There is not the detail mapping. All the studies should show all the same mapping on both subdivisions.

D. Tatem: The wetland impact could have been avoided but would have compromised lot 1 and 2. That wetland impact could be avoided by snaking the road around that wetland.

J. Coughlin: The amount of digging and grading could dry up that whole wetland area. Because of the slopes, and the digging and cutting, it would infringe on the rest of the down slopes.

Continued to next meeting – revised application and abutters notices to be submitted.

## **REHEARING**

### **PENNICHUCK WATER**

16 Springer Road, Map 5, Lot 116  
Medium Density Residential

Special Exception from Article 5.b. to erect a new pumping station, adjacent to the former location on the property and to replace an existing pumping station

D. Hess: This is the first time I have been at a hearing because this is the only time I took exception to what happened at the April meeting. I was absent from the March meeting and I had no issue with the action of that meeting. There was a comment, if there was a need for a new easement and the sense from the minutes was that there would be no new easement. At the April meeting, there were easement documents distributed by the applicant. This has not been addressed and it addressed two (2) elements of a Special Exception. The two (2) areas that apply affect the property value of surrounding lots and the public health and welfare.

Historically, this property was developed by William Stearns. He developed a community well on this site next to a pump station. He deeded that to Mr. Croteau and continued to operate that well until the late 90's until the fees for the 37 users was too high and there was breakdown in service. Pennichuck acquired this well in 1999. Part of the agreement provides that there be a well protection zone on the property, so that, if another well was needed, it could be used and protected. As a precaution, Wes Co will ease to Pennichuck well protection. If you read the easement draft, this plan is to extinguish that easement. In 1999, Pennichuck entered into a 10-year contract with Village Water to provide water for an additional five (5) years. If this easement is extinguished, there is no provision for an alternate source.

My home has a water supply for nine (9) years and I don't have the back up that PUC said my home value would drop. This neighborhood is made up of small lots with septic, therefore does not have the ability to put in wells. I expected the board to make findings on five (5) points. This particular issue goes to the heart of items one (1) and five (5) that you must find to grant an easement. There must be no factual evidence that property value will be reduced and that it will not be detrimental to the surrounding homes. I don't have a problem with the building, the size or the location. This could be resolved by granting the Special Exception with the condition that this easement remains in full force.

R. Savoie: This issue is between Village Water and Pennichuck Water.

D. Hess: No, I am the end user. This involves this Board because they submitted these easements to this Board.

R. Duhaime: You have the water now, and you want us to guarantee your property value. We are here to allow someone to use his or her land.

R. Savoie: You are making an assumption that Village Water will not renew the contract.

D. Hess: But by keeping this easement, you are protecting the potential water source.

D. Ware: We have an obligation under a franchise to serve. This is about an abutter that doesn't want homes to go through. At this stage of PUC, we didn't own the line. The State of NH Transportation said we would cut off the line if you don't buy the line. We have resolved that and now own that pipe. There is a master plan. You will never be without water because of abandonment of a well. Why would we abandon a well of value? This well had manganese, low water supply and other issues.

R. Savoie: How is the land currently listed?

D. Ware: MDR. The whole lot is owned by Tony Acorace. When it was time to rebuild that station, the utility was an allowed use with a Special Exception. This has taken a year. We have moved this adjacent to the existing facility so that it will be less exposed to the neighborhood. When we were here, these easements were always shown. There was never an effort to hide these easements. It was discussed from the get go and all along the way. We need the easements to reconstruct the building and access the building. This easement is gone, it is of no value, and

there are 29 homes, not 37 homes. We have DES in favor of interconnections. We are trying to rebuild for emergency power and replace aging tanks and there is dry rot in the superstructure.

J. Levesque: After 11 years, what guarantees water?

D. Ware: We have a large agreement with Manchester Water Works and are interconnected through Hooksett. We completed a large study in Southern NH and the value of interconnections. We have an obligation to serve. The 375-foot easement is gone.

R. Savoie: That road could be a public right of way and lead to homes to be constructed.

D. Ware: We can access this; the homeowner and the owner could propose a subdivision.

D. Hess: The water is still the issue. The Village Water Precinct didn't like sending water to Bow but they can do it by franchise.

R. Savoie: Central and Village Water are already hooked up. Getting water to Hooksett isn't a major problem. We don't know the priorities with the Village and I can't see them shutting off water. The issue is the availability of water over time.

D. Ware: That assurance was not written for that reason. DES has encouraged and funded a regional study. Our contract is for 50 gallons per minute and is just enough for the 29 homes and possibly 14 additional homes maximum.

R. Savoie: I think you could sit down with Village Water to iron this out. A meeting with Village and Pennichuck Water could work this out.

D. Ware: There are no lifetime contracts anywhere. They are written in 10-year increments. We have an obligation to provide water and least cost service. This well has already proven to have low water quality and low supply makes no sense. To continue to pay taxes on that makes no sense.

G. Hyde: It is not our responsibility to force a negotiation of their contract with Village Water.

Open Public  
None  
Close Public Hearing

J. Levesque: The pink area that Mr. Hess states is well protection; there is no value to those wells.

D. Ware: There is no value based on the water quality. That at best would give you 30 gallons per minute and you would need multiple wells. That is based on other wells in the area.

D. Hess: I moved there in 1980 and had water into the 90's and as I understood it, the problems evolved because of a breakdown in maintenance. I can't accept Mr. Ware's statement because I'm not a hydro geologist but we never had a problem.

D. Ware: We've done studies and drilled test wells. The issue is you don't want the potential for homes in that area. We have been well over a year for this process and we ask the ZBA for a Special Exception.

D. Ware read from the 5 criteria on the application (see file)

G. Hyde: Mr. Hess listed a lack of legal requirements.

D. Hess: My issues were there was no input from the Planning Board and there lacked findings on the five criteria particularly numbers 2 and 5.

R. Duhaime, R. Savoie, T. Murphy Roche. Levesque, R. Bairam- voting

***R. Savoie motioned to grant the Special Exception from Article 5.b. to erect a new pumping station, adjacent to the former location on the property and to replace an existing pumping station. Seconded by R. Duhaime.  
Vote unanimously in favor***

## **NEW PUBLIC HEARINGS**

### **LEO DOYON**

67 Chester Turnpike, Map 15, Lot 43  
Low Density Residential

Variance from Article 4, Section C.1 to subdivide existing lot 43 into two lots, both lots having inadequate frontage. (200' required)

Leo Doyon, owner: Requesting a variance for a shortage of frontage. I am short 51 feet for the new lot being proposed. In doing so, I am short on both pieces. I would like permission to have two (2) buildable lots without the required 200 feet of frontage.

The parcel is located on Map 15, Lot 43. The intent is to subdivide lot 43 into two lots: one with the existing house and one (1) new lot. The lots will be serviced by individual wells and septic systems. The parcel consists of 6.83 acres. The new lot would have 4.83 acres with 177.84 feet of frontage and 43-1 will consist of 2 acres with 170 feet of frontage.

T. Murphy Roche: I'm concerned with making two non-conforming lots when one is already conforming.

R. Savoie: What is the purpose of subdividing?

L. Doyon: We want to either build a house for ourselves or for our son.

L Doyon: I tried to change the back lot but Mr. Elliot was not interested in changing any land.

M. Sorel: I've known Mr. & Mrs. Doyon and they are personal friends. I sold them this 2-acre parcel, which after surveying turned out to be a larger piece of land. I believe, after discussions, that they want to do something for their son and I recommending they go to the ZBA.

Mr. Elliott, abutter: If there is nothing urgent about building, why divide it now?

L. Doyon: We can start to plan on this.

Close Public Hearing.

R. Duhaime: I have the same concerns as the Chair with making two (2) non-conforming lots. We create a lot which will be an issue later.

L. Doyon: Very near future, no. Mr. Elliot is no longer the property owner and I believe he is renting after being foreclosed on. He is a renter.

R. Savoie: If he is an owner of record, he has the right to speak.  
What will happen when the PB is looking at it and bringing in new rules and regulations? You may not be able to build on that land.

L. Doyon: This is for the future; my son just got married this year.

T. Murphy Roche: The issue is this is for two (2) substandard lots rather than one (1). You have enough area, but not enough frontages and there are zoning ordinances in place, which the town has decided makes the most sense for this zone. You may want to rethink this plan.

I. Doyon: Maybe we are not explaining this correctly. Mr. Duval was supposed to be here.

***R. Savoie motioned to continue the hearing to July 8<sup>th</sup>, 2008. Seconded by R. Duhaime. Vote unanimously in favor***

**DOUG ROSE**

156 Merrimack Street, Map 2, Lot 25

Medium Density Residential

Variance from Article 5, Section A to allow for the operation of a water distribution business in a residential zone.

D. Rose, owner of 156 Merrimack Street: This is an application for a variance to operate a business out of my home. When the home was built, I had an artesian well with an overflow. We went to the town and the water precinct and they looked at the site. We tried to give the water to the town and EPA would not allow that because of the wellhead protection. We decided we would like to sell the water as bulk water for pools. We spoke to Dulac foundation for pouring that cistern and then put my woodshop on top. There is no view from any of my abutters and they have no objections. I met with the Bob Flanders the temporary building inspector and provided the specs for the wood shop and that building permit was approved. This is a true artesian well.

D. Rose read from the criteria (see file)

D. Rose: We do not have a truck now. We would lease or buy a truck. We could possibly have outside trucks coming in to pick up the water. The hours of operation would be Monday – Friday during the summer. This would be an 8 AM to 5 PM operation. We have had many discussions with the abutters and they have all offered to come and support this venture.

R. Savoie: It would be better is you could sell the water without using trucks.

Open Public Hearing

No comments

Close Public Hearing

R. Duhaime: My concern is trucks. Pool water is May through October. My understanding is Village Water doesn't sell pool water. A tractor-trailer is how to sell that water. That is the issue to get that truck in and out of this property.

D. Rose: I have 90 degrees on the road and 300 feet from the road. The trucks are the size of a fuel or dairy truck. Merrimack Street is not like a neighborhood road. This does not have cul-de-sacs. This is a main road.

R. Savoie: I do not have a problem with this as a home occupation. He has an office in the house and the out building is just storage as would be the case with wood storage.

T. Murphy Roche: The neighbors have no concerns with this business?

J. Levesque: The planner commented that this could affect the surrounding wells.

T. Murphy Roche: This water is flowing freely.

***R. Bairam motioned to approve the operation of a water distribution business in a residential zone. Seconded by R. Savoie.  
4:1 approved.***

**APPROVAL OF MINUTES OF APRIL 08, 2008**

***R. Duhaime motioned to approve the minutes of May 13, 2008. Seconded by R. Bairam.  
Vote unanimously approved.***

**ADJOURNMENT**

**The chair declared the meeting adjourned at 10:03 PM.**

Respectfully submitted,

Lee Ann Moynihan