

**TOWN OF LYNDEBOROUGH
PLANNING BOARD MEETING MINUTES
October 20, 2011**

MEMBERS PRESENT: Chairman Bret Mader, Vice Chair Mike Decubellis, Bob Rogers, Tom Chrisenton, Julie Zebuhr, Selectmen's Representative Arnie Byam and Alternates Bill Ball and Steve Brown

Bret Mader began the meeting at 7:30 p.m. and changed the order of the agenda because no one from the public was present for the hearing concerning the revisions to Home Businesses regulations. He asked Roger Williams to come forward and present his plan.

INFORMATION:

(1) Roger C. Williams; Maier Road; Map 218 Lots 003, 005 & 006; to discuss the delineation of three lots; RL I

Present: Roger Williams

Mr. Williams presented a site plan and asked the Board's opinion on several options that he was considering in his attempt to delineate his three lots. One way would give him a lot with 500 ft. of road frontage on Maier Road and two lots, each having 500 ft. of road frontage on Gulf Road. He proposed a right of way to one of the lots so no one would need to drive down Maier Road. He did voice some concern with current use issues and did not want to jeopardize the ownership of one lot because it was separated by a road. B. Rogers suggested that he discuss the current use issue with the Board of Selectmen to make sure that the lots are contiguous. He added that the land under the road is his property; unless his deed excludes ownership of the road. Mr. Williams asked if he could terminate the road. T. Chrisenton replied no because the town has the rights to the road. Mr. Williams asked if adjacent lots situated two towns could be combined. M. Decubellis responded that the building rights can be pledged but they can not be combined.

T. Chrisenton said that he could do the lot line adjustment as long as he had three separate deeds recorded at the Registry.

M. Decubellis asked if the lot across the road was a separate deeded lot or did the road just pass through it creating a taxed parcel on each side of the road. Mr. Williams replied that he has four deeds (including the land in Greenfield) because the parcels were all bought at different times.

T. Chrisenton said that Arnie Byam was one of the Selectmen and he should contact them for a meeting. Mr. Williams, if he goes forward with the lot line adjustments, will contact his surveyor to draw up a new site plan.

(2) Granite State Concrete Co. Inc.; Salisbury Road; Map 213 Lot 006; to discuss excavation renewal permit; RL I

Present: John MacLellan and Peter MacLellan, Craig Cyr of North American Reserves and Atty. Eric Newman

B. Mader said that it was time for Granite State Concrete (GSC) to renew their three year permit to excavate on their property located on Salisbury Road.

Atty. Eric Newman explained that GSC's permit would expire on November 21, 2011. This was a preliminary meeting to discuss any issues that might be necessary in preparation for a public hearing.

M. Decubellis said that he had read Atty. Newman's cover letter dated 9-23-11 which noted in the modified November 2008 Conditions of Approval that there's a requirement for an independent review of the water level monitoring every three years instead of five years. The letter also stated that the town should co-ordinate the review so a public hearing could be scheduled prior to November 21, 2011. M. Decubellis went ahead and contacted Weston & Sampson, the company hired by the Planning Board to do the last independent review. After receiving a quote, he forwarded it to Atty. Newman and the applicants have agreed to go forward with that review. B. Mader noted that the cost of the study was \$3770.00.

Atty. Newman stated that their consultant (North American Reserve) has completed their report on the elevation levels of the monitoring wells and the well on Landon Bell's property and it has been included in the packet submitted to the Board prior to this meeting. This report should be verified by the town's consultant. B. Mader, referring to an Excel spreadsheet which shown all the well depths, asked why Mr. Bell did not allow their consultant on his property. Craig Cyr of North American Reserve replied that the last time they met with Mr. Bell; he asked them not to test his well.

M. Decubellis explained that the water quality of Mr. Bell's well was an issue that was brought up at the last renewal meeting in 2008. He asked if Atty. Newman wanted to speak to the issue. Atty. Newman responded that a new condition was added to the permit in anticipation that Mr. Bell might replace the well on his property which provides water for his residence. Atty. Newman read the following language from Condition #6: **"both parties (Landon Bell and GSC) are to determine the baseline for gallons per minute and water quality. This will replace the requirement for water quality monitoring as stated in the 2-15-07 minutes."** Atty. Newman explained that Mr. Bell did replace his well in either 2009 or 2010 and it was installed by his own contractor. Craig Cyr interjected that he had received a letter stating that Mr. Bell had replaced his existing well. He then contacted Mr. Bell to schedule a time to sample his well so that he could include it their regular monitoring report. Mr. Bell said no that he was not interested. Recently in preparation for this permit renewal, Mr. Cyr contacted Mr. Bell again and this time Mr.

Bell changed his mind and wanted his well included in the monitoring report and agreed to a water sample test which was taken at the end of September. Mr. Cyr had asked Mr. Bell to have the water sample taken directly from the well, bypassing his water treatment system; this method would be a true representation of his well water. The result of that sample testing was received at the beginning of October and after reading the report, they felt that the water sample taken had not bypassed the system; therefore they do not think it was representative of the well water. Atty. Newman stated that the report did not reflect a poor water quality. Mr. Cyr responded that the quality was almost too good to be well water. Because the sampling was too good, B. Ball asked if that was how they determined it might not have gone through the filter. Mr. Cyr explained that water softeners add sodium to the water. When he compared this test to the 2006 test sample taken by Weston & Sampson, the difference should not have changed that much. He contacted Mr. Bell about this concern and Mr. Bell responded that he thought he had taken the sample correctly. Atty. Newman said that the sampling from the well is recent and they will submit the report to the Board but it should be noted that this might not be a true baseline for future test comparisons. T. Chrisenton said that a simple solution would be to have an independent person, if allowed; to secure another water sample from Mr. Bell's well. Atty. Newman asked how another sample taken by an independent source would make a difference. B. Ball replied that it would prove that the sample was taken from the well without additional treatment; right now, GSC cannot prove that the sample was taken incorrectly.

Atty. Newman addressed another condition of approval which requires a baseline volume measurement of the new well. GSC was not notified prior to the installation of the well, now there is a pump, down in the well, which acts as a governor on the volume. GSC is prepared to submit baseline data on volume that Mr. Bell's installer has submitted to DES and North American Reserves; but he did not think that the measurement will be of any use since they can not take an accurate comparable measurement for future renewals without first removing the pump. Mr. Cyr explained that the well driller installed a temporary pump for a yield test and he reported twelve (12) gallons per minutes. Mr. Bell has a five (5) gallon command pump at 500 ft. and it is not capable of producing 12 gallons per minute at that depth. Mr. Cyr said that to do a similar test, they would have to install a temporary pump and run it for a day to determine a measurement. T. Chrisenton asked the depth of the well, the static level and the depth of the casing. Mr. Cyr responded he did not measure the static level but the report noted 27 ft. The well depth was 1000 feet and it was cased to a depth of 100 feet. At this time, Atty. Newman asked how the Board wanted to address this issue; that they would undertake any good faith effort to comply.

M. Decubellis asked if there were any other water elevation monitoring sites near Mr. Bell's well. Atty. Newman replied that the water level of Mr. Bell's well is unique, that the nearest sites have shallow wells. T. Chrisenton asked if other monitoring wells were outside Mr. Bell's property. Mr. Cyr replied that there was one on the Bell property that they can monitor as well as others outside the property.

T. Chrisenton asked if the monitoring well was between the excavation site and Mr. Bell's residence well. Mr. Cyr replied that he was correct. T. Chrisenton stated that if the monitoring well is showing an adequate water level then it is immaterial to show what Mr. Bell's well is doing. The Board agreed that determining the volume level may be impractical and should be overlooked.

T. Chrisenton made a **motion to remove that condition and to recommend that Granite State's wells are to be used for monitoring the water level.** B. Rogers seconded the motion. The vote in favor was unanimous.

Atty. Newman asked whether condition #6 could be removed entirely and just continue with the quarterly level monitoring on the remaining five wells. B. Mader asked the distance between the other GS monitoring well and the Bell residential well. Mr. Cyr responded that it was a couple hundred feet with disturbed ground about a thousand feet.

At this time, T. Chrisenton realizing that this was not a public hearing only an informative discussion withdrew his previous motion. He said that this motion could be brought up again at the November 17th hearing.

M. Decubellis asked if the applicant was receptive to having the Planning Board's independent consultant attempt to take another sample of Mr. Bell's new well.

Atty. Newman responded that their preference would not to have GSC or Weston & Sampson do another water quality test. They were concerned as to whether or not they were being put in a position in which the Board may find that GSC has not complied with the conditions of the permit.

B. Ball responded that GSC is putting the Board in a difficult position if both the landowner and GSC come back with a different story that the test was done properly.

T. Chrisenton, referring to water quality, said that the best solution is to have the water tested independently by Weston & Sampson.

John MacLellan said that another test could be taken, if Mr. Bell allows it to be done. He said that the conditions of approval states that we do the test and provide the results to the Board.

S. Brown asked for some clarification as to whether the conditions stated that GSC would take the test. If this is the case, they did not have witness as to how it was taken. It could have come from anywhere. M. Decubellis recalled that the last time during a site visit, a sample of water was taken from the well. He asked if another site visit was needed.

S. Brown continued that if there is a problem because both parties do not see eye to eye, an independent source should go in to the proper location and take a water sample and

have it tested. Apparently both parties were not privy to how and where the water was taken and now the sample is suspect.

B. Mader stated that although the renewal permit expires on November 21st, and a decision has not been made, the Board can give an extension permit for one or two months which would allow the applicant to continue his excavation operation.

Mr. MacLellan said that he would like to try again to contact Mr. Bell to see if he will allow North American Reserve to take a water sample with Mr. Bell present for the test.

As far as the site walk, T. Chrisenton said that it would be scheduled at the November 17th public hearing.

PUBLIC HEARING:

To discuss the revisions to Section 1200.00 HOME BUSINESSES in the Town of Lyndeborough's Zoning Ordinances.

Before the Board reviewed the changes made to the revision, S. Brown asked one question concerning the sign ordinance.....was up lighting prohibited and was it preferable to have lit signs with downward lighting. B. Ball replied that he did not think the ordinance was against up lighting; neon, blinking or mechanically moving lights was prohibited. S. Brown said that he would review the sign ordinance again.

Because no one from the public was present to discuss this proposed revision, T. Chrisenton asked if the Board had any other changes. The Board did make the following changes:

(d) and (e) were combined to read: Home businesses shall be carried on by the resident owner, resident members of the owner's family, a resident tenant, or resident members of the tenant's family and two non-resident employees are permitted on the premises at one time.

(h) Exterior display of materials and equipment is "to be screened from public view" was added and "prohibited" was deleted.

After a brief discussion on **(j.)** concerning whether or not "Parking spaces shall be a minimum of 9 by 18 feet", the Board decided to leave it as is.

(o) Adult entertainment.....a definition should be created to explain what adult entertainment means. A suggestion was made to review definitions from other town ordinances as a model.

M. Decubellis made a suggestion that definitions should also be created for "Home occupation," Home business" and "Retail business" so that they are not being confused.

He thought that a “Home occupation” relates to someone who works from home such as a graphic designer, salesman, etc. A “Home business” is a step up, where an individual is manufacturing a product or running a service from their residence. B. Rogers agreed that each should have its own definition and regulation. T. Chrisenton said that this ordinance has already been established for a home business. B. Ball questioned the difference between a lawyer or accountant working from his or her home and producing a service for a fee, with someone baking cookies in the home and selling them from the residence or door to door. They are both home businesses and occupations. B. Rogers stated that there are a lot of people who have home occupations and no one knows that they are working from home. The only time it becomes known is when an accessory structure is being built or there are an unusual number of vehicles parked in the yard.

M. Decubellis understood that as long as someone complies with the Home Business Ordinance, they do not need a site plan review and filling out the home business form is optional; only a Home Business which does not fall under these conditions must file a site plan review.

M. Decubellis suggested adding the following language to the revision: **“Any business that fails to meet all of the above requirements must file for site plan review.”**

B. Ball noted that (I) cited the same information. **“When a business outgrows the standards established for a home business, it must be relocated into the appropriate zoning district and be subject to Site Plan Review.”**

With the correction of two spelling errors, B. Rogers made a **motion that the Board recommends the changes to the Home Business ordinance, as discussed, and the revised ordinance is to be placed on a warrant.** Before this motion was seconded, A. Byam suggested continuing this hearing until November 17th at which time the Board can review the changes made at this meeting. The Board agreed and B. Rogers withdrew his motion.

T. Chrisenton made a **motion that this hearing is continued until the November 17th meeting so that the final edits can be reviewed** B. Rogers seconded the motion and the vote in favor of the continuance was unanimous.

INFORMATION:

Peter Hopkins – introduction of the new Building Inspector and Code Enforcement Officer

Peter Hopkins had to cancel his meeting with the Board because of an emergency. He will be in attendance at the November 17th meeting. A. Byam gave a brief history saying that Mr. Hopkins lives in Greenfield and is the building inspector/code enforcement officer in the towns of Greenfield, Bennington and Antrim as well as a back up for Peterborough. This position is an “as needed” basis but he will have office hours on

Monday night in Citizens Hall. He will also be accessible through internet and cell phone. Because he is retired, he will be available to contractors and homeowners when inspections are scheduled.

OLD BUSINESS:

Update on Richardson Road driveway issue

Clerk P. Ball said that this item was placed on the agenda in case there were any new concerns that needed to be addressed. A. Byam said that the driveway access is still unchanged. J. Zebuhr commented that the road agent mentioned an old map that shows an access road to the Richardson Road property. T. Chrisenton cautioned that the Board should not be discussing a particular applicant whose site plan was approved and recorded, without the applicant being notified. This subject is out of our hands and in the hands of the road agent and the Board of Selectmen. Referring to the September meeting, B. Ball said that the road agent agreed to talk to the applicant about the driveway access but we do not know whether he did or not. T. Chrisenton responded again, that this is a “done deal.” The driveway access is shown on the site plan and it has been approved and recorded. The Board can only talk about driveways, in general. He added that this may be a wake up call to make sure that the regulations are reviewed and enforced before a site plan is approved.

B. Ball said that the RSA’s state that the Planning Board can rescind a driveway. M. Decubellis added that the Board can require maintenance on a driveway at the owner’s expense.

After going back and forth with this discussion as well as reviewing the site plan and reading the RSA statutes, the Board finally agreed that they should, in the future, schedule site visits to look at the driveway access of a proposed subdivision before a plat is approved.

Zoning manual changes

T. Chrisenton said that he had reviewed the changes to the zoning manual and noted that most were editorial and/or house keeping items. There weren’t any other comments from the Board.

NEW BUSINESS:

CIP meeting update

Several members said that they have received and read the CIP meeting minutes. B. Ball said an increase in the tax rate is expected. M. Decubellis explained that the last year’s tax rate was artificially low because of the school consolidation and the return of surplus funds when the school’s merged.

Referring to the CIP minutes that addressed the condition of the paved roads and the development of a paving plan, J. Zebuhr commented that the unpaved section of Gulf Road was easier to drive on than the paved section which is very bumpy. She questioned why the road should be paved at all. B. Ball replied that the maintenance on unpaved roads is higher in cost.

MINUTES:

Review of minutes for September 15, 2011

Bob Rogers made a **motion to accept the minutes of September 15, 2011, as written.** B. Ball seconded the motion. The vote in favor of acceptance was unanimous.

Other Items not included on the Agenda

Bret Mader said that the Board had received a copy of the warranty deeds for the Cooper subdivision which is a condition of approval; therefore the site plans could be signed and recorded at the Registry of Deeds.

ADJOURNMENT:

B. Rogers made a **motion to adjourn the meeting at 9:00 p.m.** T. Chrisenton seconded the motion and the vote in favor of adjournment was unanimous.

The next meeting will be held on Thursday, November 17th at 7:30 p.m.

Pauline Ball
Clerk

Approved by Planning Board on November 17, 2011