

**TOWN OF LYNDEBOROUGH
PLANNING BOARD MEETING MINUTES
June 21, 2012**

MEMBERS PRESENT: Chairman Bret Mader, Vice Chair Mike Decubellis, Bob Rogers, Tom Christenton, Larry Larouche, Julie Zebuhr, Selectmen's Representative Arnie Byam and Alternate Bill Ball

Bret Mader began the meeting at 7:30 p.m.

OLD BUSINESS:

Review of a conceptual site plan from Roger Williams

The Board reviewed another conceptual site plan sent by Mr. Williams in his attempt to delineate his three lot property located on Maiers and Gulf Road.

B. Mader read a portion of the letter in which Mr. Williams tried to explain this new concept:

Lot 218-006.....increase this 3.6 acre lot to 5 acres by combining land from two other lots, gaining 50 ft. of frontage on Gulf Road for access;

Lot 218-003.....reduce the acreage to 5 acres with 500 ft. of frontage on Gulf Road;

Lot 218-005.....reduce the acreage to 5+ acres with 449 ft. of frontage on Gulf Road and 100 ft. of frontage on the Class V part of Maiers Road.

After some discussion and several questions were raised over this site plan; the Board agreed that Mr. Williams or his representative should be present to answer their concerns. B. Mader suggested that this agenda item be tabled under the July 19th meeting.

T. Christenton made a **motion that Mr. Williams or his representative be present at another scheduled meeting to answer the Board's concerns with his lot line adjustment site plan.** M. Decubellis seconded the motion. The vote in favor of the motion passed with Julie Zebuhr abstaining. Clerk Pauline Ball said that she would send Mr. Williams an e-mail stating the Board's decision.

NEW BUSINESS:

(1) Kent Perry.....Review of a proposed Driveway Ordinance

Road Agent Kent Perry explained that he has had several issues arise from problematic driveways and needs some type of driveway ordinance to assist him in regulating how a driveway should be constructed and maintained. Without a set of regulations, he doesn't

have a legal argument when demonstrating where the landowner is wrong. With this ordinance, the landowner will be able to see stated on the driveway permit what is required.

K. Perry expressed concerns, particularly, with older residences that have multiple driveways where only one is permitted; driveways that are causing damage to the roads; driveways that emergency vehicles have difficulty climbing as well as oil and propane trucks trying to gain access to a residence during winter months.

B. Ball explained that the town administrator and the road agent have supplied various ordinances from surrounding towns for the Planning Board to review as well as a draft for a proposed document that they have developed using a model adopted by the Town of Temple. They are requesting that the Board come up with an acceptable driveway ordinance.

M. Decubellis stated that the Planning Board maintains authority over driveways even “after the fact.” If the road agent sees a substandard driveway, the owner can be made to fix it. K. Perry said that he understood that part but he still would like to see a set of regulations approved; this would alleviate a lot of problems.

M. Decubellis read the following from the Zoning Ordinance under Section 405:00 Driveways.....**All driveways entrances shall be constructed in conformance with the Town of Lyndeborough Street and Road Standards or the NH DOT regulations for any State maintained roads. Driveway entrances shall be consistent with the adjacent public road.** This is all the information he located in the zoning ordinances. If it’s new construction, the driveway has to be built to the Street and Road Standards.

K. Perry responded that this draft proposal will also cover such issues as emergency vehicle standards, drainage, etc. It will make it very clear to everyone.

M. Decubellis said that he spoke to Town Administrator Kate Thorndike who stated that there should be a process showing the steps that must be followed, i.e. an occupancy permit can only be issued after verification that the driveway has been constructed properly, either by town specifications or road agent’s recommendations. A. Byam agreed that a checklist was needed to make sure all the steps are completed before the Building Inspector/Code Enforcement Officer signs the occupancy permit.

T. Chrisenton suggested going through all the regulations and consolidating any data that relates to driveways into one regulation; then make the Code Enforcement Officer aware of the process along with the road agent and the selectmen.

B. Ball also suggested a review of all the information offered by the town administrator and the road agent. K. Perry agreed saying that the Temple ordinance was similar to what Lyndeborough requires and it is very specific. T. Chrisenton countered that other town

ordinances range in complexity from one page to many pages. He thought it would be preferable to see what the town has for regulations and adopt a regulation that is simple as possible so that everyone understands it. B. Ball concurred but it wasn't a reason not to see what other towns have done; so not to overlook something that could be important. T. Chrisenton noted that the Town of Lempster had an ordinance that covered all the bases. A. Byam suggested that the road agent be part of this process and they should come up with a one sheet handout.

M. Decubellis noted that, under the RSA regulations, the Planning Board or its designee has the right to make a homeowner fix a driveway that is causing damage to a public way; this should be included. He asked about the Temporary Driveway Permit language that was also submitted to the Board. K. Perry explained that the town has been asking for bonds for logging projects but without regulations this cannot be enforced. T. Chrisenton stated that every trucking operation must be treated equal; logging cannot be segregated.

K. Perry stated that an addendum to a driveway ordinance is needed to require a performance bond; so far, the loggers have been co-operative and are following forestry Best Management Practices (BMP). B. Rogers asked if there was a legal way to get a substantial bond if they are using a Class VI road, requiring it to be restored to its prior condition when the job is completed. M. Decubellis replied that under BMP's, the optimum time for logging is during the winter when the ground is frozen; less damage occurs. B. Rogers suggested something in writing that addresses these concerns. T. Chrisenton said that there is a statute which states that a Class VI road is to be left in better condition after project completion and it can be added to the regulations. At this time, T. Chrisenton, B. Mader, M. Decubellis and K. Perry agreed to meet on Friday, June 29th at 9:00 a.m. to work on a proposed draft.

(2) Baroff Professional Associates' documentation on violation issues (driveway and home business); Map 239 Lot 063; 72 Glass Factory Road

B. Mader explained that the Board of Selectmen and the Planning Board received a packet of documentation from an attorney for Jonathan Devens who resides at 77 Glass Factory Road. This documentation along with a letter addresses several complaints against the property located at 72 Glass Factory Road and owned by Helen Whalen. Clerk Pauline Ball added that the attorney is looking for a response prior to July 15th; therefore it was placed on the June agenda for discussion.

T. Chrisenton asked why it was before the Planning Board. B. Ball explained that the Kate Thorndike, the town administrator asked the Planning Board to review these issues to see how valid Mr. Devens' claims are and make recommendations to the Board of Selectmen. According to the correspondence this situation has been going on for some time without a resolution.

M. Decubellis also explained that the attorney went step by step describing what Mr. Devens has been going through. T. Chrisenton responded that if it cannot be resolved by the Board of Selectmen, it should go to the Zoning Board of Adjustments. B. Ball said he understood, but the Planning Board has been asked to look at it and make some comments.

The Board discussed some of the history in which Mr. Devens, when having his home constructed across the street from 72 Glass Factory Road, placed his driveway away from his neighbor's existing driveway to have safe access to the road. Some time later the original owner sold his 72 Glass Factory Road home to Michael Parker who constructed a second graveled driveway directly across from Mr. Devens. The present owner (Helen Whalen) who resides in Wilton purchased the property after Mr. Parker's foreclosure.

Arnie Byam said that Mr. Devens met with the Board of Selectmen recently to discuss his complaints again with no resolution at that time. One issue discussed was the puddles of muddy water and debris at the end of the Devens driveway from the erosion created by the graveled driveway. It was noted that the road agent has spoken to the neighbor and crushed stone has been placed at the end of the graveled driveway but, over time, was scattered about during the winter. After listening to Mr. Devens, the Selectmen did not offer a remedy.

B. Ball stated that a 25 foot paved apron was required at the entrance to the driveway because it exits onto a paved town road. M. Decubellis added that the Street and Road Standards state that the abutting driveway must match the road surface. The issue of two driveways on a property was also brought up; and was there a regulation requiring one driveway to be closed? Both B. Ball and M. Decubellis did not see anything in the regulations that prohibited a second driveway.

B. Ball said that another issue concerned an alleged business being operated from the residence. It appears that some business related operation may be taking place, although unless the owner is approached with this concern, there is no way of knowing for sure. If it is a home business, then the owner should submit a home business application to the Planning Board for their review. There is also evidence of scattered equipment on the property which could be construed as "junk" and town regulations prohibit junkyards. B. Ball thought that there is sufficient concern for the Code Enforcement Officer to take a hard look at this situation and determine if the owner is in compliance.

M. Decubellis said that the puddles of water onto the town's right of way would be considered a safety hazard, so the owner needs to fix the driveway. A. Byam thought that the second driveway was installed to gain access to the back of the property and a driveway permit was issued for it. He did not realize that a paved distance was required at the end of the driveway. This should have been noted before the permit was issued and signed.

Referring to junkyards, T. Chrisenton said that the statutes declare two or more unregistered cars on a property, a junkyard. B. Ball responded that it wasn't unregistered vehicles but discarded parts and equipment stored on the property. He also noted that the owner Helen Whalen does not live at this residence and therefore, should be contacted about this situation and asked to respond to these issues.

Arnie Byam said that one of the recommendations could be the removal of discarded metal on the property. B. Mader said that if the driveway erosion is creating a safety hazard, it should be addressed. Arnie Byam and K. Perry did not think it was a safety hazard because there are two working culverts in that area. The main issue is that trucks are driving back and forth onto the main road from the graveled driveway leaving silt from the tires.

B. Ball said that he would draft a memo to the Board of Selectmen with the Planning Board's list of observations and recommendations. A copy will also be sent to the town administrator.

Chairmanship Rotation

Because June is the month when a change in the chairmanship is decided, T. Chrisenton made a **motion to nominate Mike Decubellis as Chairman; the term will run from July 2012 to June 2012.** B. Rogers seconded the motion. The vote in favor of the motion was unanimous. B. Rogers made a **motion to nominate Larry Larouche as Vice Chair.** M. Decubellis seconded the motion. The vote in favor of the motion was unanimous.

MINUTES:

Review of minutes for April 19, 2012

B. Rogers made a **motion to accept the minutes of April 19, 2012, as written.**
T. Chrisenton seconded the motion. The vote in favor of acceptance was unanimous.

ADJOURNMENT:

B. Rogers made a **motion to adjourn the meeting at 8:40 p.m.** T. Chrisenton seconded the motion and the vote in favor of adjournment was unanimous.

The next meeting will be held on Thursday, July 19th at 7:30 p.m.

Pauline Ball
Clerk

Approved by the Planning Board on July 19, 2012