

Lyndeborough Planning Board Minutes

August 21, 2014

Final

Meeting called to order at 7:30pm.

Roll Call: Chairman Bob Roger, Vice Chair Tom Chrisenton, Mike Decubellis, Larry Larouche and alternates Julie Zebuhr and Paul Best.

Continued Business:

Phil Brooks, Subdivision on Map 204, Lot 9 – Pettingill Hill Road

Mr. Brooks went before the ZBA. Mr. Chrisenton confirmed the ZBA required 2 acres and 250 foot road frontage.

The Board reviewed the map and checklist and all items were met. The one abutter, Stella Abbott was noticed when it came before the Board prior.

VOTE: Mike Decubellis made a motion to accept the application. Tom Chrisenton seconded the motion. Motion passed unanimously.

Mr. Vigneault from the audience inquired what the lot size is. Mr. Brooks explained this is an attempt to give an existing house on his property its own lot.

VOTE: Mike Decubellis made a motion to approve the application. Tom Chrisenton seconded the motion. Motion passed unanimously.

Paper copies of the maps were signed. Mr. Brooks will submit a mylar. Mr. Brooks was informed a check for \$25 is required for the LChip and made out to Hillsborough County Registry of Deeds.

Quinn Brothers and Pike Industries, Excavation Permit Renewals

The Board did a site walk at gravel pit. A letter was received by Quinn Brother's stating they complied. All items were met that includes the extension of the fence, no trespassing signs on the Cram Hill Road fence and signs on the berm and sign that read "Danger, Keep Out".

VOTE: Tom Chrisenton made a motion to approve the permits. Larry Larouche seconded the motion. Motion passed unanimously.

New Business:

Cullen-Penney, Lot Line Adjustment on lots 234-030 and 234-031. Johnson Corner and Larger Lane

Chairman Rogers explained that New Hampshire is not a home rule state. The Planning Board has authority granted but the legislature for authority over subdivision 674:35. They did not grant the Board any particular authority over lot line adjustments. The Board's only function with a lot line adjustment is to check the plat to make sure it

complies with the zoning regulations and if it is in compliance the registry requires our signature in order to have it registered. Otherwise the Planning Board has have no authority over what happens with a lot line adjustment.

Chairman Rogers said they will give an abutter who has concerns a few moments. Abutter Christiaan Vigneault, 20 Purgatory Falls Road, Lyndeborough was present. His property abuts both the Penney and Cullen properties.

Mr. Vigneault discussed the deed restrictions on his property. The deed states all the properties in the subdivision are not allow to be subdivided or made smaller. Mr. Vigneault read the deed restriction into the record. *See file for deed.*

There are no restrictions listed on the subdivision plat.

Mr. Vigneault presented the map and deed to the Board for review. Book 363, page 0305.

Mr. Chrisenton asked if this covenant was adopted between the parties after the subdivision was approved. He was told yes by Mr. Vigneault. Chairman Rogers also confirmed and said he saw a copy of the plat with John Watt and Leo Foote signature on it and there was no covenant on it. They are not on the recorded plan.

The Board if all the parties were agreeable to this and Mr. Vigneault said there were seven lots and a deed restriction in the registry of deeds.

Mr. Vigneault had concerns about the abutter notification. His letter arrived via regular mail and was not certified. The Board explained they do not have the authority to notice for lot line adjustments and do not send certified letters for a lot line adjustment. They may send a courtesy letter.

Mr. Vigneault read the regulations that state “minor subdivision, lot line adjustment and lot consolidations shall follow the same application procedures as other subdivision.”

The Board explained they only have authority for subdivision not lot line adjustments.

Chairman Rogers explained this is the area he believes is in error in creating this section when referred to lot line adjustments and lot consolidations in a section that was supposed to be applied to minor subdivisions, however it is printed there. He asked the Board, it is within the Board’s power to waive any subdivision regulation. Section 320.06

Which otherwise would require use to the board to have a formal hearing with abutters notified.

Mr. Decubellis inquired that since it's in the regulations, even wrongly, and we have an abutter concerned, what harm would it be to properly notice the case. Vice Chair Chrisenton said the Board does not have the authority to notice it.

At town meeting RSA 674:35 was adopted. Lengthy discussion proceeded.

VOTE: Mr. Chrisenton made a motion to waive the provision because the Board is not authorized to follow the procedures because it's a lot line adjustment. 674:35 as stated on page 1 of subdivision regulations. Mr. Best seconded the motion.

Mr. Vigneault felt that every person in the subdivision should be notified regardless of if they are an abutter. Mr. Rogers said we have no authority over deed restrictions.

Article 320.06 was discussed.

On Aug. 7 there was a public notice in the Milford Cabinet and posted on the town's website and at the town office about the Cullen-Penney lot line adjustment.

The Board does have the authority to have abutters pay for certified mail.

The motion was on again on the floor. Motion passed. 3 votes in favor. 2 votes oppose.

VOTE: Julie Zebuhr made a motion to delay the case one month. The motion was not seconded.

Ray Shea from Sanford Survey presented the subdivision information.

VOTE: Tom Chrisenton made a motion the Board will sign the lot line adjustment because they found the lot line adjustment complied with zoning regulations. Paul Best seconded the motion. Motion passed. The mylar will be registered at the Hillsborough Country Registry of Deeds.

The applicant will drop off a mylar at a future date.

The Board had an informal discussion with Darrell Cooper on Center Road regarding a subdivision.

VOTE: Mr. Chrisenton made a motion to adjourn at 9:00pm Mr. Best seconded the motion. Motion passed.

Respectfully Submitted,
Kathleen Humphreys, Planning Board Secretary