

1 DRAFT

2 BOARD OF SELECTMEN

3 TOWN OF SANDOWN, NH

4 SANDOWN, NH 03873

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6 **Meeting Date: March 9, 2011**

7 **Type of Meeting: Special Joint Meeting with Planning Board**

8 **Meeting Location: Town Hall**

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10 Chairman Selectman Rheaume called the meeting to order at 7pm.

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12 **Members Present:** Selectman Rheaume Chairman, Selectman Tombarello,
13 Selectman Nicolaisen, Selectwoman Copp, Selectman Brown

14 **Office Manager:** Lynne Blaisdell

15 **Recording Secretary:** Sue Reynolds

16 **Planning Board:** Donna Green, Matt Russell, Marion Cormier, Selectman
17 Tombarello, liaison and alternate Ernie Brown.

18 **Town Attorney:** Diane Gorrow

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20 Pledge of Allegiance was done.

21
22 Chairman Rheaume stated this meeting to discuss what needs to take place in
23 order for Mr. Varella to close on the property being discussed by April 15th. He
24 said he would like to save time by not bringing up past discussions. He also
25 asks that each person that would like to speak addresses the Chair and not
26 each other and that there be no interruptions while someone is speaking. He
27 also asked that no personalities be discussed as well.

28
29 Matt Russell read a plan of events that was put together by the Planning Board
30 in hopes to expedite the process that will allow Mr. Varella get the permit he
31 needs within the time frame that he needs it. Matt stated the dates and
32 timelines of all the deadlines and meetings between the Planning Board,

33 Conservation Commission, Mr. Vallella and Steve Keach that once everything
34 is finalized and the building permit is issued Mr. Vallella will have adequate
35 time to finish the building in time to meet the closing date of April 15th. The
36 BOS agree that everything is in order according to what Matt Russell stated.
37 Selectwoman Copp asked if the Planning Board recommends issuing the
38 building permit without having a meeting and Matt Russell said no. He would
39 like to see the permit issued only after all paperwork has been properly filed
40 and reviewed. Marilyn Cormier agrees with Matt Russell and states that the
41 permit shouldn't be issued until all zoning laws are followed. Selectman
42 Nicolaisen thanks everyone for the expedition of the process but feels that it
43 would be ok to allow the building permit to be issued knowing that the C.U.P.
44 is forthcoming. Matt Russell strongly recommends following normal rules and
45 procedures that are in place so nobody is accused of anything being done
46 incorrectly. Matt also referred to Selectman Brown's comment the other night
47 stating that there are procedures and policies in place for a reason the Town
48 should be following them. Selectman Brown said that he does feel that
49 policies and procedures should be followed, however there is a C.U.P. in place
50 which is what the Board was waiting for and feels that it would be ok to issue
51 the building permit under those conditions. Selectwoman Copp asked for
52 Attorney Gorrow's advice. Attorney Gorrow stated that the materials she
53 reviewed were not clear about the wetlands bridge but does not see any
54 reason not to issue the permit with the C.U.P. in place. She also stated that the
55 building inspector is the only one who decides when a building permit will be
56 issued. She does stated that this is unique because of the cease and desist
57 order that was on the property. It is not violation of the zoning ordinance to
58 issue a building permit at this time and a conditional permit can also be
59 issued. Matt Russell read RSA 676:13 and stated that the Planning Board has
60 never waived a C.U.P. to allow a builder to build. Attorney Gorrow also
61 referred to Mr. Radigan's letter in 2008 in regards to an after the fact
62 conditional use permit. Steve Keach stated that at the time of creation there
63 was to be no wetlands impact and a C.U.P. was not necessary but because of
64 the construction that took place there was wetlands impact and the BOS
65 issued a cease and desist and that the property needed to be cleaned up. The
66 owners had the property surveyed and found there would have been
67 permanent impact if the bridge was left where it was put. Selectman Brown
68 also referred to RSA 676:13 and said this is applicable, the C.U.P. is necessary
69 and is also in place and feels the permit is for the house and not the bridge.
70 Attorney Gorrow stated there is no problem with issuing a conditional
71 building permit. Selectwoman Copp asked who gives the ok to issue the

72 permit and Attorney Gorrow said the sole decision is up to the building
73 inspector. Roger Barczak from the Conservation Commission asked if there
74 was a financial impact to the builder if the date of April 15th was not met and
75 what is the level of urgency of getting this completed by that date. No one
76 could answer the question of the financial impact to the builder. He also
77 states that following policy and procedure is important. He asks the Board to
78 take careful consideration and refers to Matt Russell's statement of the
79 importance of following the procedures the Planning Board has in place. He
80 also urges the building inspector to follow appropriate procedures and not to
81 make shortcuts to expedite the process. Roger also states there is a
82 Conservation meeting tomorrow night and the will review the C.U.P. at that
83 time. Selectwoman Copp urges the BOS to follow the policy that is in place by
84 the Planning Board and she reminds the BOS that they are in the middle of
85 reviewing their own 47 page policy. Donna Green agrees with Roger Barczak
86 and Selectwoman Copp and states the builder put himself in this situation.
87 She said the Planning Board has never made an exception in the past and does
88 not plan on making any in the future. She reviews the process and said the
89 Planning Board will do what it takes to expedite the process by following the
90 guidelines that the Planning Board has. Selectman Nicolaisen said that he has
91 no affiliation with the builder but he is in the construction business and
92 because of the economic times he would like to see the permit issued to be
93 sure the closing is on time. Ken Sherwood, building inspector spoke and said
94 RSA 676:13 can be looked at a few different ways. He said if this were 22
95 years ago it would be a different story and it would be easy to explain if you
96 could see a rational exception. He also states the permit is for the building
97 and not the land and a conditional building permit could be issued and the
98 Certificate of Occupancy would not be issued until everything is complete. He
99 also stated that he does not want to be put in a position that the Town or
100 residents would come after him for the decision that he made. Ken also said
101 now that it is known that a C.U.P. is needed it is much easier to understand.
102 Selectman Brown asked when the Board would about the decision. Ken said
103 the permit was pulled last week and he told the builder he would be prepared
104 to make a decision after tonight's meeting based on the information he
105 received at the meeting. He said he would be prepared to stay late and issue
106 the permit if everyone was in agreement to do so. Matt Russell stated that not
107 everyone is in agreement to issue the permit so what happens now? Ken said
108 he is not prepared to make a decision at this time. At the request of the
109 Planning Board Mr. Vallella was asked if he has done work on the property
110 without a permit and he stated yes. Marilyn Cormier said there are Zoning

111 Ordinances in place and although there was no permit issued Mr. Valella
112 continued to work on the property. She asks why the Town would honor an
113 early permit. Ken stated that he cannot issue permits until all requirements
114 have been met and he will take a closer look. Selectman Brown asked Ken if
115 he has ever seen anyone in Town work on their house without taking out a
116 building permit and Ken said yes and he would issue them an after the fact
117 building permit. Mr. Valella said he wouldn't have been able to install the
118 bridge if he didn't backfill the property. Marilyn Cormier stated that she
119 knows Ken will look at the building to see if work has been done on it and do
120 what is prudent for the Town. Ken stated that at no point did the BOS ask Ken
121 to issue the permit for this property and wanted to clear up any
122 miscommunication on this. Kevin Hatch, Surveyor and design on site stated
123 the C.U.P. was granted and feels the permit should be issued as the only one
124 that will lose in this deal is the homeowner. Ken stated the certificate of
125 occupancy will not get signed off on until everything is complete. Mr. Vallella
126 stated he still does not feel that he needs a C.U.P. but did it to appease the BOS.
127 Ken was asked if he has ever issued an after the fact permit to residents or
128 professional builders in the past and Ken's response was unfortunately yes.
129 Selectman Brown said according to Ken's statement if the permit was issued
130 tonight the Town would not be setting a precedence. Donna Green stated it
131 would be more of a hardship on the owner if the occupancy permit was held
132 up for some reason rather than the building permit not being issued. Roger
133 Barczak asked if any member of the BOS, Planning Board or Building
134 Inspector seen a copy of the purchase and sale of the property and the answer
135 was no, this is not something that is normally done. Roger stated that because
136 everyone is going out of their way to accommodate the builder he wondered if
137 they may have asked for it. He asks the BOS if they have requested a copy of
138 the purchase and sales agreement and the BOS said no. Selectman Nicolaisen
139 said he thought part of the discussion was going to be how not to run into this
140 problem in the future. Selectman Rheume said to wait a few weeks for the
141 new BOS and discuss it with them.

142 Motion by Selectman Brown to adjourn.

143 Second by Chairman Rheume.

144 ***In Favor*** Selectwoman Copp, Selectman Nicolaisen, Chairman Rheume,
145 Selectman Brown, Selectman Tombarello.

146 ***Motion passed unanimously.***

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148 Meeting adjourned at 8:00

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150 Respectfully submitted
151 Sue Reynolds