

DEERFIELD PLANNING BOARD  
DEERFIELD, NEW HAMPSHIRE  
MAY 26, 2010

MINUTES OF MEETING

PRESENT: Board members Fred McGarry, Kate Hartnett, Fran Menard, William Perron. Also present Alternate member Peter Schibbelhute, Planning Consultant Gerald Coogan and secretary Jane Boucher.

Chair Fred McGarry called the meeting to order at 7PM and appointed Peter Schibbelhute a voting member.

APPROVAL OF MINUTES

Fran Menard moved to approve the minutes of May 12, 2010. William Perron seconded.

The following corrections were made to the minutes.  
Page 2: Paragraph 3: Correct to read "...less than 2 1/2 inches at time of planting..."  
Page 3: Paragraph 1: Correct to read "...Rules entitled..."  
Page 3: Paragraph 3: Correct to read "...a Site Specific Soil...."

Motion carries to approve the minutes of May 12, 2010 as printed and corrected.

APPROVAL OF MANIFEST

Fran Menard moved to approve the manifest in the amount of \$38.38 and a time sheet for Jane Boucher. ( Jane Boucher mileage \$38.38, 12 1/2 hours time sheet). William Perron seconded. Voted in favor.

POSSIBLE WETLANDS VIOLATION

Kate Hartnett advised that she had received a phone call from a resident voicing concern regarding her abutter constructing a fence on a wetlands conservation district. Board members referred to Section 210.5 B2 which permits the construction on fences with Planning Board approval. This will be turned over to Code Enforcement Officer Richard Pelletier .

IMPACT FEES

Fran Menard moved to approve the proposed 2010 Impact Fee Assessment Worksheet and recommend it's acceptance to the Board of Selectmen. Peter Schibbelhute seconded. Voted in favor.

APPOINTMENT OF PLANNING BOARD MEMBER

Fran Menard moved to appoint Peter Schibbelhute as a member of the Planning Board for a one year term (March , 2011). William Perron seconded.

During discussion Kate Hartnett stressed the importance of training seminars and books available for Planning Board members.

Chair McGarry called for a vote on the motion. Voted in favor with Peter Schibbelhute abstaining.

APPOINTMENT OF ALTERNATE MEMBER

Fran Menard moved to appoint Shane Carter to serve as a Alternate Member of the Planning Board for a three year term. Peter Schibbelhute seconded. Voted in favor.

A memo will be sent to Town Clerk Kevin Barry advising of these appointments.

7:25PM APPLICATION FOR PUBLIC HEARING; DARRELL AND SUSAN CADY, PERKINS ROAD

Roscoe Blaisdell and David Pelletier were present.

Chair McGarry read the notice of public hearing by which Darrell and Susan Cady, 15 Perkins Road, are making application for a public hearing to consider approval of a minor subdivision for property located on Perkins Road (identified as Map 406 Lot 5), consisting of 7.5 acres and owned by the applicants. The intent of the application is to create one new lot consisting of 3.7 acres.

Gerald Coogan noted that the major question with the subdivision is the status of Perkins Road. At the 1989 and 1990 Town Meetings, the voter decided to accept a portion of Perkins Road as a Class V road. In 2007, The Board of Selectmen voted to extend the Class V road status by 300 feet. This section of Perkins Road, with a crushed rock surface, was formerly a Class VI road and was designated a Class V road to about where the stone wall ends. The plan calls for the proposed lot to have 262 feet of frontage on the reclassified Class V portion. Based on the above mentioned information, it appears that Perkins Road is a Class V road to the end of the frontage of the existing lot (Cady) plus an additional 300 feet.

Mr. Coogan referred to recent e mail communications from Alex Cote, Atty. Rob Upton and Steve Keach as well as copies of minutes of Board of Selectmen meetings in 2007 when they voted to re classify the road. Board members received copies of the above.

Mr. Coogan's recommendation:

1. The Planning Board can accept the application as complete;
2. Recommend that the Planning Board consider a site visit and make a determination as to the adequacy/suitability of Perkins Road for this one lot subdivision.

3. If improvements are necessary, The Board should make recommendations.
4. If the road is acceptable as is, the Board can approve the subdivision with the following conditions
  - . Receipt of State NH DES subdivision approval.
  - . Setting boundary pins.

Roscoe Blaisdell provided copies of the proposed subdivision.

Chair McGarry noted that some improvements need to be made to the road to get the required frontage.

William Perron moved to accept the application. Peter Schibbelhute seconded. Voted in favor.

Kate Hartnett referred to an e-mail from Steve Keach dated 5/14/10. "It is exceedingly important to understand what the current status of Perkins Road is along the frontage of the Cady property." Mr. Keach outlined four steps needed to be taken.

Ms. Hartnett also questioned if the Town has failed to maintain any segment of a Class V road , according to RSA 229.5,VII, " in suitable condition for travel thereon for five successive years or more" it will have to be reverted to Class VI status.

Gerald Coogan noted that the question remains as to where the 300 feet starts and ends.

David Pelletier met with Alex Cote at the site and Mr. Pelletier , when he is constructing the home, will construct a turn around that meets with Mr. Cote's approval.

Chair McGarry said that when the Selectmen voted to lay out the road in 2007 that is when the five years or more began.

David Pelletier also provided pictures of the site.

The Board agreed that they along with Mr. Pelletier need to meet with the Board of Selectmen to question where the 300 feet of re classified road begins and ends. Gerald Coogan will contact Cindy Heon to schedule and appointment to meet with the Board on June 7, 2010.

The Planning Board will conduct a site visit on May 29, 2010 at 9AM.

Peter Schibbelhute moved to contain the public hearing to June 9, 2010 at 7:30PM. William Perron seconded. Voted in favor.

8:20PM TIN POT REALTY; JOHN KREBS

Mr. Krebs, representing Tin Pot Realty was present. Mr. Krebs requested a waiver of the Impact Fee Assessment for Map 420 Lot 48-23 in the amount of \$3877.00. He noted that the reason for this request was that they have already paid significant property taxes on this lot, which to date have required no municipal services, as the lot has remained vacant from its creation in 2006 until April, 2010. He advised that a total of \$14, 940.57 have been paid for taxes.

Chair McGarry read an e-mail for Town Counsel after reviewing Mr. Krebs's request: "It seems that Mr. Krebs's argument is that he should receive a credit for taxes paid for municipal services that he does not use. By the same argument, should a landowner obtain a credit if he/she does not have to call the fire department to put out a fire or require public assistance? A contrary view is that all taxpayers must contribute to the costs of municipal services, whether they individually make use of them, as a general obligation of property ownership. The town assesses a real estate tax based on the value of the land and buildings. By leaving the land vacant, Mr. Krebs paid less taxes than if he had developed the lots. That he now has to pay is a function of the impact fee ordinance, and is separate from general real estate taxation. I do not encourage mixing the two concepts. I also do not see an easy way not to create a difficult precedent, if the Board grant this waiver under these facts. I might recommend differently if the new lot were restricted in use, such as having a covenant that it cannot be developed unless the impact fee is paid at whatever rate is in effect at the time it is developed.

Chair McGarry referred to RSA 674:21 V (a) "The amount of any fee shall be a proportional share of municipal capital improvement costs which is reasonable related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee. Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees."

Gerald Coogan referred to Zoning Ordinance 708.5 B. "A person may request from the Planning Board, a full or partial waiver of impact fee payments. The amount of such waiver shall not exceed the value of land, facilities construction or other contributions to be made by that person toward public capital facilities. The value of on site and off site improvements which are required by the Planning Board as a result of subdivision or site plan review, and which would have to be completed by the developer, regardless of the impact fee provisions, shall not be considered eligible for waiver."

Fran Menard moved that based on advice from Town Counsel the

PLANNING BOARD 5/26/10

Planning Board deny a request for a waiver of impact fees for Tin Pot Realty. Kate Hartnett seconded. Voted in favor.

LAMPREY RIVER ADVISORY COMMITTEE SMALL GRANTS PROGRAM  
Gerald Coogan asked for permission to apply for a grant offered by the Lamprey River Advisory Committee (LRAC). Deadline is June 4, 2010.

Fran Menard moved to authorize Gerald Coogan to apply for a grant from LRAC. Peter Schibbelhute seconded. Voted in favor.

The meeting was adjourned at 8:40PM.

Recorded and transcribed by Jane Boucher  
Pending Approval by the Planning Board