

DEERFIELD PLANNING BOARD
DEERFIELD, NEW HAMPSHIRE
MAY 12, 2021

MINUTES OF MEETING

PRESENT: Board members Peter Schibbelhute, William Perron, Harriet Cady, Selectmen's Representative Fred McGarry. Also present Cameron Prolman, SNHPC, and Jane Boucher, secretary.

7PM Chair Peter Schibbelhute called the meeting to order.

Cameron Prolman asked those attending via zoom to mute themselves until the Board asked for input from the public.

APPROVAL OF MANIFEST

Fred McGarry moved to approve the manifest. (time sheet for Jane Boucher 19 hours), William Perron seconded. Voted in favor.

APPROVAL OF MINUTES

Fred McGarry moved to approve the minutes of April 28, 2021. William Perron seconded. The following corrections were made to the minutes:

. Page 2 Last paragraph: Correct to read "A center line stationing..."

. Page 3: First Paragraph: Correct to read "...plan and profile. We will need more detail for headwall...."

, Page 2: Paragraph 2: Correct to read "...regarding the conservation easement...."

.Page 3 Paragraph 3: Correct to read....that runs from McCarron Way to Maple Ave."

Page 3: Last sentence: Correct to read "...additional stone bounds not shown will need to be set."

Page 4 Paragraph 3; Correct to read "...any further consideration..."

Page 4 Paragraph 8: Correct to read "...moved and William Perron...."

Page 5 First Paragraph: Correct to read "...there were two..."

Page 5 Paragraph 2: Correct to read "50 foot buffer running parallel to the property line on the south side of the lot."

Page 5 Paragraph 7: Correct to read "...it was a road on a previously approve subdivision."

Page 5 Paragraph 11: Correct to read "...would be necessary in the culvert."

Page 6 Paragraph 10: Correct to read "...because there was no road required for the Town to maintain."

Voted in favor with Harriet Cady abstaining.

MATTHEW BOURQUE

The secretary was instructed to send a letter to Mr. Bourque

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requesting a copy of the DOT Driveway Approval for his property on North Road.

7:15PM APPLICATION FOR PUBLIC HEARING; MINOR SUBDIVISION; MDGF, 170 BRIDGE ST. , MANCHESTER, NH, KETTLE ROCK ROAD AND MOUNT DELIGHT ROAD, DEERFIELD AND ALLENSTOWN, NH
George Kelley, MCGF, and James Franklin were present via zoom as well as several abutters.

Chair Schibbelhute read the Notice of Public Hearing by which MDGF will make application for a Public Hearing to consider approval of a Minor Subdivision for property located on Mount Delight and Kettle Rock Roads in Deerfield, NH (Map 402 Lot 41) and Allenstown, NH (Map 411 Lots 18 and 20) and owned by the applicant. The purpose of the plan is to consolidate various parcels of land as described in RCRD Book 6064 page 2277 and then to subdivide those parcels.

Deerfield: This land is zoned residential -agricultural with the following minimum zoning requirements: Minimum lot size 3 acres; Minimum frontage of 200feet; Yard requirements of 40'; Side and rear requirements of 37.5'; Wetlands buffer 100'.
Allenstown" This land is zoned OSF, Open Space/Farming with the following minimum zoning requirements: Minimum Lot Size 5 acres; minimum Frontage 200'; Front yard 20', Side and rear yard 30'.

The formal application will be submitted to the Planning Board of the Town of Deerfield on Wednesday , May 12, 2021 at 7:15PM. The Board will consider acceptance, and if accepted will hold a public hearing at that time.

At this time Chair Schibbelhute read an e-mail from Mark Witala, Hidden Drive, Deerfield, NH noting "It's sad to see Deerfield losing yet another piece of land to developers. The town is losing its character and because the piece is located on Mount Delight Road, the impact on the road will cost residents higher taxes to pay for repairs and repaving. Many sections of the road are in bad shape during the winter months. Patches are springing up everywhere. The road should be repaved in many sections. Before we add more construction traffic to a deteriorating road we should consider the consequences."

Board members reviews plans. Fred McGarry moved to accept the application. William Perron seconded. Voted in favor.

James Franklin said they are proposing to create one new lot. The applicant will request three building permits. They wish to subdivide on the westerly side of the property , identified originally as Lot 141 -1 and Lot 18-1.

Mr. Franklin noted that he felt it would be better that the Board asked questions and he would try his best to answer them.

Peter Schibbelhute questioned if the new lot in Deerfield would be 411 Lot 18-2 . Mr. Franklin replied yes , it would be part of Lot 141.

Mr. Schibbelhute said that there will be four lots, two of them on Mt. Delight Road and part of the third will be on Mt. Delight with driveway on Kettle Rock road. The new lot will be 18-3 with driveway off Kettle Rock Road.

Fred McGarry said looking at the Deerfield Tax Map which shows Lot 17 in Deerfield which appears to be Lot 20-2. Mr. Franklin said that he shows Lot 17 as owned by Joseph and Caroline Boyle. Mr. McGarry said we are creating Lot 18-3 without frontage on a Class 5 Road. James Franklin noted that the Town merged these lots into one parcel without authorization of the landowner. He added that when they did the deed research they found there were three distinct parcels.

Fred McGarry questioned when the consolidation took place. Mr. Franklin did not know. Mr. McGarry said that the Board would like to see documentation regarding the consolidation. Mr. Franklin said he does refer to Plan D42545 which has been recorded.

Mr. McGarry said that the Board should have a copy of Plan D42545 which should be included.

Harriet Cady felt that if the Plan D42545 was indicated on the proposed plan, it would be adequate.

Both Peter Schibbelhute and Fred McGarry agreed that it would be best to have a copy of the recorded plan to be filed with the proposed plan.

Peter Schibbelhute said that the Board will not record the copy but will keep it in the file for reference only.

Mr. Franklin said he will provide a copy of the plan.

Fred McGarry questioned Lot 18-2 which shows wetland line and how much of the land in Allenstown is wetlands.

James Franklin did not do a wetland delineation on the property.

Fred McGarry said that Deerfield wetlands regulations call for 25% of three acres. He asked if Mr. Franklin can show between the two parcels, Deerfield and Allenstown, that you have at least 75% or three acres.

Mr. Franklin said he could provide that information.

Cameron Prolman asked Mr. Franklin if he had any idea of how much of the land in Allenstown is wetlands. Mr. Franklin replied "no I do not".

Fred McGarry referred to RSA 674:53 noting if a portion of the proposed lot is providing access is one particular town then it would be subject to the Town's wetland regulation .

At this time Cameron Prolman read RSA 674.53 (A copy is attached to these minutes.)

Sylvia von Aulock, spoke via zoom, saying that the need is to verify that there is 2 1/2 acres of upland. She added that a note should be on the plan indicating that the Board of Selectmen have approved use of Kettle Rock Road as an access road.

Mr. Kelley also said that a variance has been granted by the ZBA for building permit on Kettle Rock Road.

Both the Planning Board Chairman and Building Inspector from Allenstown were present via zoom.

Peter Schibbelhute noted the list of conditions to continue the Public Hearing

- .Identification of upland soils on wetlands on Allenstown side of Lot 18-2 and 141
- .Note of variance granted
- .Building Envelope to be shown
- .Side and front setbacks
- .Wetland setbacks
- .Boundaries to be set

Fred McGarry moved to continue the public hearing to June 9, 2021 at 8PM. William Perron seconded. Voted in favor.

8:25PM APPLICATION FOR PUBLIC HEARING; LOT LINE ADJUSTMENT; EDWARD AND SANDRA CROSS; RANGE AND RIDGE ROADS
Edward Cross and Roscoe Blaisdell were present.

Chair Shibbelhute read the notice of public hearing by which Edward and Sandra Cross, 4 Thurston Pond Road, Deerfield, NH made application for a Public Hearing on Wednesday, May 12, 2021 at 7:45PM for a Lot Line Adjustment for property located on Ridge and Range Roads, Deerfield, NH identified as Tax Map 414 Lots 71 (consisting of 17.5079 acres) and Lots 72 (consisting of 18.946 acres) The intent of the application is to adjust the lot lines between Lot 71 and 72/ Lot 71 would then consist of 20.00700 acres and Lot 72 would consist of

16.4656 acres.

Roscoe Blaisdell said that the Board is currently hearing an application for a subdivision for Lot 71 and by adding acreage from Lot 72 it will make the subdivision work better.

Board members reviewed the proposed plans. Fred McGarry moved to accept the application. William Perron seconded. Voted in favor.

Fred McGarry moved to Grant conditional approval for a Lot Line Adjustment for Edward and Sandra Cross for property located on Range and Ridge Roads. The condition being that certification of boundaries be set and blaze marks going back to wetlands. Conditional approval to lapse in 30 days (June 12, 2021). William Perron seconded. Voted in favor.

8:30PM APPLICATION FOR PUBLIC HEARING; CONDITIONAL USE PERMIT; PUBLIC SERVICE OF NH/DBA EVERSOURCE ENERGY/ G146 TRANSMISSION LINE

Lindsey White, Tracey Tarr, Kurt Nelson were present via zoom representing PSNH.

Chair Schibbelhute read the Notice of Public Hearing by which the Deerfield Planning Board will hold a Public Hearing on Wednesday, May 12, 2021 at 8:15PM to consider an application for a Conditional Use Permit (CUP) for Public Service Co. dba Eversource Energy, 13 Legends Drive, Hooksett, NH for property located in Deerfield, NH (G 146 Transmission Line ROW). Eversource Energy is proposing to replace one utility structure along the existing G146 Transmission Line ROW corridor. The proposed maintenance work will require temporary impacts to the Wetland Conservation District for access and work pad placement.

Chair Schibbelhute read a letter from Serita Frey, Deerfield Conservation Commission. A copy of the letter is attached to these minutes.

Fred McGarry moved to accept the application from Eversource. William Perron seconded. Voted in favor.

Fred McGarry said he had a total of 9, 314 square feet of wetlands will be impacted. He questioned if that was correct.

Lindsey White answered that that was correct. She indicated that work should begin in July.

Kurt Nelson said that it was the replacement for one structure and anticipated that it would be completed in weeks.

Fred McGarry questioned if the structure to be replaced was number 65 on Sheet 3.

Lindsey White replied yes.

Mr. McGarry said that it looked like they would use Thurston Pond Road to access the area and questioned what provisions would they be doing to protect the integrity of the small bridge on the road.

Tracey Tarr said that she had met with the Road Agent and they are looking at other options to access Thurston Pond Road. They are looking at access from Ridge and Range Roads to Thurston Pond Road.

An abutter questioned how tall is the tower that will be brought in. Mr. Nelson replied 61 feet.

Kurt Nelson said that he has looked at different accesses from Ridge and Range Roads and also Mount Delight. He said he looked at culverts along Ridge Road and certainly will plan access carefully.

Joanne Bradbury, a resident of Thurston Pond Road, questioned if Eversource will agree to repair any damage that may occur.

Kurt Nelson said they will do a pre construction survey before they bring in any equipment and will repair any damage that may occur.

Peter Schibbelhute asked if they have looked at coming in from the intersection of Range and Ridge Roads. Mr. Nelson replied that is their intent at this point.

Mr. Nelson noted that the 61 foot tower will be coming in in smaller segments.

Joanne Bradbury asked if abutters would be able to watch the process and contact the manager with any questions.

Kurt Nelson if anyone has any concerns they will be sure they get to the right people.

Kurt Nelson said they are very protective of stone walls.

Fred McGarry noted the crossing of Hartford Brook and questioned if there was a culvert at that location

Mr. Nelson based on his information there are three culverts at that location.

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Sherry , 46 Middle Road asked if Best Management practices will be in place. Mr. Nelson replied that Best Management Practices is important has to where and how they work.

Fred McGarry moved to Grant Conditional Approval to Eversource Energy for a CUP for maintenance work along the G 146 Utility Line with the following conditions:

- . Access to be from Ridge Road and Range Road intersection and not from Mount Delight via Thurston Pond Road
- . Post bond in the amount of \$15,000 for the Town of Deerfield
- . Establish escrow account for inspection by KNA in the amount of \$3,000.00 and notify KNA for pre construction meeting
- . Bond and escrow to be provided to Town before start of work.

William Perron seconded. Voted in favor.

The meeting was adjourned at 9:15PM.

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

From: marshallgj@metrocast.net,

To: PeteSchib@gmail.com, bob.cote@yahoo.com, mcgarry128@myfairpoint.net, f5fy@aol.com,

Subject: Fwd: RE: Message for PB re: Eversource CUP

Date: Tue, May 11, 2021 1:52 pm

Dear Planning Board

Representatives from Eversource and GZA GeoEnvironmental will be attending your meeting tomorrow evening to discuss a CUP application to conduct structure replacement on the G146 transmission line. They met with the Deerfield Conservation Commission last night to discuss the project and asked that we send any comments/concerns to you. As with other recent projects, our general requests regarding wildlife protections have been considered, with a plan for monitors to be on site regularly. We appreciate the role you have played in continuing to make this happen.

With this current application, we want to raise concerns regarding the potential impacts to the function of vernal pools in the project area. While Eversource representatives indicated there will be no impact to vernal pools themselves, they described permanent impacts (e.g. depositing gravel and stone) in the upland areas near and, in some cases, immediately adjacent to the vernal pools.

Vernal pools serve as critical breeding habitat for several amphibians identified as species of greatest conservation need in New Hampshire (e.g. spotted salamanders, wood frogs). Outside of the breeding season, these amphibians spend the remainder of the year in the upland soils surrounding the pool. The deposition of sand/gravel in these areas would potentially eliminate the ability of these vernal pools to function as habitat.

We would like to request that Eversource do everything possible to minimize impacts to the areas surrounding vernal pools, particularly in the area 100 feet beyond the delineated wetland boundary (the distance defined in the Wetland Conservation Overlay District). Where impacts are unavoidable, we would request the avoidance of permanent impacts, if possible, and restoration efforts, where appropriate.

Additionally, there were several abutters present at the DCC meeting that expressed concern about access via Thurston Pond Road, which would require use of a small, privately maintained bridge. The abutters indicated that the bridge in its current form and condition would not be adequate for the heavy/large equipment and loads required to complete the structure replacement. This is not necessarily in the purview of the DCC, but we felt it important to pass along concerns voiced by community members.

I hope you can raise these concerns with the Eversource reps tomorrow evening.

Thanks,

safety requires vacating the premises. Such an order shall be subject to the procedures of RSA 147:16-a, which shall supersede inconsistent provisions contained in any local code or code adopted by reference.

II. The provisions of paragraph I shall not apply to a residence which is occupied by the owner and his or her immediate family, unless the condition of such premises constitutes a clear and imminent danger to the life or health of persons other than the occupant or occupants.

HISTORY:

1998, 318:3, eff. Aug. 25, 1998.

RESEARCH REFERENCES AND PRACTICE AIDS

New Hampshire Practice.
13-8 N.H.P. Local Government Law § 174.

Land Affected by Municipal Boundaries

674:53. Land Affected by Municipal Boundaries.

I. An owner of contiguous land which is located in more than one municipality may treat a municipal boundary line as an existing boundary between lots, tracts, sites or other divisions of land for purposes of this title unless the existing or proposed use of land or arrangement of structures in one of the municipalities requires and is dependent upon land or improvements located in the other municipality or municipalities in order to fulfill the land use ordinances or regulations of the first municipality with respect to such matters as lot size, density, frontage, uses or accessory uses, set-backs or access, or in order to comply with applicable state or federal regulations.

II. Upon receipt of an application for a permit or approval under this title for the subdivision, development, change of use of, or erection or alteration of any structure upon any lot, tract, site or other division of land whose boundary or portion thereof is a municipal boundary line, or whose sole street access or sole maintained street access is via a private road or class IV, V, or VI highway located in an adjoining municipality, the municipality receiving the application shall inquire in writing to the appropriate administrative officials in the adjoining municipality or municipalities as to the existence of facts or regulations which, under paragraphs I, III, or IV of this section or otherwise, would preclude or affect such subdivision, development, construction, or change of use. Response shall be made to such inquiries within the period provided by this title for approval or disapproval of the underlying application. A response which invokes an ordinance or regulation of such adjoining municipality may be appealed in that adjoining municipality in the same manner as any other administrative decision. An adjoining municipality in which is located an exist-

graph I Added the third sentence.

208 amendment added the introductory language.

211 amendment added par. V.

213 amendment added the last sentence of V.

of 1989 amendment on existing local building codes. 70:3, eff. June 18, 1989, provided that any local building enacted or amended by a municipality in accordance with the law prior to June 18, 1989, shall remain in effect until it is repealed; and, provided further, that any local building enacted or amended by a municipality after June 18, 1989, shall be in conformance with the provisions of this section, as amended by 1989, 70:1.

RESEARCH REFERENCES AND PRACTICE AIDS

New Hampshire Practice.
N.H.P. Local Government Law §§ 13, 14, 307.
N.H.P. Local Government Law §§ 900, 950.

674:51-a. Local Adoption of Building Codes by Reference.

In addition to the local powers under RSA 674:51 a municipality may adopt by reference any of the codes promulgated by the International Code Conference which are not included in the state building code under RSA 155-A.

HISTORY:
2003, 245:8, eff. July 14, 2003.

674:52. Power to Adopt Building Codes by Reference. [Repealed.]

[Repealed 2002, 8:12, II, eff. September 14, 2002.]

Former section(s).
Former RSA 674:52, which was derived from 1983, 447:1; 1989, 22, 266:24; 1997, 44:9; and 2000, 195:1 related to local adoption of building codes by reference.

RESEARCH REFERENCES AND PRACTICE AIDS

New Hampshire Practice.
14-24 N.H.P. Local Government Law §§ 900, 910, 950.

Authority to Order Building Vacated

674:52-a. Ordering Building Vacated.

I. The building inspector shall have the authority to order occupants to vacate a building, structure, or other premises if the inspector determines, based on reasonable information and belief, that there is an imminent danger of failure or collapse, or the condition of such premises otherwise constitutes a clear and imminent danger to the life or safety of occupants or other persons and that protection of life or

ing private road or class VI highway that serves as an applicant's sole means of fulfilling the street access requirements under RSA 674:41 shall have the same regulatory powers under that statute with respect to that road or highway as if the proposed building or development were located within that same municipality.

III. An owner of contiguous land in more than one municipality may treat such contiguous land as a single lot, tract, site, or other division of land for purposes of this title, notwithstanding the municipal boundary line, provided that:

(a) All uses of land, buildings, or structures shall comply with the regulations or ordinances of the municipality in which they are located.

(b) When an owner has fulfilled or proposes to fulfill the requirements of one municipality, through the inclusion of land or improvements located in an adjoining municipality, such owner or the owner's successors shall not thereafter use that land or those improvements in a manner such that those requirements of the first municipality are no longer fulfilled. This paragraph may be enforced by the municipality whose requirements are to be fulfilled.

IV. No plat or plan showing land or streets in more than one municipality in the state shall be deemed approved for purposes of this title unless it has been approved by the planning boards of all included municipalities in which the planning board has been granted authority over approval of that type of plat or plan. In addition, no plat or plan showing land whose sole street access or sole maintained street access is or is planned to be via a private road or class IV, V, or VI highway located in an adjoining municipality shall be deemed approved for purposes of this title unless it has been approved by the planning board, if any, of that adjoining municipality, provided however that the sole issue which may be addressed or regulated by the adjoining municipality shall be the adequacy of such street access, and the impact of the proposal upon it.

V. With respect to a proposal for the use of contiguous land in more than one municipality:

(a) The fact that a lot, tract, or site straddles a municipal boundary, or that the requirements of one municipality are proposed to be fulfilled by the use of land or improvements in an adjoining municipality, shall not be the sole grounds for disapproval of any application.

(b) A planning board may waive or vary its regulations with respect to access or interior roads in order to provide better harmony with the regulations of an adjoining municipality, whenever strict compliance would be unreasonable in light of the overall design of a proposal.

VI. When local land use boards from more than one municipality have jurisdiction over a proposed use, subdivision, or development of property:

(a) The applicant may petition the respective local land use boards of each such municipality to

proceed with the application on a upon such petition, joint hearing shall be held throughout the application. However, each board may meet and confer and take final action upon but may not condition final approval receipt of information not previously received at a joint hearing or meeting.

(b) Not less than a quorum of the land use board shall attend the meeting, and the members who attend the hearing or meeting shall have the right to call the full board over that application. The full board may attend the meeting. Each land use board shall have the right to render a decision on the application within its jurisdiction.

(c) The board members present at the meeting or hearing shall select a person from among such members to prescribe rules of procedure, subject to approval by the members present, but not later than 676.

VII. Whenever a subdivision is submitted to a planning board in which only one maintained public highway, class I and II highway system is or is planned to be via a highway maintained by another municipality, the local governing body of that state, the local governing body of that municipality, if any, of that other municipality, or "abutters" for purposes of notice, shall determine whether a planning board may, by regulation, determine the circumstances in which a planning board is required. A determination of whether an application for a subdivision is required, and the regulations, may consider the regulations on adjoining municipalities.

HISTORY:

1989, 381:1; 1995, 43:6, 7, eff. July 21, 1998.

Amendment Notes

—1995.

Paragraph III(b): Substituted "the successors" in the first sentence.

Paragraph VI(c): Substituted "choosing" for "select an interim".

—1998.

Paragraph II: Rewritten to the extent that it would be impracticable.

Paragraph IV: Added the last sentence.

NOTES TO DECISIONS

Construction

Decision of a city's zoning board of appeals denying a permit for a landowner's request for a permit to expand a building on two parcels, and the city's boundaries, and the other town's boundaries was wrongly upheld by the city from treating the parcel as a single lot. *Trust v. Dover Zoning Bd. of Adj.* 584, 2008 N.H. LEXIS 2 (N.H. 20