

DEERFIELD PLANNING BOARD
P O BOX 159
DEERFIELD, N.H. 03037

AUGUST 24, 2022

MINUTES OF MEETING

PRESENT: Board members Peter Schibbelhute, Board of Selectmen's Representative, Fred McGarry (arrived 7:30, William Perron, Donald Wyman. Also present Cameron Prolman, SNHPC, and Jane Boucher, secretary.

7PM Chair Peter Schibbelhute called the meeting to order.

APPROVAL OF MANIFEST

William Perron moved to approve the manifest in the amount of \$3,189.74 and a time sheet for Jane Boucher (SNHPC Contract \$1,582.36, SNHPC Master Plan \$1,607.38, Jane Boucher 25, 1/2 hours). Donald Wyman seconded. Voted in favor.

APPROVAL OF MINUTES

William Perron moved to approve the minutes of August 10, 2022. Donald Wyman seconded. Voted in favor.

APPROVAL OF LOT MERGER

A request for a Lot Merger was received from Patrick Cassier for Lots 93 and 97 on Map 418. William Perron moved to approve the Lot Merger for Patrick Cassier. Donald Wyman seconded. Voted in favor.

7:15PM APPLICATION FOR PUBLIC HEARING; LOT LINE ADJUSTMENT;
SCOTT SYBERT/TOM AND JULIE KUKLA COFFEETOWN ROAD
Scott Sybert was present along with Roscoe Blaisdell.

Chair Schibbelhute read the Notice of Public Hearing by which Scott Sybert, 93 Coffeetown Road, Deerfield, NH (Map 408 Lot 16 consisting of 5.1 acres) and Thomas and Julie Kukla 87 Coffeetown Road, Deerfield, NH. (Map 408 Lot 16 consisting of 17.2 acres) and owned by the applicants. The intent of the application is to adjust the lot lines between the two lots. Lot 19 would then consist of 13.5370 acres and Lot 16 would then consist of 8.8400 acres.

Roscoe Blaisdell provided plans for the Lot Line Adjustment.

William Perron moved to accept the application. Donald Wyman seconded. Voted in favor.

Mr. Blaisdell said that monumentation has been set.

William Perron moved to Grant conditional approval for a Lot

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Line Adjustment for Scott Sybert and Thomas and Julie Kukla.
Conditional approval to lapse in 30 days. (September 24, 2022).
Voted in favor

CONTINUATION PUBLIC HEARING ; ANNMARGEIO MAJOR APPLICATION
PLEASANT LAKE WATERSHED PROTECTION ORDINANCE
Tobin Farwell and George Thompson were present along with
several residents.

Mr. Farwell advised that they were at the ZBA on 8/23 and denied a request to encroach upon the 50 foot buffer for the edge of the wetlands but were granted the variance for the driveway with the nearest point of being 20 feet and the proposed updated plan shows 23 feet. The plan shows a 1460 square feet of building envelope and the building is no larger than 1260 square feet. Septics have been done with ledge probes. A 1% swale has been proposed which they have been able to extend to 103 feet long. He noted that they have complied with one of the recommendations provided. He also said that an old wetland delineation had been submitted , this will be certified by a scientist. Mr. Farwell said they have also submitted a hydrologic study. The culvert will be replaced. Chair Schibbelhute said it would have to be at least 15".

At this time Chair Schibbelhute read a letter received from several residents. A copy of the letter is attached to these minutes.

Tobin Farwell said it was their intention to create a swale that will create the flow back that will be much longer. They are also proposing drip ledges.

Fred McGarry said that the Board of Selectmen have sent a letter to DES requesting they look at post development impact on the lake. He noted that the Planning Board has a 65 day time frame to make a decision.

Tobin Farwell spoke noting that DES has jurisdiction over the shoreland, jurisdiction over wetlands. It seems that this is not within their jurisdiction. He felt that the decision should not be delayed as DES has no jurisdiction re: the decision.

Fred McGarry agreed that DES can provide an opinion but has no jurisdiction regarding the application.

Mr. Farwell noted that, for the record, he would not be in favor of waiting for a response from DES.

Mr. McGarry noted that one issue is delineation of the wetlands. Mr. Farwell said that Mark Jacob will certify and stamp the plan.

It was noted that the application was first heard on June 22, 2022.

Fred McGarry said that the applicant has been to the ZBA several times since then, which delayed further hearings by the Planning Board.

Will Huebner said that they have spoken with several people at DES and they felt that, after review, the case did have merit for some advice that DES might offer the Town to make a decision. They have been asked to evaluate the lot proposed to build; Erosion from Route 107; Evaluated piece of property recently logged.

Peter Schibbelhute questioned Mr. Huebner asking when they discussed this particular piece of property with DES what did they say. Mr. Huebner replied that they sent a plot plan noting that they were having this issue and trying to prevent it from happening and concerned about silt and other chemical runoff. Subsequently they asked about Route 107 and logging.

Erroll Rhodes noted that, as a member of the Conservation Commission, he does not believe that this issue has been discussed. He noted that what he felt the most troubling re: this was a small group of people concerned about their property rights are doing everything they can to slow somebody down. The main concern should be the road and logging, which have been there a long time. He felt this was totally unfair based on the owner trying to develop one lot. DES has no jurisdiction, yet the Planning Board does have jurisdiction.

Fred McGarry noted that applicant will provide additional information regarding planting.

Tobin Farwell said that trees will remain.

George Thompson said that he has been taking a lot of flack and some of it very personnel at times. He noted that his parents bought the lot 50 years ago and now owned by his sisters and himself. This property was never developed for half a century. He said that nothing comes out of this lot and perhaps DES should be looking at some of the other lots. He said they have been paying real estates taxes on a building lot for 50 years.

Tom Farrelly spoke noting that he has talked with a civil engineer who gave him feedback. He provided copies of Zoning Ordinance 705.1 Granting a Variance. A copy is attached to these minutes. He felt that none of the criteria listed should be voted as Granted. He felt that a dangerous precedent would be set by Granting it. The five criteria was not discussed by

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the Board of Adjustment on 8/23. He felt that when members of the Conservation commission are aware of the project and do not discuss it , it is like the ZBA not discussing the criteria .

Erroll Rhodes spoke felt the ZBA made decision with a stipulation . He said that both Joshua Freed and himself are members of the Conservation Commission and no one has approached the commission regarding this application.

Joseph Farrelly spoke noting that he wanted to remind the Board of what the Pleasant Lake Association has accomplished for the last 60 years. He provided copies of an EXecutive Study and read the following "The water quality of Pleasant Lake is threatened by harmful pollutants in non point source pollution from the developed areas in the watershed. The desirability of Pleasant Lake as a recreational destination and increasingly as a permanent residence for newcomers, will likely stimulate continued population growth in the future. Thus, taking proactive steps to properly manage and treat NPS pollution in the Pleasant Lake watershed is essential for continued ecosystem health and recreational enjoyment by future generations."

Fred McGarry said the issue regarding variances needs to be brought up to the ZBA not the Planning Board. We have to deal with facts regarding variances they grant. He added that this is clearly a pre-existing lot 1/2 acre .We do have authority under the ordinance to waive the 50 feet. The applicant has come back with a revised plan meeting the 50 foot setback for the structure and getting a variance with regard to the driveway. Mr. McGarry noted that if the Planning Board said that they have to meet the 100 foot setback, he felt they would be in court and was almost 100% certain they would lose.

Mr. McGarry also said that this is the first time they have seen the revised plan and felt they should be given time to review it. He added that they could not take time to delay a decision to wait for an unknown amount of time reply from DES.

Peter Schibbelhute said he understands abutters concerns however after looking at road and lake noting other house lots. He felt retention ponds on four sides of culvert were necessary to retain water flowing. He felt that the proposed house's impact on the lake is minimal as compared as to what the logging operation done five years ago. Mr. Schibbelhute said that roads around the lake are the major impact to the lake.

Edward Cross spoke saying the if DES does the study, it will be probably be within 6 months to a year.

Fred McGarry said the Hydrologic Study should be sent to our

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Town Engineer for his review and comments.

Donald Wyman spoke noting that when he first looked at this project he was dead set against. But the more he hears regarding the road and logging operation he feels differently. He added that when you look at the homes on Pleasant Lake now, as opposed to what was there in 1975, they are substantially larger as to when they were built. He said a lot more study needs to be done around the lake. Mr. Wyman noted that we have "mansions" on Pleasant Lake. We have to look at the whole lake, not just the 1/2 acre being the cause.

Fred McGarry said that this is first time the Board has looked at the revised plan. He proposed that the Hydrologic Study be reviewed by the Town Engineer and applicant will submit what is proposing to be planted. If the applicant meets those requirements, he does not feel the Board can deny it.

Peter Schibbelhute said he will send the plan to Steve Keach for his review. Tobin Farwell will forward the Hydrologic Study to Steve Keach for review.

Will Huebner thanked the Board for their time spent hearing this application.

Fred McGarry moved to continue the Public Hearing for Annmargeo to September 28, 2022 as the second item on the agenda. William Perron seconded. Voted in favor.

Board Members thanked retiring secretary Jane Boucher for her years of service.

The meeting was adjourned at 9PM

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

Town of Deerfield Planning Board
8 Raymond Road, PO Box 159
Deerfield, NH 03037

August 16, 2022

RE: 256 North Rd Property Variance at Wilson Brook , Pleasant Lake, Deerfield, NH

Dear Deerfield Planning Board,

I am writing regarding the recent variance granted to the property located at 256 North Road, Deerfield, NH. As a Deerfield resident and Pleasant Lake Community member I would respectfully request that the Planning Board reconsider granting such a variance to build a house (and septic system) on this 0.5 acre lot adjacent to Pleasant Lake.

The Deerfield minimum acreage to build is 3 acres. In 2015, the Pleasant Lake Protection Ordinance was adopted for the specific purpose *"to ensure the protection and preservation of Pleasant Lake and its watershed from the effects of point and non-point source pollution or sedimentation."*¹ This ordinance requires in Section 329.8 (Buffer Requirements) a requirement to maintain a 100ft setback from any tributary to the lake. It also states the following:

*"Any reduction in the required buffer zone width down to an absolute minimum of 50 feet may be granted by the Planning Board upon presentation of a hydrologic or other study that provides documentation and justification, acceptable to the Planning Board, that even with the reduction, the same or a greater degree of water quality protection would be afforded as would be with the full-width buffer zone."*²

We respectfully request to understand what hydrologic or other study has been completed by the property owner of 256 North Road that demonstrates no difference in water quality impact between a 50ft and 100ft buffer from Wilson Creek. Additionally, we are mindful that the absolute minimum setback deviation stipulated in the ordinance is 50ft from any tributary to Pleasant Lake.

Pleasant Lake is one of the last lakes in the State of New Hampshire that does not suffer from significant infestation from invasive species, such as milfoil. The Pleasant Lake Preservation Association (PLPA) has been working with the Town of Deerfield for decades to protect and study the lake to implement better stormwater control measures. In 2014, the PLPA applied for and won a NH Department of Environmental Services (DES) 604b Grant to build a Watershed Restoration Plan (WSP) for Pleasant Lake. This WSP was meant to provide a diagnostic examination of the health of the lake and identify specific areas for pollutant sources to the lake. Having a completed WSP was a prerequisite to apply for additional NH DES funds, such as 319 Grants, to act upon the WSP findings and build stormwater controls at the major pollutant sources. The Town of Deerfield has supported and contributed to this work.

The key findings from the WSP were that the NH Fish & Game (NHF&G) boat launch, erosion along Gulf Road, stormwater runoff from North Road (Route 107), abnormally high shoreline development, and tributaries were the significant sources for pollutant load to the lake. The reason why these key findings were so important is because significant pollutant loading, including sedimentation, causes drops in dissolved oxygen due to algae and bacteria growth that could affect human health (e.g., cyanobacteria blooms) and anoxic environments that can severely affect the ecosystem. The PLPA took immediate action to address these items by applying for and winning 319

¹ Pleasant Lake Protection Ordinance, 2015, Section 329.1 Authority and Statement of Intent, Town of Deerfield, NH;
https://www.townofdeerfieldnh.com/sites/g/files/vyhlif4316/f/uploads/town_ordinances_-_full_book_for_the_web.pdf#:~:text=No%20person%2C%20or%20persons%2C%20shall,the%20road%20by%20the%20dam.

² *ibid*

Grants and a Moose Plate Grant. More information on these grants and projects can be found here:
<https://pleasantlakenh.org/grants/>

One of the other major findings from the WSP was that Pleasant Lake has a relatively small watershed compared to peer NH lakes. This is both a good and bad thing. What this signifies is that one major stormwater restoration project can have significant positive impacts on the lake's water quality. However, conversely, one significant action that could exacerbate a pollutant source could significantly impact the lake's water quality as well.

Poor lake water quality cannot support recreation, and therefore such a lake is less desirable to live on or recreate in. Therefore, there is a direct correlation between Pleasant Lake's water quality and property values on the lake. Pleasant Lake properties significantly contribute to the Town of Deerfield's tax revenue.

We ask that the Planning Board not only consider the relationship between water quality and tax revenue for Pleasant Lake at the macro-scale, but also consider, at the micro-scale, the impact of a non-conforming lot that does not have a 100ft setback from a major tributary to Pleasant Lake. It was a significant action for the Town of Deerfield to create the Pleasant Lake Protection Ordinance. We ask, respectfully, that the rules set forth in the ordinance are followed and enforced fully. Any deviation from them creates a precedent for continued non-conformity, nullifies their value, and undermines the Deerfield Community's work to protect Pleasant Lake and its watershed.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Farrelly", is written over the typed name and address.

Michael Farrelly
8 Lakeview Lane
Deerfield, NH

Section 705 Variance

705.1 Granting of a Variance:

The Board of Adjustment may, on an appeal, grant a variance from the provisions of this Ordinance, if all of the following facts are found by the Board of Adjustment and such findings are specified in its decision:

- A. No diminution in value of surrounding properties would be suffered;
- B. Granting the permit would be of benefit to the public interest;
- C. Denial of the permit would result in unnecessary hardship to the owner seeking it;
- D. By granting the permit substantial justice would be done; and
- E. The use must not be contrary to the spirit of the Ordinance.

705.2 Authorization of a Variance:

In authorizing a variance, the Board of Adjustment may attach such conditions and safeguards as it deems necessary to protect the neighborhood and the community, including, but not limited to a time limit when the variance will expire if not utilized.

Section 706 Enforcement and Penalty

706.1 Enforcement:

This Ordinance shall be enforced by the Building Inspector. If any buildings or use of land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained, or used in violation of this Ordinance, the Building Inspector shall institute, in the name of the Town, any appropriate action, injunction, or other proceeding to prevent, restrain, correct, or abate such construction of use or to present in or about the premises any act, conduct, business, or use constituting a violation.

706.2 Penalty:

Any person who violates this Ordinance shall be fined not more than as specified in RSA 676:17. No action may be brought under this provision unless the alleged offender has had at least seven (7) days notice by certified mail that a violation which is continued shall constitute a separate offense for each day. Additionally, the Town may pursue the injunctive relief as provided for in RSA 676:15 together with reimbursement of costs and attorney's fees all as provided for under law. References to statutes above are assumed to include successor enactments by the legislature on the same subjects

Section 707 Fees

The Board of Selectmen shall establish a schedule of fees and a collection procedure for building permits, certificates of occupancy, and other matters pertaining to this Ordinance. Until all applicable fees have been paid in full, no action shall be taken on any application or appeal.


Grants and a Moose Plate Grant. More information on these grants and projects can be found here:
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