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MINUTES OF THE MEETING
OF THE
CANTERBURY PLANNING BOARD

MAY 12, 2020

Due to the COVID-19 crisis and in accordance with Governor Sununu's Emergency Order #12 and Executive Order 2020-04 this meeting is being conducted telephonically.

BOARD MEMBERS PRESENT: Tyson Miller (Chairman), Kent Ruesswick (Vice Chairman), Hillary Nelson, Lucy Nichols, Scott Doherty, Cheryl Gordon, (BOS Representative), Joshua Gordon as Board Member and resident

ABSENT: Brendan O'Donnell (Alternate)

OTHERS PRESENT: Janice DelaCrocce, Tim Blanchette, Ken Folsom, Art Hudson, Jim Snyder, Mitch Laroche (SRT Construction), Sylvia Styles, Edward Therrien, Michael Saviano, Michael Penard, Lisa Shapiro, Shaun Hrbek (Atty. For Saviano), Douglas Pounds, Jaqueline Pounds, Bob Steen (BOS)

Review of 2/25/20 Minutes: Kent Ruesswick moved the Minutes, second by Cheryl Gordon. Amendments or Discussion: None. Vote to approve Minutes: Unanimous – 2/25/20 Minutes approved.

Nomination and vote for PB Chairman and Vice Chairman: Kent Ruesswick nominated Tyson Miller as Chairman, second by Hillary Nelson. No other nominations. Vote: Unanimous. Tyson Miller will be Chairman.

Tyson nominated Kent Ruesswick as Vice Chairman, second by Hillary Nelson. No other nominations. Vote: Unanimous. Kent Ruesswick will be Vice Chairman.

Road waiver recommendation request from Board of Selectmen for Rum Brook Road:

Tyson explained this property has frontage that is 6" short of 300 feet. He reached out to the Town Assessor who said the original subdivision has it at more than 300', so that issue is resolved. Tyson went out and viewed the road and felt it is decent as is. He advised that this is a Board discussion to decide whether there are any recommendations to make to the Board of Selectmen.

He asked members if they viewed the road, all stated they did. Joshua confirmed that we haven't received communication or input from residents that are opposed. He also pointed out the lot is between 2 other lots so there's not a lot to discuss.

47 Hillary looked at the property for wetlands, condition of road, and where the property
48 was in relation to others. She didn't see any issues with neighbors or the Town. She
49 wanted to clarify for residents that the Board members do in fact look at all the criteria
50 prior to making a recommendation.

51

52 Joshua looked at the standards, visited the road, and agreed it looked good.

53

54 Tyson read an opinion received from the Town Attorney.

55

56 The Board agreed by unanimous vote and felt the Road Waiver should be granted by
57 the BOS. Tyson will inform the Board.

58

59 Lucy was concerned as to why Kent Ruesswick voted against approval. He was
60 concerned we were approving this before talking about the next agenda item, Hancock
61 Road, to see if that discussion affects this request at all.

62

63 **Road waiver recommendation request from Board of Selectmen for Hancock**

64 **Road:**

65

66 Joshua Gordon recused himself as he is an abutter and has an interest in this request
67 relative to Lyford Pond.

68

69 There is currently one house on Hancock Road (Saviano's). Doug & Jaqueline Pounds
70 would like to build a house further up the road. This road crosses wetlands and is not
71 up to standards.

72

73 Doug Pounds spoke on behalf of his proposed project. His wife Jaqueline and their
74 contractor, Mitch Laroche, were also on the call.

75

76 The Pounds are applying for a permit to build a log home on the 55-acre lot to be used
77 as a summer home. The first half mile of the road is Mike Saviano's house. There is
78 625 feet between the houses. Doug planned to build near the road and his preference
79 would be to leave the road the way it is now. He's happy to sign a road waiver. Doug
80 saw Joshua Gordon's letter submitted in relation to this request.

81

82 Scott Doherty (Board): As a Board member and as a Deputy Chief of the Fire
83 Department, he visited the area prior to the meeting and has concerns about
84 emergency vehicles coming in and out. It's a very narrow, rough road. Scott was also a
85 paramedic for many years. His area of concern was the very steep section near the
86 wetlands. Scott read the comments from the road agent and felt some portions of the
87 road could be addressed, but not the steepness. Winter is another concern. It comes
88 down to how well residents maintain the road in the winter.

89

90 Lucy Nichols (Board): Lucy brought up a concern about ice in the winter as well.

91

92 Hillary Nelson (Board): There are major wetlands that feed into lowlands all the way to
93 Loudon. Gues Meadow Brook flows off the ponds in Sherwood Forest all the way to
94 Route 106, under the road, through the racetrack and winds up in the Soucook Rover.
95 It is very polluted once it gets down to Loudon. The wetlands could be compromised.
96 The four wheelers are up there destroying the area and she can't see this as anything
97 the Town could maintain. She felt if the Board of Selectmen allowed the road waiver,
98 they should include a condition that no commercial activity be permitted, and no
99 additional residences be allowed beyond the Pounds property. Hillary very strongly felt
100 that the first part of the road is very fragile, and it would be important for the Pounds and
101 Saviano's to have an agreement relative to the maintenance of the first part of Hancock
102 Road. She stressed that this needs to proceed with caution. She also wondered who
103 would be responsible for making sure the agreement is upheld if a home is abandoned
104 for some reason. Tyson mentioned a Bond.

105

106 The Board discussed the Saviano's Deed which includes a cease and desist order with
107 DES.

108

109 Mike Saviano: He spoke with the road agent when he purchased the property and
110 since he was the only home there, he's kept the road to the standards at that time. He
111 plows and keeps culverts clean from beavers. The cease and desist is not to alter, put
112 fill or do anything in the wetlands area. He's done his part. Right now it's just he and
113 his wife with 2 cars.

114

115 Shaun Hrbek (Saviano Attorney): The Saviano's don't want to be forced to pay for and
116 maintain the road on their own if the Pounds waiver is granted. Shaun referred to a
117 letter he submitted to the Board requiring Mr. Pounds to enter into a cost sharing
118 agreement for the maintenance of the road. Another concern is that the road is very
119 narrow. Widening could encroach on land that could be a taking from the Town. Shaun
120 was concerned about possible future building beyond the Pounds property and ensuring
121 new owners would join any cost sharing agreement.

122

123 Lucy Nichols (Board): Suggested the road agent set out concrete criteria and that a
124 realistic maintenance cost be obtained, which should take inflation into consideration.
125 She felt that should be a condition of any approval by the Board of Selectmen.

126

127 Kent Ruesswick: He very much dislikes being put under the gun on this issue. The hill
128 down to the wetlands is very narrow and steep. The rock put in there is rubble. There
129 are no ditches. Water could be shifted to the wetlands. Does this area need retention
130 ponds?

131

132 Doug Pounds: He's happy to sign an agreement that there will be no commercial use
133 and is fine with a cost sharing agreement for the road access area with the Saviano's.
134 He agreed he'd be responsible for the frontage between Mike's place and his place.
135 Doug also said he would post a Bond it if was reasonable.

136

137

138 The hearing was opened to the public:

139

140 Edward Therrien: He's a forester and owns Ames Road Forest at the end of Hancock
141 Road. He's owned it for 40 years and has had a Conservation Easement on the
142 property since 2013. He entered into an agreement with DES for the easement as part
143 of the wetlands mitigation program with the State. DES considers the pond at the end of
144 the road to be an important wetland. Substantial money was put in to Ames Road to
145 reduce erosion, while the amount of traffic has increased. Edward is concerned about
146 the amount of traffic coming on to Ames Road and traffic coming up Hancock Road if
147 improved. His responsibility is to the Town and DES. The Town contributed money
148 toward the easement.

149

150 Tyson reminded everyone that we're concentrating on the first portion of the road and
151 up to the Pounds property right now.

152

153 Mitch Laroche (Pounds Contractor): He's familiar with planning boards and with
154 Class VI roads and recognizes all the concerns he's heard. He asked that we keep an
155 mind that when building a development. He referenced RSA 674:41. This is a single
156 family summer home. They offered to upgrade the area from Mike's property Doug's
157 property to make the hill more passable. He noted that the Town hasn't regulated how
158 to handle Class VI roads. Mitch was on the planning board in New Boston where they
159 adopted a maintenance agreement and recorded it with the Registry of Deeds for a road
160 that had 10 houses on it.

161

162 Hillary Nelson: Before anything is done on that hill, DES has to be involved for the
163 wetlands issue.

164

165 Samantha LeClaire and Peter Lapierre: Their property abuts Hancock & Shaker Roads
166 and they are in opposition to this proposal. Any changes in the road devalues property.
167 There was only one grandfathered house when they purchased their property. Their
168 frontage is on Shaker Road. They'd hate to see a summer home go in with someone
169 who's not neighborly that could affect the area.

170

171 Tyson Miller (Board): The Board of Selectmen can decide what type of repairs need to
172 be done. The road agent's comments are pretty much standard with the current policy.

173

174 Lisa Shapiro: She reviewed the 10/10/17 Planning Board Minutes relative to the
175 discussion of Class VI roads. These requests seem to be on a case by case basis. The
176 BOS has denied waivers in the past. Here we are working within the confines of an
177 existing policy and one proposal. There are other discussions that need to happen
178 relative to road waivers, but tonight is only about Mr. Pounds request. We should be
179 focusing on this case. It seems there is no choice but to recommend this based on the
180 current policy. She discussed scattered developments, cost of upgrading, protecting
181 the Town, and preserving character.

182

183 Joshua Gordon (as resident): His concern is Lyford Pond. There is a 3-year rotation of
184 inspections from the Dam Bureau. The Dam is classified by the hazards downstream.
185 Lyford Pond is on a lower classification right now because there is no life or safety issue
186 close by. The site of the Pounds house is 50 feet from wetlands that is the Shaker ditch,
187 and 800 feet from the dam itself. This project puts a house in the path of Lyford Pond,
188 which could change the classification if the pond breaches. It would inundate the
189 house. At one point a team of volunteers went to the dam and cut trees to satisfy the
190 Dam Bureau. If the classification changes it will force Shaker Village to fix the dam or
191 lose the pond.

192
193 The permitting policy asks how a project could affect public policy. All neighbors are
194 concerned about this project. Joshua Gordon, Lisa Shapiro, Mike & Caroline Saviano,
195 and Mike & Lynda Pinard submitted a 10-page memorandum to a number of Boards,
196 Commissions, Departments, and interested parties detailing concerns. The
197 Memorandum can be found in the Pounds Road Waiver request file at the Town Office.

198
199 Hillary Nelson (Board): Supported Joshua's comments and said his concern is
200 absolutely real and noted all dam systems have become endangered over the years as
201 people have built houses on top of them. Hillary feels nothing should happen until the
202 State and experts are consulted about what would happen if Lyford Pond breaches.
203 Tyson felt this could be a recommendation to the BOS.

204
205 Mitch Larochelle: Concerned the house will cause the dam to breach. The dam will
206 have an effect on the house.

207
208 Joshua Gordon (as resident): Clarified that the dam bureau isn't requiring any action to
209 the dam because its safe right now with no life downstream. Once you put life/property
210 downstream, it would cause them to spend money or lose the dam.

211
212 Mitch Larochelle: He spoke with Doug about bringing the house to higher ground,
213 which Doug is willing to do. He's willing to work with this idea and would redesign the
214 septic on higher ground.

215
216 Joshua Gordon (as resident): If the dam breaches, the house is in the spillway and the
217 Dam Bureau will change the classification. He supports consultation with the Dam
218 Bureau as a condition. If they change the classification, it will hurt property values in the
219 area.

220
221 Mike Penard: Discussed the Alton dam breach. Reclassification is real.

222
223 Jim Snyder: Discussed mapping of Shaker ditch. Before the ditches and ponds were
224 dammed, water wanted to go east. Shakers changed it so water went down to the
225 village for their use. There is a question as to which way the water would go. Jim was
226 building inspector when Saviano's house was built. Hancock Road is the poster child
227 for how it should not happen. Hancock Road entered into a road waiver and agreed to
228 upgrade the road. It was signed off by the then road agent, but no agreement was in

229 place about maintaining the standard, which is Saviano's responsibility. Jim thinks the
 230 bond is a great idea. If landowners don't keep their end up, the bond comes into play.

231

232 Shaun Hrbek: We could consider adding language on the waiver that Doug shares the
 233 obligation for maintenance.

234

235 Joshua Gordon (as resident): Discussed inclusion of details on the upgrade, the hill,
 236 erosion, drainage, drawings of road improvement. It needs to include the entire road.

237

238 **After discussion the Board agreed on the following recommendations to the**
 239 **Board of Selectmen:**

240

241 1. Applicant to consult with Dam Bureau relative to possible reclassification of dam due
 242 to new construction, and possible future breaches of dam.

243 2. DES: Applicant will get all necessary input and approvals from DES and will
 244 determine what affect the Cease and Desist language in Saviano's deed means for him.

245 3. Applicant and the Saviano family reach written and recorded agreement on
 246 maintenance and cost sharing for access and road.

247 4. Applicant will obtain estimate for upgrades to Class V standards, and for
 248 maintenance costs from Shaker Road to Saviano's property. A separate estimate
 249 should be obtained to address the wetlands.

250 5. Applicant will obtain Bond for costs in Item 4 in the event the Town is required to
 251 complete upgrades or is forced to maintain the road.

252 6. Applicant will not add any commercial development to his lot.

253 7. Applicant will only maintain a personal resident on the property and will not create a
 254 home business.

255 8. The Road Agent will add an improvement plan for joint access and for Hancock
 256 Road.

257 Tyson will provide the recommendations to the Board of Selectmen.

258 **Discussion of Class VI Road Waiver policy and proposed check list.** This
 259 discussion was postponed to a future agenda.

260

261 **Discussion of Hiltz excavation permit on Intervale Rd.** Joshua Gordon rejoined the
 262 meeting as a Board member. Tyson stated that Hiltz continues to bring materials to the
 263 property in Canterbury. The initial reason for the permit was to work on the Town of
 264 Northfield project and be done. Their agreement with Canterbury ended in November

265 2019 and the area should have been recovered and the house built. He needs to come
266 to the Planning Board to request a continuation. The Town wrote a letter to him.

267
268 Joshua Gordon: He went to Intervale Road to view the area. It was a mess and
269 something needs to be done about it.

270
271 Hillary Nelson: He was given specific orders by the Town and isn't following them. He
272 has a history of doing what he wants. Hillary felt we need to have zero tolerance with
273 this and was in favor of a cease and desist. He's paid zero attention to the laws, and still
274 isn't. Neighbors are upset. The roll of the Planning Board was discussed.

275
276 Tyson Miller: The Board of Selectmen is pushing this along and could result in a cease
277 and desist. The Site Plan expired. He can ask for another but has to come in and he
278 has to recover the property. We would be very willing to go to Court with this.

279
280 **Overview of things to do. Applications received for scheduling/New Freedom**
281 **Academy.**

282
283 New Freedom Academy/367 Shaker Road, LLC:

284
285 Tyson Miller: Their application for special exception was approved by the ZBA relative to
286 allowing women and adjusting the age range. We received their application to come to this
287 Board. Tyson asked whether we want to hold this hearing via telephone conference due to
288 COVID-19, or wait to hold it in person.

289
290 Hillary Nelson: Since the last event at New Freedom, 5 more people have walked away. She
291 fears the facility may be deteriorating. She heard concerning news about the owner and some
292 criminal charges. Hillary is very concerned and feels this meeting needs to be in person with
293 attorneys' present. She doesn't feel the people there are safe and the facility is not being
294 responsible.

295
296 Joshua Gordon: Due to the fact that there have been incidences that run contrary to the
297 approval received from this Board, the owner isn't credible. He'd like this process to be as
298 formal as possible and feels the Town Attorney needs to be in attendance.

299
300 Kent Ruesswick, Scott Doherty, and Lucy Nichols were all in favor of a public, in person
301 meeting.

302
303 Tyson will reach out to the owner and Lori will send an email advising the hearing will be public,
304 in person, once restrictions are lifted.

305
306 Further overview of items:

307
308 Tyson updated the Board on possible applications that could be coming to the Board.

309
310 Lucy Nichols: Asked for update on McKerley application. Update discussed.

311

312 Tyson handed out the revised and updated Zoning Ordinance and explained the new formatting
313 to the Board. Other than the revisions that were approved and voted in at Town Meeting, the
314 only other changes were to format the document to make it more user friendly.

315 **Other Business:**

316

317 - Hillary Nelson: Discussed Master Plan. We've been set back due to COVID-19.
318 She suggested we lay back and wait until we can gather again. That is not the
319 feeling of Central NH Regional Planning Commission. Hillary asked members
320 whether we should press forward or lay back. Tyson spoke with Mike Tardiff and
321 expressed the Board's thoughts. Tyson asked that the Selectmen extend the
322 contract and would add language. Mike understood. Board members agreed.

323

324 - Janice Delecrocce (resident): There was interest in the discussion of the Class VI
325 road policy. Tyson advised we would discuss that again at a future meeting.
326 She also suggested reminding people about the Master Plan survey by using
327 Canterbury Email and the newsletter.

328

329 Motion to adjourn by Kent Ruesswick, second by Joshua Gordon. Vote: Unanimous.

330

331 Submitted by Lori Gabriella, Secretary

332 Canterbury Planning Board