

MINUTES OF THE MEETING
OF THE
CANTERBURY PLANNING BOARD

November 13, 2018

BOARD MEMBERS PRESENT: Jim Snyder, Chairman, Joshua Gordon, Vice Chairman, Art Rose, Tyson Miller, Kent Ruesswick, Cheryl Gordon (BOS Representative)

ABSENT: Lucy Nichols, Alternate, Hillary Nelson

OTHERS PRESENT: Chris Hayward.

Draft Minutes of October 22, 2018: Kent Ruesswick made a motion to approve the Minutes, second by Tyson Miller. Discussion: None. Vote: Unanimous, 10/22/18 Minutes were approved.

Draft Minutes of October 23, 2018: Kent Ruesswick made a motion to approve the Minutes, second by Tyson Miller. Discussion: None. Vote: Unanimous, 10/23/18 Minutes were approved.

Second Preapplication Conceptual Consultation for Chris Hayward of Homelock Construction at 441-450 Flagg Road; Tax Map/Lot 256/006:

Chris Hayward was present and presented to the Board. He is looking to buy the Flagg Road property to subdivide it. After his last meeting with this Board, Chris met with the Loudon Planning Board to discuss his possible purchase and the road status. They basically told him that if the road was closed subject to gates and bars, even if the gates and bars are not there anymore, the Town of Canterbury did its due diligence so now we're right back to square one. The Board had the Minutes from the first Conceptual Consultation of 2/27/18. Tyson Miller handed out the Minutes of 4/19/18 from the Loudon Planning Board meeting. Canterbury still has the deed to the road but there is still some disagreement on the maintenance of the road. Loudon plows a portion of it only for convenience for the plow truck to turn around.

Jim Snyder looked at the map, but hasn't been in that area for a long time. He noted you can access Flagg Road from LoveJoy and from Whitney Hill Roads. Whitney Hill is not as much of a road as Flagg road. You can also get there off of Fletcher or Flagg Hole Road. There was discussion as to whether the road is discontinued. Chris mentioned there is a house in that area that is under contention. Cheryl Gordon said people are fighting over ownership of that house. Tyson believes the Selectmen would turn the road down as it would be considered a burden to the town. Jim said he has a problem with saying we can't allow this because it creates a problem for school

46 transportation. Tyson said courts have made rulings relative to hardships on the town.
47 He said the whole trend is to go to court and usually the judges go with the town.
48 There's no benefit to the town to give up the road.

49
50 Art felt we were jumping the gun. There's nothing that says you cannot subdivide a
51 property on a Class VI road. Secondly, one would reasonably assume that they market
52 those as house lots. That's a different ballpark. What we're doing is reading past what's
53 at this Board and reading into the building permit part of it. Art said it's a deeded
54 roadway under RSA 674.41 and the Town holds the deed to that road. It can be
55 subdivided and then the lots would be designated as undevelopable until brought up to
56 a Class VI road. Tyson said the selectmen do not have to agree to it. Tyson and
57 Joshua Gordon agreed it creates an expectation for the Town to deal with the school
58 issue.

59
60 Chris had a map that he explained to the Board and pointed out what camps and
61 driveways are in the area. There is a property that was supposed to be a camp but is
62 being used year-round as a rental. Chris said to be completely honest this idea was
63 presented to him and his thought was he'd love to have a piece of property to own and
64 put a house on it, but he doesn't need 22 acres. He'd like to take 12 acres for himself to
65 put a house on and then he's open to whatever goes on with the rest of it. If we look
66 down the road and the end game is they can't do anything or develop the property, his
67 other thought was he takes responsibility for a private road and wondered whether
68 that's an option. Jim said he'd need the Town of discontinue it to be private. Art said
69 you need frontage on a town road to subdivide.

70
71 Tyson read the law and said a discontinued road subject to gates and bars is a Class VI
72 road. You can have a Class VI road with a gate on it and the Selectmen can raise the
73 gates. It's a Town road, you could subdivide. Jim looked and there are houses on the
74 road on the Loudon side and thought they have to be coming in from Loudon and from
75 Lovejoy. Tyson said the law says it's a road by road and case by case issue. Jim
76 explained to Chris that the selectmen would decide on any Class VI road waiver, but
77 because he doesn't currently own the property, the current owner could apply. It's a
78 gamble because there would be uncertainty as to the value of the land. Another option
79 is he can buy the land and do it.

80
81 Art summarized by detailing what we do know: we know we can allow a subdivision on
82 a Class VI road; the town has a deed to a roadway that goes through there and
83 determined it's subject to gates and bars; it's a town road; you need frontage on a town
84 road to subdivide. That's all that deals with the subdivision issue. Going beyond that is
85 the responsibility of different people. We do subdivision. Joshua wanted proof you can
86 subdivide on a Class VI road. Chris asked if they needed to bring it up to subdivide it.
87 The Board said no, that's to build.

88
89 Joshua pointed out that RSA 674:41 is for building, not subdivision. Jim read Article 4A
90 and 4B from the Zoning Ordinance.

92 Tyson thought that since the entrance to the property would be accessed through
93 Loudon, Chris would have to go to the Loudon Planning Board, Selectmen and Building
94 Inspector for approval since they would have to maintain it. Jim said he thinks that's
95 right. But if Chris wanted a single building permit, he doesn't think they have to go to
96 Loudon. If he goes that route, he'd need a Class VI road waiver. Chris spoke to say if
97 he's thinking realistically, if he builds a house there and potentially sells off two lots,
98 there would be a lot more traffic once all is said and done. Jims experience as building
99 inspector was when there was a Class VI road waiver the roads were not always
100 brought up to Class V. There was an agreement between the owner and road agent.
101 Some worked out fine, some were spectacularly bad.

102
103 Tyson stated people come to us for subdivisions and feels it's not responsible for us to
104 let them subdivide and not expect that they don't want the house built there. He thinks
105 it's implying houses could be built. Art said this one isn't straight forward and Chris
106 seems to understand that. The law says we can, if we choose, allow a subdivision on
107 that roadway. Jim is troubled because there's already two houses beyond the property
108 we're talking about. Tyson said you can't grandfather it. Jim said it's not controlling, but
109 it makes it look a little hypocritical. Joshua agreed a judge may say we created the
110 expectation. Art pointed out we would stipulate in our approval that the road has to be
111 brought up to Class VI and typically you have to improve to the furthest extent of your
112 property, or in this case, all 1,200 feet. Tyson discussed possible future hardships
113 relative to schooling and buses for the Town. Jim isn't sure we'd be required to take
114 care of that.

115
116 Chris went back to the portion of the Zoning Ordinance that Jim read which said it can
117 be subdivided without a Class V road, but we have to put a note on the plan. Jim said
118 this is a developed road, the Town would have to put it before Town Meeting to get the
119 road accepted. Jim reminded Chris that the current owner could go to the Selectmen
120 and ask for Class VI road waiver for single permit or subdivision, and the Selectmen
121 would have to act on that. Chris said he's already spent thousands of dollars just to start
122 this portion of it. Jim explained that a Class VI road waiver is an agreement that the
123 owner waives any liability and they do not rely on the Town to maintain the road or
124 liability relative to fire, for example. Tyson stated again that the Town has no
125 responsibility to maintain the Class VI roads. Chris asked if the Class VI road runs the
126 entire way or just until road maintenance ends. Tyson said all the way. Jim said what
127 happens, for example, is he lives on Asby Road. A portion of it is in Loudon. Loudon
128 plows a portion of the Canterbury road just because they need a good place to turn
129 around. Towns have agreements all the time.

130
131 Jim said sadly we can't really help us much more than we already have. He ended the
132 discussion here with the thought that we've been tossing around reasons why this can't
133 work and someone has to say to the landowner that "you have 22 acres on a road that
134 has other houses on it, but you can't do anything with yours". Tyson again stated you
135 can't build a house because there can't be a hardship to the Town. Jim said he is
136 talking ethically here. There's a driveway across the street from her with a guy who ran
137 for legislature, and his was approved. Jim has a problem with that.

Jim told Chris he can go to the Canterbury Town Office and look at the town records on file relating to properties in town if he needs a reference. Chris is also aware he would need to meet with the Conservation Commission separately on this project.

Chris ended the consultation stating as much as he'd love to get his own land in Canterbury, he's not looking to cause himself a huge headache and has more to think about.

Discussion of business group by Joshua Gordon: Joshua just wanted to inform the Board that there's a group of business owners in Town who would like to cross market businesses in Canterbury. The ideas are a website, signage, or pamphlet for example, but it's in its infancy state. They've been having meetings over last 6 months and are working with the Cooperative Extension. It's probably going to evolve into an entity with a board of director's type situation. They're hoping to market outside of Canterbury so tourists will come and go to the brewery, the maple syrup place, etc.

Continued discussion of 2019 Planning Board budget: The Board reviewed the updated budget received from Mary Hauptman in the Town Office. Cheryl informed the Board that postage is increasing so we may want to increase that budget a bit. Tyson asked Cheryl about the professional services budget and whether there is a legal fee budget town wide with the Selectmen. Cheryl was unsure and said they're going to discuss it at their meeting.

Jim felt the problem is budgeters typically want to look at a budget and if you didn't spend it, they want to take it away, and that doesn't make sense. Cheryl asked whether our professional services included Central New Hampshire Regional Planning Commission (CNHRPC). Yes it does. Art, who is on the Budget Committee, said when we got into the legal services issue earlier, the Selectmen pushed back. He said the town has a budgeted amount for legal fees and doesn't know whether they were expecting the individual departments to have legal fees in their budgets or not. Art said for some reason the Planning Board budgeted for legal fees for the gravel pit in 2016, but prior to that he didn't think we had a legal fee budget. It was a particular situation to cover those legal fees at that time. Our professional fees would be CNHRPC type of fees. We'd go to the Selectmen to hire a lawyer who supposedly have money for legal fees. Art thought Cheryl needed to ask the Selectmen whether it would come out of the Town legal fee budget if the Planning Board needed to have our town attorney review documents, or if we need a separate line item for legal fees in our budget.

Jim felt the current budget number of \$8,000 isn't huge and should be there for unanticipated items, but we won't spend it if we don't have to. Jim said if we have to hire an engineer it's at the applicant's expense. Kent agreed with Jim, there should be a kitty to draw on if needed. Jim can foresee a situation where we have to spend funds on a legal matter and the Selectmen say they spent their legal budget already, and we could then rely on the professional services budget. He suggested we should leave everything where it is, except the following: increase the secretary budget to \$5,000

184 and add another \$100 to postage. After further discussion the seminar budget was
185 increased to \$500 and equipment to \$1,000. Lori will let Jan know and Cheryl will inform
186 the Selectmen of the numbers.

187
188 **Continued discussion of DOT 10 Year Improvement Plan for CNHRPC:** Cheryl said
189 the Morrill Road intersection needs to be fixed and they're not doing it. Representatives
190 come and talk to us and they promised nothing. They don't think having sidewalks in the
191 center will solve any problems either. No recommendations were made by the Planning
192 Board for CNHRPC.

193
194 **Other Business:**

- 195
196 - Jim said there's been a discussion on the plan link email list and suggested
197 everyone should be on it. There's a lot of discussion that pertain to what we do.
198 The recent discussion was the right to know topic relating to emails between
199 board members. The cautionary note is don't send emails back and forth
200 between board members. Send them to Lori to distribute. Tyson thought if there's
201 only two people in the conversation, it's a quorum. Jim said it's still a discussion.
202 Joshua said no substantive conversations should happen by email, ever. Have
203 the conversations at the meeting. Jim said the purpose of the law is to keep us
204 from having a public meeting here and then going in the parking lot and making
205 deals. It's a good thing for everyone.

206
207 Kent made a Motion to Adjourn, with a second by Tyson.

208
209 Submitted by,
210 Lori Gabriella, Secretary
211 Canterbury Planning Board