

MINUTES OF THE MEETING
O F 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.

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

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

Tyson read an opinion received from the Town Attorney.

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

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

Road waiver recommendation request from Board of Selectmen for Hancock Road:

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

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

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

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

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

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

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

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

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

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

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

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

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

138 The hearing was opened to the public:

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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 Larochelle (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.

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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.

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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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Tyson will provide the recommendations to the Board of Selectmen.

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

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

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

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

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

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

Overview of things to do. Applications received for scheduling/New Freedom Academy.

New Freedom Academy/367 Shaker Road, LLC:

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

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

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

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

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

Further overview of items:

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

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

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:**

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- 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.
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- 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.

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

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331 Submitted by Lori Gabriella, Secretary

332 Canterbury Planning Board