

**TOWN OF WEBSTER
PLANNING BOARD
MEETING MINUTES AUGUST 15, 2019**

At **6:32 pm** Chairperson Rauth convened the regularly scheduled meeting of the Planning Board and took attendance. Members present were Paul King, Craig Fournier and alternate member Kathy Bacon. Chairperson Rauth appointed Ms. Bacon to be a voting member for this meeting only, due to the absence of member Lynmarie Lehmann.

Members of the public present were Bob and Liz Delaney, David Hemenway and Town of Webster Road Agent/Fire Chief, Emmett Bean.

The next order of business was review of the draft minutes from July 18th which Chairperson Rauth deferred until later in the meeting.

The next order of business was the discussion of the Driveway Permit for Construction #19-05 from Bob and Liz Delaney, 85 New London Drive. The application proposed construction and paving of a second curb cut with less than 500 feet of frontage. Chairperson Rauth stated that the Delaneys were asked to meet with the Planning Board regarding their application. Chairperson Rauth asked if the Delaneys had any information or remarks they would want to share with the Board.

At this time Mr. Delaney responded by stating his frontage was pretty close to 500 feet. He informed the Board that their property was two levels; the house was on one level and the garage was on the lower level. He stated there was no other way he could get a driveway into the garage. Acting Member Bacon displayed 85 New London Drive on her laptop using Google Maps. Member Fournier asked about the use of the garage. Mrs. Delaney stated that they store a car in the garage. Mr. Delaney stated he understood that he owned to the center of the discontinued Danbury Drive and with the additional measurement that Mr. Delaney had personally done, he said the frontage would then be "... 495 feet, something like that; pretty darn close."

Member Fournier asked Mr. Delaney how did he get into his garage now. Mr. Delaney stated the gravel driveway. Member Fournier stated: "So you want to make that official, is that what you are doing?" Mr. Delaney responded, "I want to make it official; I want to pave it because I go in and out of there all winter long. We have a small car in there that we take out on the weekends and stuff." Mr. Delaney referred to his drawing to show how they have to come out of their existing paved driveway at the front of their house and go around to the second driveway to the garage. Mr. Delaney stated he could get to his garage from the existing driveway, but it would take a lot of fill.

At this time, Chairperson Rauth pointed out that according to the tax map, Mr. Delaney had 464 feet frontage and the Driveway Regulations require 500 feet of frontage to have two curb cuts. Chairperson Rauth stated that in the Driveway Regulations the Planning Board had adopted the state law, RSA 236:13 IV (b) which does not allow, "...more than 2 driveways, entrances, exits or approaches from any one highway to any one parcel of land unless the frontage along that highway exceeds 500 feet." Chairperson Rauth stated that "...in essence, to meet the letter of the law, which is the state law, I don't believe that your driveway meets those requirements." Mr. Delaney responded: "So how am I supposed to get into it?" Mr. Delaney explained to the Board how he used his measuring wheel to measure the frontage including measuring out to the middle of the abutting discontinued road, Danbury Drive. At this time, Emmett Bean, Town of Webster Road Agent, stated that the discontinued road could still belong to the Town. Mrs. Delaney stated they and other abutters of Danbury Drive had received a letter years ago stating the abutters owned to the center of the road after it was discontinued. Chairperson Rauth stated that Mrs. Larson, Planning Board recording secretary, had researched NH RSA 236:13 and contacted New Hampshire Municipal Association Legal Inquiry attorneys. Chairperson Rauth stated that if Mr. Delaney could have a survey done to show he had 500 feet of frontage then this would be feasible. Mr. Delaney stated he knew he did not have 500 feet; just very close to 500 feet. A brief discussion ensued. Mr. Delaney stated that had he known about the requirement he never would have combined the two lots. Chairperson Rauth asked the Board if they could think of any other options for the Delaneys. Chairperson Rauth also clarified that the driveway regulations all fall to the Planning Board. Appeals cannot be made to the Zoning Board of Adjustment. She stated this particular issue

goes outside of the Planning Board because it is a state law that was adopted by the Board. Mr. Delaney asked if the Board denied him tonight, could he appeal to the state? Chairperson Rauth stated she did not know how he would appeal this to the state. Acting Member Bacon suggested the Delaneys stop using the current driveway to their house then that would allow them to keep the driveway to the garage. She stated she wasn't saying it was convenient but just that they would be complying. The Delaneys stated it would cost too much money to join the driveways. After a brief discussion, Mr. Delaney stated he had seen lots of people with two driveways with less than 500 feet of frontage. Member King stated some of those were pre-existing before the regulations were adopted and some had done it without permission from the town. After a brief discussion, Mr. Bean asked if the two lots could be separated? Mrs. Larson stated that lots merged in the Pillsbury Lake District shall not be subdivided. Mr. Delaney stated that sounded like discrimination because he lives in Pillsbury Lake District. After a brief discussion, Mr. Bean stated that the Board was comprised of good folks and was trying to work with the Delaneys, not discriminate. He inferred that if they bend the rules for one then they would have to bend the rules for others. Mr. Delaney questioned the interpretation of the regulation because of calling it a 'curb' cut. Chairperson Rauth pointed out that the state law uses the words - driveways, entrances, exits or approaches. Chairperson Rauth stated that curb cut was synonymous with entrance, exit, driveway, etc.; it's just another term for driveway. Acting Member Bacon suggested again to the Delaneys, block their current driveway and not use it. She clarified that the Board has had the same issues with other property owners in town that were required to permanently block one driveway approach because of having less than 500 feet of frontage. The Delaneys did not agree with doing that. Mr. Delaney asked the Board if they knew what the state's reasoning was behind that requirement? Chairperson Rauth stated she did not know.

Acting Member Bacon made a motion that the Planning Board disapprove the Delaneys' application. Chairperson Rauth suggested the Delaneys bring other information forward or a survey that proves the 500 foot requirement. She stated she wasn't sure the Board could do anything else this evening. She asked if the Board agreed with that – Member Fournier said yes. Chairperson Rauth said to the Delaneys, the Board would be glad to take this up again if they could provide more information, but she did not feel the Board could approve the application tonight. She apologized to the Delaneys and thanked them for coming. Mr. & Mrs. Delaney stated they would see what they could do and thanked the Board for their time and left the meeting.

At this time Road Agent Bean asked what would be the next step for the Board? Chairperson Rauth stated that enforcement would be up to the Select Board. She added that in the Driveway Regulations there is a provision - if reasonable vehicular access cannot be obtained by following the regulations, the Planning Board has the authority to waive the requirements but, in this case, it doesn't really meet that. She stated she could see why the Delaneys were disappointed. Chairperson Rauth stated she hoped they could find some other recourse. She thanked Road Agent Bean for coming and that the Board appreciated it. Road Agent Bean stated it was a pleasure to work with Member King when they inspect the driveways. Road Agent Bean thanked everyone and left the meeting.

At this time Member King referred to a driveway on Pleasant Street that the Board denied a second curb cut to back in the fall of 2018. He stated that the second curb cut has not been used but it is not permanently blocked, i.e., a small tree is across the area and could easily be removed. He suggested the Board follow-up with a letter and ask that something be put in that space that cannot be moved or driven around. Member Fournier agreed that it was time to follow up especially if the first letter stated that the driveway had to be permanently blocked. Chairperson Rauth suggested contacting NHMA Legal Inquiry to get an opinion.

At this time, Chairperson Rauth informed the Board that the Select Board had invited the Planning Board, Zoning Board and Conservation Commission to come to their regular meeting on Monday, August 26, 2019 at 6:30 pm to talk about enforcement issues in the town. She hopes that members can attend.

The next order of business was the review of the draft minutes from July 18, 2019. Member King made a motion to accept the minutes from July 18, 2019 as written; seconded by Member Fournier and approved; 3 yes and 1 abstention; Chairperson Rauth was not in attendance at the July 18th meeting.

The next order of business was finalizing the Subdivision Regulations. Chairperson Rauth stated that Matt from CNHRPC had reviewed the regulations and double checked everything. She said she still needed to go over some things with the Board about those regulations perhaps at one more work session. Chairperson Rauth also stated that more recently she sent out the Site Plan Review Regulations which Matt has not read yet. She suggested working on the Site Plan Regulations at this meeting then she would send Matt the changes and comments.

At this time, the Board conducted an in depth and lengthy discussion of the Site Plan Review Regulations. Chairperson Rauth will make all the changes they agreed upon and then Acting Member Bacon will format the new document for Matt's review and editing.

After a brief discussion, the Board decided to work on the Subdivision Regulations at the September 19th Planning Board meeting with the plan of having one public hearing for both the Site Plan Review Regulations and the Subdivision Regulations at the October 17th meeting. That would give the Board time to schedule a work session in between the meetings for the Subdivision Regulations, if needed.

The next order of business was the status of the Wetlands Ordinance. Chairperson Rauth stated the Conservation Commission almost had a completed draft of it. She stated the commission was trying to identify and categorize the wetlands in town. A brief discussion ensued.

8:29 pm Member Fournier made a motion to adjourn; seconded by Acting Member Bacon and approved unanimously.

These minutes were approved as written at the October 17, 2019 Planning Board meeting.

Respectfully,

Susan Rauth, Chairperson