

**TOWN OF WEBSTER
PLANNING BOARD
MEETING MINUTES MARCH 15, 2018**

At 6:30 pm Vice Chair Susan Roman convened the regularly scheduled meeting of the Planning Board and took attendance. Members present were Selectman Bruce Johnson, Paul King, Lynmarie Lehmann (arrived @ 6:43) and alternate members Craig Fournier and Kathy Bacon who were appointed as voting members due to the absences of Chairperson Susan Rauth and Lynmarie Lehmann. Once Mrs. Lehmann arrived, Ms. Bacon was returned to alternate member status.

Members of the public in attendance were: Hank Amsden, Surveyor and agent for Steven McCormack (not present), Minor Subdivision applicant; Joe Wichert, Surveyor and agent for Dan Remillard; Don Fannie, realtor; Dan Remillard and Corinne Brannigan Minor Subdivision Applicants; Shannon Kimball, abutter; Ray Kimball, resident; Daniel and Lisha Kimball, abutters; Marge Chandler Tanner and Andy Tanner, abutters and Rick Cummings, abutter.

Due to having two Minor Subdivision applications on the agenda, Vice Chair Roman deferred review of the February 15th minutes until after the public hearings.

The first order of business was to review the application for completeness for **PB Case No. 18-02: Minor Subdivision Application from Steven McCormack, 234 Battle Street, Webster, NH. His proposal was to subdivide lot 7-9 into two lots: 7-9-1 = 2.01 acres and lot 7-9-2 = 3.36 acres with no further subdivision of qualifying lots permitted.**

Mr. Hank Amsden, Surveyor and agent for Mr. McCormack presented the Board with several copies of plats. Mr. Amsden also supplied a letter from the applicant authorizing Mr. Amsden to be his agent. Upon review of the letter, Vice Chair noticed in the body of the letter the authorization was for the month of February only. She requested that an updated letter be submitted. Mrs. Larson, Land Use Coordinator, confirmed that all the abutters had been sent certified mail and the abutter list was correct.

Vice Chair Roman reviewed with the Board the procedure for subdivisions. First they would look at the application to see if it was complete; then accept or not accept the application as complete and then move on to the approval of the application. Mr. Amsden explained that the current lot had two buildings and Mr. McCormack would like to divide the lot so that each building had its own lot. Mr. Amsden brought to the attention of the Board that the road that the driveways for each building intersect with was possibly a range road. It currently is shown on the tax map as “discontinued” which Mr. Amsden says happened back in the 1800’s – nothing to do with new or old route 127. He stated that those roads are subject to long established use by virtually any of the abutting parties. The Board reviewed the plat for the locations of the wells and septic systems. The plat Mr. Amsden was working from had the well and septic on it; they were not on the originals he submitted with the application. He confirmed that applications for the septic have not been submitted to DES yet. Vice Chair Roman asked about the age of the structures. Mr. McCormack’s house was built in 1965 and the apartment over the barn had been there since 1999. Vice Chair Roman stated there should be a restriction stated on the plat about no further subdivisions. She also stated there was an issue that the driveways’ accesses are from discontinued roads. Member Lehmann asked if the houses had access on Battle Street. Mr. Amsden stated that both houses have access to Battle Street but neither one has a cut. Mr. Amsden could not think of any reason of why they would ask the State for a new cut; why not come in where they’ve always come in. Vice Chair Roman responded that she did not know what the legal rights are on that discontinued road. She asked “Who owns that property?” Mr. Amsden stated the abutters would own it halfway to the middle; however, if it was a range way, the Town may own it.

After a brief discussion, Vice Chair Roman asked if the Board had any other comments or questions about the application’s completeness. Vice Chair Roman inquired of Mr. Amsden if there were any easements or encumbrances. He stated none that he knew of; nothing on the record. Vice Chair Roman stated the plat did show the contours and the small wetland area. She asked if there were any more wetlands. Mr. Amsden stated that per the wetlands scientist there weren’t any more on the lot. Member Lehmann made a motion to accept the application as complete conditioned upon

the owners giving their agent new authority to represent them; seconded by Selectman Johnson and approved unanimously.

6:51 p.m. Vice Chair Roman opened the Public Hearing to deliberate whether or not to approve the minor subdivision application from Mr. McCormack.

Vice Chair Roman asked the public if there was anyone in attendance wishing to speak in favor of the application. Marge Chandler Tanner of 236 Battle Street asked if the house they referred to in the discussion as being 40 years old as Debbie's house. Mr. Amsden stated he assumed it had been there a long time. Mrs. Tanner stated it was originally a barn; however, an apartment was built only 20 years ago. She stated the barn itself had been there a long time – it had been Mr. Roby's barn. Vice Chair Roman asked if the apartment happened without zoning approval. Mrs. Larson left the meeting to retrieve the property file. In the meantime, Mr. Andy Tanner stated that back in 1986 he and his wife tried to subdivide the Chandler property. He stated they were told by the Town that that discontinued road would have to be upgraded to a Class V in order to subdivide. Vice Chair Roman stated that was correct. He was questioning how Mr. McCormack can now subdivide without access. Vice Chair Roman stated the Board can require him to put driveways in on the Battle Street frontage of the lots. Vice Chair Roman stated the Board had flagged that issue and she thanked Mr. Tanner for his comment. She stated that decision would be part of whether the Board approves the application. Mr. Tanner stated that he did not have any issues with the neighbors. Vice Chair Roman stated she understood their concerns.

Member Lehmann asked Mr. Amsden if there was an existing driveway to lot 7-9 on the discontinued road as she could not see it on the plat. Mr. Amsden stated that there are two driveways off of the discontinued road. Vice Chair Roman stated that she wasn't sure the Board could approve this without access being on the legal street. After a brief discussion, Vice Chair Roman stated there was plenty of frontage for curb cuts to be done on Battle Street. Acting Member Fournier added that they would have to get driveway permits from the State. Vice Chair Roman voiced her concern of not knowing the legal status of the right of way; whether it was an easement and legal ownership.

At this time Vice Chair Roman asked if anyone else wished to speak. Acting Member Fournier commented that if the application was approved, the regulations require granite bounds. Mr. Amsden did understand that but he said there were a couple places where granite bounds would not work. Member Lehmann reiterated to Mr. Amsden that the subdivision regulations state that frontage has to be on a Class V road or better. Mr. Amsden stated that 'frontage' was not the same thing as 'access'. Vice Chair Roman stated she would like the plat to show a driveway from Battle Street as she does not know if the discontinued road is a road of any sort. Selectman Johnson asked if the Board should defer approval until they can find out. Mr. Amsden asked if it would be proper to suggest running it by Town Counsel. Vice Chair Roman stated that spirit of the regulations is for the Board to make sure the applicant has a legal access and she is not sure of the legality of the current ones off of the discontinued road. She stated the Board will table the deliberation and get back to the applicant. She also told Mr. Amsden he would have to resubmit a map that shows a driveway and the applicants would have to apply for driveway permits. She told Mr. Amsden that he would be coming back to the Board and the Board will write a letter with the language that should be on the map regarding no further subdivision. After a brief discussion, Vice Chair Roman stated the map also does not accurately reflect the width of the discontinued road. Mr. Amsden stated he gave it a 3-rod plus. After a brief discussion, Vice Chair Roman stated the Board would take into consideration waiving the granite bound requirement for the marker in the barn/apartment driveway. Vice Chair Roman stated the Board will consult counsel about the status of the road. She clarified that the approval by the ZBA was not a subdivision; it was about having an accessory apartment on the same lot as the single family residence. Regarding the granite bound requirement, Member Lehmann then read section 9.9 H of the Town of Webster's Subdivision Regulations:

"If an above-grade monument is for any reason impractical or unsafe, e.g. in or close to traveled way or in the middle of a mowed field, the Board may grant special permission to set a monument flush with grade. Such a monument must be equipped with a magnetic pin, cemented into the drill hole in the top of the monument, to facilitate location with a metal detector."

Vice Chair Roman stated the Board would take Mr. Amsden's request for a waiver into consideration. Acting Member Fournier and Vice Chair Roman made a motion to table this issue until the next meeting (April 19, 2018 at 6:30 pm at the Webster Town Hall) and until the Board has clarification from the Town Attorney with the understanding that Mr. Amsden will make the changes to the map that the Board discussed already and the Board will do their best to get back to the applicant quickly; seconded by Member King; motion carried 4 to 1 in favor with Member Lehmann abstaining. Member Lehmann stated she did not know what legal counsel could tell the Board. She stated it was an exercise in futility to ask that question of legal counsel.

7:25 pm Vice Chair Roman closed the public hearing.

The next order of business was to review the application for completeness for **PB Case No.18-03: Minor Subdivision Application from Shaker Heights Land Trust, Daniel Remillard, Trustee. His proposal was to subdivide lot 3-27 on Long Street into 3 lots: 3-27 = 8.0242 acres, 3-27-2 = 5.2123 acres and 3-27-3 = 5.345 acres with no further subdivision of qualifying lots permitted.** Mr. Joe Wichert, surveyor and agent for Mr. Remillard made his presentation to the Board. Mr. Wichert explained that lot 3-27 was an 18.7 acre piece of land with 1,250 feet of frontage on Long Street and over 456 feet on Mutton Road. The lot is in the Residential/Agricultural Zone which requires a minimum of 5 acres of land and 250 feet of frontage on a Class V road or better in order to build. Mr. Wichert stated that Mike Seraikas, State of NH Certified Wetlands Scientist, delineated the wetlands and he is working on the dredge and fill applications regarding the parallel driveways for lots 3-27-2 and 3-27-3 as per State DOT driveway requirements. Lot 3-27 will have its own curb cut. After a brief discussion, Vice Chair Roman informed Mr. Wichert he would also need to get driveway permits from the Planning Board, too, especially the one driveway serving two lots. She then asked what the slope was for the driveway on lot 3-27-2. Mr. Wichert stated the existing slope he would guess to be between 15% - 18%. He added that the area was going to be filled in which would reduce the slope. Mr. Wichert went into detail regarding the construction and the types of culverts that would be used. He approximated that depending on where the house is actually placed on lot 3-27-2 the slope would be in the range of 8% - 10%.

After a brief discussion, Member Lehmann made a motion that the Board accept the application as complete; seconded by Selectman Johnson. At this time Vice Chair Roman inquired about septic approvals. Mr. Wichert stated there was a septic approval for lot 3-27 and that he had submitted the test pits on the other lots. Vice Chair Roman stated those permits will have to be issued before a final approval. Mr. Wichert questioned the Board why he would have to get all three septic permits in order to get the subdivision approved. Vice Chair Roman stated that was what the regulations say. She stated the process was that the subdivision would be approved conditioned upon the permits being submitted in order to get a final approval. Mr. Wichert stated he would speak with DES. At this time Vice Chair called for the vote of Member Lehmann's motion; approved unanimously that the application was complete.

7:42 pm Vice Chair Roman opened the Public Hearing to deliberate whether or not to approve the minor subdivision application from Mr. Remillard.

Vice Chair Roman asked if any member of the public wished to speak. Mr. Cummings stated he did not have a problem. Mr. Dan Kimball stated he did not have a problem but he hoped Mr. Remillard would not cut every tree on the lot as he has deer and bear paths through there.

Vice Chair Roman asked Mr. Wichert to go over what the slope of the driveway will be where it will intersect with Long Street from lot 3-27-2? She asked if there was going to be a culvert there. Mr. Wichert stated he hadn't looked at the DOT curb cut paperwork which he did not have with him. He stated the slope is usually a negative 2 pitch back. He referred to the plat as he gave his detailed explanation.

After a brief discussion, Vice Chair Roman asked the Board if they had any concerns or comments. There were none. Member Lehmann made a motion to approve the plan as laid out conditioned upon receiving all permits from DES, DOT, the Town and conditioned upon changing the plan to include the language that the land shall not be further subdivided, the submission of two sets of mylars and walking the bounds before final approval. Vice Chair Roman asked if there were any problems regarding the setting of the bounds as required. Mr. Weichert stated "no". Selectman Johnson seconded Member Lehmann's motion and was approved unanimously.

7:48 pm Vice Chair Roman closed the Public Hearing.

The next order of business was to review the updates to the CIP report and approve the final draft. Vice Chair Roman stated there had been one change after the Board had approved the report on February 15th. She stated there had been some editing in *Chapter 3 Recommendations* which she was not going to make the Board review and reapprove because it was not necessary. She asked if all members present had seen the update. Acting Member Fournier stated he had not. Vice Chair Roman read the specific lines from that section. Selectman Johnson made a motion to approve the amendment for the final CIP report; seconded by Acting Member Fournier and approved unanimously. The Board members then signed the Certificate of Adoption which will be filed with a copy of the report with the Town Clerk.

Vice Chair Roman stated the next order of business was the review of the minutes from the February 15th meeting and she also deferred any discussion of the Master Plan until the next Planning Board meeting on April 19th.

Selectman Johnson made a motion to accept the meeting minutes of February 15, 2018 as presented; seconded by Member King; motion carried with two abstentions: Member Lehmann and Vice Chair Roman were not in attendance at that meeting.

At 8:02 pm Member King made a motion to adjourn; seconded by Vice Chair Roman and approved unanimously.

These minutes were approved as written at the Planning Board meeting of May 17, 2018.

Respectfully,

Susan Rauth, Chairperson