

TOWN OF WEBSTER PLANNING BOARD MEETING MINUTES MAY 17, 2018

At 6:33 pm Chairperson Rauth convened the regularly scheduled meeting for the Planning Board and took attendance. Members present were Susan Roman, Paul King and Alternate Select Board Member Christine Schadler. At 6:50 pm Alternate Member Kathy Bacon arrived and was appointed by Chairperson Rauth to be an Acting Member due to the absence of Member Lynmarie Lehmann.

Members of the public in attendance were: Christopher Moultroup, Unitil Forestry Supervisor, Lynn Morrison & Mike Arpino, Mutton Road residents, Joe DiPrima, *Cozy Pond Camping Resort* owner, Sally & Roger Becker, Mutton Road residents, Hank Amsden, surveyor, Steven McCormack, minor subdivision applicant, Deborah DeCato, Battle Street resident, Dan Kimball, Mutton Road resident, Joshua Taylor, site plan applicant, Dick George, Roby Road resident and Louis Gangi, *Cloverdale Feed and Farm Supply* owner and tenant of Josh Taylor residing on Roby Road.

Chairperson Rauth deferred review of the three sets of draft minutes until later in the meeting.

6:36 pm: Chairperson Rauth officially opened the public hearing pursuant to RSA 231:158 relative to a proposal by UNITIL to perform line-clearance maintenance of pruning and hazard tree removal on overhead distribution lines that run along a scenic roadway, Mutton Road. Chairperson Rauth stated that the hearing was being recorded and then explained the procedure for a public hearing. Per RSA 231:158, any pruning of scenic roads must have the written permission of the Planning Board. Chairperson Rauth recognized Mr. Chris Moultroup, Unitil Forestry Supervisor. Mr. Moultroup explained this procedure would be their regular 5 year maintenance pruning of the lines. He stated they would be trimming 15 feet above the wires; 10 feet to the side of the wires and 10 feet below and/or ground cut beneath the lines. He stated they would cut dead branches and be looking for hazard trees, i.e., trees that would potentially fall down on power lines. Mr. Moultroup stated he had driven down Mutton Road before the meeting and that the maintenance would be pretty minor. Even after 5 years not much has grown back. He stated he had noticed a couple of hazard trees.

Chairperson Rauth asked about notifying residents on Mutton Road. Mr. Moultroup stated the contractor for the work is Lucas Tree Service and Lucas will have a permission person visit each residence. If no one is home a door hanger will be left with the information and phone number to call. Mr. Arpino questioned that the law requires mail notification. Mr. Moultroup stated that personal contact was preferred because it was more efficient and less time consuming than mailing notices. These visits would be completed about a month before the actual trimming. Mr. Moultroup stated no trees would be removed without permission from the property owners. After a brief discussion, Member Roman asked if the landowner has the right to refuse to have a tree cut. Mr. Moultroup answered in the affirmative. He again stated that no trees are removed without permission, including small stuff growing underneath the lines. After a brief discussion, Member Roman made a motion "*to approve Unitil's application for cutting on Mutton Road subject to the conditions stated in the record*"; seconded by Chairperson Rauth and Alternate Select Board Member Schadler and approved unanimously.

6:50 pm: Chairperson Rauth officially closed the public hearing. The Board thanked Mr. Moultroup for his time and Mr. Moultroup thanked the Board for their support. Alternate Member Kathy Bacon arrived and was seated as a voting member due to the absence of Lynmarie Lehmann.

At this time Mr. Roger Becker addressed the Board with concerns about the town maintenance of Mutton Road as a scenic road. He stated 40 years ago Mutton Road was like a Currier and Ives road – truly scenic. He stated it was a beautiful road and that in his opinion it has been virtually destroyed. He felt that the RSA that regulates scenic roads was very general. He believed that the Town has the authority to make a policy regarding scenic roads such that they don't become looking like what Mutton Road looks like today. Mrs. Becker added that Mutton Road has been widened, and widened and widened. Mr. Becker stated he thought there should be a Town policy stricter than the state law. Mr. Kimball agreed with Mr. & Mrs. Becker; he stated things were getting carried away. After a brief discussion, Member Roman stated that

the statute said that the town can impose additional provisions. Member Roman made a motion that the Planning Board recommend to the Select Board to find out whether the Select Board can do it by ordinance or whether it needs a town vote because that is not stated in the RSA; seconded by Alternate Select Board Member Schadler and approved unanimously. Mr. Becker thanked the Board. Member Roman stated the Planning Board will send a letter to the Select Board.

At this time, Chairperson Rauth thanked all the Mutton Road residents for attending the hearing and for all their input.

The next order of business was the **continued deliberation of PB Case No. 18-02 from March 15, 2018: 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.**

Chairperson Rauth stated the Board was waiting for Mr. Amsden, Surveyor and Agent for Steve McCormack, to submit a final plat with the driveways shown on it. She stated that at the last Planning Board meeting of April 19th, the Board had received advice from the town's counsel on several grounds including access and frontage. They both have to be satisfied by a Class V road or better. Chairperson Rauth asked Mr. Amsden if he had more information to bring to the Board. Mr. Amsden referenced his email of May 3rd regarding his visit to Mr. McCormack's property with NH DOT District 5 Technicians, Mr. Lillis and Mr. Pearson. Mr. Amsden stated he had nothing to add. He discussed the 3 points of access that the NH DOT technicians discussed in their email. Member Roman stated that the Board had advice from Town counsel that access cannot be from discontinued roads; the applicant will have to put in new driveways from Battle Street. At this time Chairperson Rauth recognized Mr. McCormack, the applicant, who asked where would the new driveways have to go? Mr. McCormack asked why they couldn't use the discontinued road. Member Roman answered because it violates the zoning regulations and the Board had an opinion from counsel to that effect. Ms. DeCato then stated a fire truck would not be able to get in. Member Roman stated then the applicant could apply for a variance. Mr. McCormack stated he had been using that discontinued road for 40 years. After a brief discussion Member Roman stated Mr. McCormack and Ms. DeCato could continue living where they are without granting subdivision approval. Member King also pointed out that even though the plat shows the Battle Street property line as a small curve, it is in reality more curvy and hilly. Member Roman suggested the applicants could have a shared driveway. After a brief discussion, Mr. Amsden stated there were some legal questions about this. Member Roman suggested the applicant see a lawyer. Ms. DeCato stated they could not afford a lawyer. Mr. Amsden asked if he could see the letter from the town's attorney. Member Roman stated that was privileged information. Mr. Amsden asked if he could contact Attorney Mayer. Member Roman stated he could but to realize the Town is his client and Mr. Mayer would probably not give legal advice to him. She stated that it is a subdivision that is before the Board. The Board has asked their attorney if the Board can approve a subdivision with access off a discontinued highway; he has said, "No". Member Roman said the Board could turn done their application for a subdivision or they can continue on the basis that access will be from Battle Street potentially with a shared driveway. Mr. Amsden asked if the Town's counsel had seen the plan. Member Roman stated that he had been advised fully. During a brief discussion, Member Roman reviewed the Driveway Regulations with regards to the provisions for shared driveways. She stated that to save the applicant money and to please the State they could have a shared driveway at an entrance from which the State would allow and which would satisfy the Driveway Regulations. Member Roman stated the Board would not allow driveways off the discontinued road – that would violate zoning. She stated if they want to go forward on the basis of having a shared driveway off of Battle Street then the applicant will have to consent to going beyond the 65 days allowed for the Board to make a decision and this extension will be posted as a continuation. She stated if they did not want to do that then the Board would just deny the subdivision tonight. Mr. McCormack agreed to an extension of 62 days so he could figure things out. Member Roman made a motion to continue the hearing to June 21st Planning Board meeting at 6:30 pm and to extend the continuation to 62 days based on the consent of Mr. McCormack, owner and applicant of the property, per the provisions of RSA 676:4(I)(c)(1) & (I)(f); Member King seconded the motion; approved unanimously. At this time Mr. Amsden asked if Mr. Mayer could decide whether or not to release the letter to him. Member Roman stated Mr. Mayer would ask the for Board's permission first. She made the

point that the Board was NOT authorizing any expenditure on behalf of the applicants if they contact Attorney Mayer. Mr. Amsden understood and thanked the Board for their time. The Board thanked Mr. Amsden and the applicant for coming.

The next order of business was the follow-up to the conditional Site Plan Review approval for PB Case No. 18-04 of April 10, 2018, regarding Joshua Taylor's commercial business relocation of *Cloverdale Feed and Farm Supply* store from 299 Battle Street to 12 Roby Road. Chairperson Rauth explained that the Board sent a letter to Mr. Taylor outlining the conditions of the approval, which Mr. Taylor acknowledged receipt of). Mr. Taylor responded to the letter with submission of a packet received at Town Hall on May 11, 2018. Mrs. Larson scanned the documents and emailed the file to the Planning Board members on May 15th.

At this time, Member Roman stated she had a point of order. She stated: *"We did not continue the hearing and there is new information here that technically, the abutters are entitled to have notice of."* She asked Mr. Taylor if he would be submitting a plan with the wetlands delineated. Mr. Taylor answered in the affirmative and that it would be coming with the septic design. Member Roman stated she did not think the Board could decide on the driveway application until they knew where the wetlands were. In addition, after looking at the driveway drawing, she stated that Mr. Taylor had changed the parking lot from the original site plan. She spoke about the original site plan showing the parking lot in a specific area and the May 11th drawing shows it in a different place. The Board then reviewed a copy of the original site plan and compared it to the May 11th drawing. Alternated Select Board member Schadler commented that the newest drawing was totally different from the original proposal.

Member Roman stated she was concerned that there was enough changed information that abutters might complain that they did not have notice. She stated that one thing the Board will need to see is how the parking lot affects the wetlands. Mr. Taylor stated it does not affect the wetlands. Member Roman suggested that the Board's deliberation be continued until the wetlands information is received. She added that the Board will re-notice abutters and publish the notice in the newspaper at the expense of the Town. Chairperson Rauth asked about the location of the septic system and would the septic designer be developing a site plan that shows the entire site including the wetlands? Mr. Taylor answered in the affirmative. Member Roman asked if the plan would be to scale. Mr. Taylor answered in the affirmative. Alternate Select Board Member Schadler asked if there would be enough room for a leach field. Mr. Taylor stated he had a licensed septic designer, Carl Sherblom, who develops the design which includes the leach field. Chairperson Rauth stated she understood that Mr. Baye, Life Safety Code Officer, had been out to the property. Mr. Taylor stated yes, several times, and he gave permission for Lou Gangi, his tenant, to move in. Mr. Taylor stated all the wiring and the plumbing had been done and inspected. Mrs. Larson stated she would contact Mr. Baye to have him put the results of the inspections in writing to be part of the record.

A brief discussion ensued about the proposed parking area. Member Roman asked about the slope and how was water runoff going to be handled? Mr. Taylor stated the driveway on the plan already exists. He stated the slope would go from the parking lot back towards the driveway. He added that the parking lot was not going to be a paved surface so that it would act as a filter. Alternate Select Board Member Schadler asked if he would have to add fill in order to put the parking lot there. Mr. Taylor answered in the affirmative. Member Roman added that might be the reason a wetlands permit would be needed. Members Taylor and Schadler asked if the septic designer was also a wetlands scientist. Mr. Taylor could not answer that question. Member Roman stated the wetlands should be delineated by a wetlands scientist. She stated she felt the major issue that was left for the site plan review was the impact on the wetlands. After a brief discussion, Mr. Taylor said: *"With all due respect, I am going to have Carl do the septic design; we'll get through that first. Then we'll see what we do."* After a brief discussion, Member Roman stated Mr. Taylor may actually benefit from having a wetlands scientist, because he may not even have wetlands.

Chairperson Rauth stated that one of the requirements of the conditional approval was a revised site plan that shows the septic and the driveway. She stated the Board would like to see that. Mr. Taylor stated that would be coming with the

septic design. He added that Carl would be sending septic designs to Mrs. Larson probably within a week or 10 days so all of that information the Board is looking for should be on the plan.

Alternate Select Board Member Schadler asked about the signage. Mr. Taylor stated he would not be putting the large sign on the roof. At this time Mr. Gangi stated he reduced the size of the sign. He removed the two logos on each end which shortened the sign by 4 feet. Mr. Gangi stated he has placed the sign on the ground level at the bottom of the parking area so it can be seen from Battle Street. Alternate Select Board Member Schadler inquired about the sign for the side of the road. Mr. Gangi confirmed he would be putting a sign there. He referred the Board to his May 11th packet in which he stated that the State of NH had no control over highway signs on private property. Mr. Taylor informed the Board that in this particular case, signage is governed by the Currier and Ives Scenic Byway regulations and because the Town does not have specific signage regulations then the regulation defers to the Planning Board. He stated that the Planning Board decides whether they want that sign on the road or not. After a brief discussion, Chairperson Rauth suggested continuing the discussion about the signage and the rest of the materials Mr. Taylor had submitted on May 11th until the next Planning Board meeting on June 21, 2018. Chairperson Rauth made a motion to continue deliberation on the site plan review for Joshua Taylor's business at 12 Roby Road until June 21, 2018 Planning Board meeting at 6:30 pm at Town Hall. At this time Member Roman asked Member King if he had gone to the site to look at the driveway with regards to the driveway regulations. Member King stated he had been there. Member Roman asked if he saw anything that was problematic. He stated no – nothing had been changed – no changes to the slope. He stated it was just a matter of the parking area – looking over the bank it did not look wet at the time. A brief discussion ensued regarding whether or not the construction of the parking area was a modification of the existing driveway. At this time Alternate Select Board Member Schadler seconded Chairperson Rauth's motion and it was approved unanimously. Chairperson Rauth thanked Mr. Taylor and Mr. Gangi for their time and they in turn thanked the Board.

The next order of business was the preliminary conceptual discussion with Joe DiPrima, owner of JMJ Properties d/b/a Cozy Pond Camping Resort, 541 Battle Street for a proposed commercial exception and site plan for additional campsites. Chairperson Rauth gave a brief summary of the history of Mr. DiPrima's applications. He had been coming before the Planning and Zoning Board since 2010. She stated the last time he had come before the Board was in September 23, 2016. She explained that the Board had asked for a 10 year plan for the expansion of the Cozy Pond Campground which was Mr. DiPrima submitted a few years ago. She summarized the 2016 approvals for the campground which brought the number of camp sites to the current total of 137. She added that the Board required Mr. DiPrima to continue with his Best Management Practices that he had developed also a few years ago. Chairperson Rauth stated this preliminary conceptual discussion was non-binding on either party. While Chairperson Rauth was giving her summarization, Mr. DiPrima gave a handout to each member titled "Proposed 60 Site Expansion" a 5 – 6 year project with 4 phases: 2018 – add 15 sites, bath house, septic system; 2019 – add 15 sites; 2020 – nothing to be done; 2021 – add 15 sites and 2022 – add 15 sites. This will be the last of the site expansion.

At this time Mr. DiPrima presented a plat showing the current layout of the campground with a hand drawn section for the 60 proposed campsites. He explained that he would still only be putting in 15 sites per year but that he needed to know upfront about the 60 sites because of bringing in electricity and to plan for one or two septic systems instead of 4 small ones. Having the approval would be more cost efficient. He may not have room for 60 sites; he needs his engineer to draw up the plans. It could be 40 – 60 sites. He stated that the Town would see approximately an additional \$4,000 in property taxes. He explained to the Board his sites are usually 40-50 feet wide and 50-60 feet in depth. Member Roman stated that she didn't think 60 sites would fit. Mr. DiPrima understood Member Roman's concern. He stated he just wanted to know if his proposal, whether it's 60 or 40 sites, is feasible to move forward to apply for. Member Roman stated her concern was about fire and emergency apparatus being able to get to the scene in the campground. She was also concerned about how large an area a septic system would take up. Referring to the plat, Member Roman asked how many sites a certain septic system served. Mr. DiPrima said the one she was pointing out served 23 sites. A brief discussion ensued about how the septic and water systems work in the campground. Member Roman clarified that whatever number of sites can fit, was what Mr. DiPrima was going to construct. Mr. DiPrima answered in the affirmative.

She also added that the sites won't be installed all at once, but the site plan would have them all on the drawing. Mr. DiPrima answered in the affirmative. Member Roman inquired about having the Fire Department visit the campground. Mr. DiPrima stated that Rob Wolinski from the Webster Fire Department was at the campground last week inspecting all the fire areas prior to issuing Mr. DiPrima a fire permit for the campground. Alternate Select Board Member Schadler inquired about accessibility of fire trucks. Mr. DiPrima said: "You can get a fire truck anywhere in the campground." Mr. DiPrima stated he just bought a fire truck and he drove it all around the campground. He added that the size of a fire truck is nothing compared to the size of some of the campers. He stated he has campers that are 45 feet in length plus the vehicle towing them makes them in excess of 60 feet. Mr. DiPrima stated that the design of the sites would accommodate emergency apparatus. After a brief discussion, Member Roman stated the Board did not have anything against approving more than 15 sites. Mr. DiPrima reiterated that no matter how many sites could be designed, he would only install 15 each year except for 2020. He stated he was just trying to get an idea from the Board if they would approve something like this before he starts spending time and money. Member Roman stated she did not see any problem of doing more than 15 sites. During the discussion it was made known that there were two streams near the area of the proposed sites that feed into the pond. Mr. DiPrima stated he would definitely stay away from them. After a brief discussion, Chairperson Rauth stated that Mr. DiPrima's proposal was consistent with his 10 year plan. Member Roman stated Mr. DiPrima could come back to the Board for another conceptual once he had the drawing completed. Alternate Select Board Member Schadler stated to Mr. DiPrima to make sure the streams are drawn on the plan. Mr. DiPrima thanked the Board and they in turn thanked him for coming.

At this time Alternate Select Board Member Schadler asked Mr. DiPrima if he gave handouts to the campers about not littering and keeping Webster clean. Mr. DiPrima stated he did not do that – he thought people would be cognizant of that.

At this time, the Board reviewed and approved as written the minutes from March 15, 2018. The review of the minutes from April 10th and April 19th were deferred until the next Planning Board meeting of June 21, 2018. Mrs. Larson was instructed to review the audio tape from April 10th in two sections to retrieve wording. Member Roman had not read the April 19th minutes and asked to come back to the Board on June 21st, which was agreed to.

The next order of business was an update on the Master Plan. Chairperson Rauth stated a lot of people in town, on commissions and boards have been working on updates to the Master Plan including the Conservation Commission. She expressed her appreciation for all the work they had done. (Alternate Select Board Member Schadler is the Chair of the Conservation Commission and Member Roman is a member of the Conservation Commission.) Chairperson Rauth stated that Master Plan information had been distributed to all town departments and boards. In addition, residents have volunteered to work on this. She informed the Board there will be a Master Plan Update public meeting on May 23, 2018 at 6:30 in the conference room at Town Hall. She stated the meeting would present an overview of the goals and objectives of the project and the benefits of the Master Plan and how it fits into the structure of regulations and its relationship to the CIP. She stated they will review some of the current demographics in Webster and some of the Community Survey results. She will also ask the people that have been working on the plan to speak about issues they have identified.

The last order of business was a review of the *Webster Planning Board Rules of Procedure*. Chairperson Rauth stated she had informal discussions with Mrs. Larson regarding her role of addressing questions from the public. She stated some questions are quite simple to answer; some questions are quite complex that sometimes require legal research. Chairperson Rauth stated Mrs. Larson does a lot of historical research. She stated it would be more appropriate that these types of complex questions come to the Planning Board. Chairperson Rauth, with Mrs. Larson's input, suggested having the questions submitted in writing to the Planning Board. Member Roman felt that most of the answers could be found in the regulations that are on the website. After a brief discussion, Member Roman stated some questions may require the inquirers to get their own legal advice. Mrs. Larson cannot give legal advice and neither should she; that is beyond the scope of her job. After a brief discussion, Member Roman reminded the Board and Mrs. Larson the Planning Board does

not give opinions or legal advice. Acting Member Bacon suggested Mrs. Larson put together a list of questions she receives and bring it to the Board. Alternate Select Board Member Schadler offered to check the Conservation Commission website to see if there would be something helpful for people's inquiries. With regards to subdivision Board approval conditions, such as DES permits, Member Roman brought up the question about who checks to make sure those conditions are met. Both Alternate Select Board Member Schadler and Member Roman stated that no one follows-up. Alternate Select Board Member Schadler said: *"We need our own enforcement officer."* Member Roman agreed. After a brief discussion, Chairperson Rauth stated the issue of following up on the Planning Board and Zoning Board conditions of approvals and receipt of permits from other agencies is an area of the town that is lacking. She thought it would be good if the town could get have zoning enforcement officer. Member Roman stated the Select Board could hire a zoning enforcement officer as their agent and he/she would be able to follow up on permits and make sure the permits were in place both in the standpoint of subdivisions and building. Chairperson Rauth suggested having a special meeting to further discuss how to handle questions that come to Mrs. Larson and the Board. Member Roman stated that so much enforcement is in the hands of the Select Board it should be a joint meeting. Acting Select Board Member Schadler stated it should include the Conservation Commission, too.

At this time Member Roman suggested the Board email town counsel as a heads up about Mr. Amsden possibly contacting him in order to be sure he understands the Planning Board did not authorize any expenditures. Chairperson Rauth stated she would write a draft.

After a brief discussion the meeting adjourned at **8:50 pm.**

These minutes were approved as written at the Planning Board meeting of June 22, 2018.

Respectfully,

Susan Rauth, Chairperson