

**TOWN OF WEBSTER
PLANNING BOARD
MEETING MINUTES JUNE 19, 2014
CORRECTED**

At 7:01 p.m. Chairperson Sue Rauth convened the regularly scheduled meeting of the Webster Planning Board.

Present were Chairperson Sue Rauth, Members Jere Buckley, Lynmarie Lehmann, Selectman Roy Fanjoy and Alternates Rick Cummings and David MacAllen. Chairperson Rauth designated Alternate Cummings to serve as a voting member due to the absence of Vice Chair Sue Roman.

The next order of business was the review of the May 15, 2014 minutes. There were no comments. Member Lehmann made a motion to accept the May 15, 2014 minutes as drafted; seconded by Acting Member Cummings and approved unanimously.

The next order of business was a conceptual consultation with Mark Phillips regarding proposed driveway changes for lots 4-5, 5-62 and 5-62A. Chairperson Rauth explained to the public that a conceptual consultation was a discussion allowed by the Planning Board procedures and whatever resulted was not binding for either party.

At this time, Vice Chair Roman arrived; Chairperson Rauth stated Alternate Cummings would now revert back to Alternate status.

Chairperson Rauth invited Mr. Phillips to make his presentation. Mr. Phillips referred to an enlargement on the easel of Plan # 14919 recorded at the Merrimack Country Registry of Deeds on 10/22/1999 and which shows what Mr. Phillips described as the existing driveway serving lot 5-62A and a possible future extension thereof to serve lots 5-62 and 4-5. Mr. Phillips, an owner of lot 5-62 and representing the owners of the other two lots, summarized the history leading up to the 1999 plan. He described a proposed relocation of what Mr. Phillips described as the existing driveway, along a path slightly different from that shown on the 1999 plan, starting about 900 feet from Call Road and accessing the house on lot 5-62A from the westerly side rather than along the lake shore, but retaining the possible future access to lots 5-62 and 4-5. Lot 5-62A is the only lot out of the three that has a home on it at this time. Mr. Phillips stated the shifting of the driveway would involve some wetlands and he was aware of having to contact DES for the proper permits. Alternate Cummings stated that driveway had also serviced the Boxlet property and had been in existence since the 1800's. Member Roman stated the Planning Board does not approve driveways for three lots. Alternate Cummings stated back in 1999 it was not under the Planning Board's purview to regulate driveways. Member Buckley stated the Driveway Regulations did not exist back then; they did not come into existence until 2006. Select Board Member Fanjoy stated back in 1999 the Planning Board approved the plan and nothing has been done, yet. There was no time limit or other restrictions placed on the granting of approval. Member Buckley stated Mr. Phillips wanted to retain that option for the future. Member Roman questioned whether the Board need offer an opinion on the build-ability of the third lot 4-5. After a discussion, Member Buckley summarized; he stated the proposed applicant was asking for a slight change in the location of the pre-existing access-way plus an additional easement to let a driveway go around and approach the existing house location from the back. And, Mr. Phillips wants to make sure that none of that impacts in anyway what he believes to be his existing right to use that access-way to access the other two lots. Alternate MacAllen asked if there was an expiration date on approvals. The Board stated 'no, not at that time'. Following a brief discussion, Mr. Phillips asked the Board if they would like him and the property owner of 5-62A

to submit two driveway applications. Alternate Cummings stated the driveway permit was only for the access area off of Call Road. He stated changes to the driveway would have to comply with the Life Safety Codes under the Fire Department. Mr. Phillips stated the proposed driveway will meet all Town, DES and environmental requirements. Member Roman stated the Board would not have to approve anything if he wasn't changing the slope or the grade at the beginning on Call Road; the plan was approved for three lots before the Driveway Regulations were in effect. To clarify, Mr. Phillips stated that other than making sure the proposed driveway meets all Life Safety Codes, DES and Shoreland Protection regulations from the Board's perspective, then the Board would not need him or the other property owner to file for driveway permit applications. The consensus of the Board agreed with Mr. Phillips. After a brief discussion, Member Buckley asked Chairperson Rauth permission to propose a motion which she allowed. Member Buckley moved that, "Whereas this Board in 1999 approved a plat showing possible future extension of an existing driveway serving lot 5-62A in a manner explicitly stated as intended to provide access to lots 5-62 and 4-5, and whereas that approval pre-dated the 2006 adoption of Driveway Regulations imposing a limit of two residences per driveway, and whereas loss or even threatened loss of the intended access to lots 5-62 and 4-5 would impose unreasonable and unfair penalties on the owners of those lots, this Board states as a matter of record that any approval of the modification proposed for the subject driveway shall not alter in any way the 1999 approval of possible future extension of the subject driveway to lots 5-62 and 4-5." Chairperson Rauth stated she wasn't sure that was necessary in a conceptual discussion. Member Roman stated she felt Mr. Phillips was fine with what he wanted to do. Chairperson Rauth asked Mr. Phillips if he felt things were clear. Mr. Phillips stated he would leave the meeting feeling OK and that he respected the Board's comments as long as there was no sense of the Board to annul or override the decision of 1999. Member Roman stated the Board would not take any vote to alter anything; Mr. Phillips has what he has on the record. Mr. Phillips also asked the Board if they questioned the validity of the 1999 vote. The Board stated there was no question of the validity. At this time Member Buckley asked that it be reflected in the minutes that his motion was not seconded and no vote was taken. After a brief discussion, Mr. Phillips concluded his presentation and thanked the Board for their time which was reciprocated by the Board.

The next order of business was a conceptual discussion with Mr. Reed Heath regarding a minor subdivision of lot 6-66, on Pearson Hill Road. Mr. Heath passed out plot plans to the Board. His lot is approximately 10 acres with approximately 680 feet of frontage. He would like to subdivide it into two lots. After Mr. Heath gave a brief history of his property he stated what he and his children would like to subdivide off one lot. Mr. Heath informed the Board that he was a realtor and would like to advertise prior to doing the subdivision, three or four different ways, i.e., two acre lot, three acre lot, 5 acre lot, with or without a barn. Mr. Heath stated he came before the Board to find out what he could do to be able to advertise and sell off a lot. Member Roman stated the Zoning Regulations allow ten acres to be subdivided once with one lot a minimum of two acres with 250 feet of frontage on each lot. Member Lehmann stated Mr. Heath could advertise two to eight acres; Mr. Heath would keep the other lot and then come before the Board with a subdivision application once he knows what he wants to do. After a brief discussion, Mr. Heath thanked the Board for their time which was reciprocated by the Board.

At this time Chairperson Rauth brought to the Board's attention an application for a Voluntary Merger that had been received after the agenda had been posted. The merger was between two

lots in the Pillsbury Lake District, map 10 lots 5-139 and 5-140. The Board referred to the tax map to verify the lots were abutting. Member Lehmann made a motion to approve the Voluntary Merger of map 10 section 5 lots 139 and 140; seconded by Member Buckley and unanimously approved.

The next order of business was discussion regarding the June 4, 2014 meeting between NHMA Attorneys Paul Sanderson and Steve Buckley with Planning Board members Jere Buckley, Susan Rauth, Susan Roman and Alternate MJ Turcotte. Chairperson Rauth explained to the Board one of the reasons they met with NHMA was to discuss shared driveways and private roads. She stated NHMA attorneys made specific suggestions about the Driveway Regulations that perhaps the Board should focus on where the driveway meets the curb. Member Buckley stated the attorneys told them the Board had no authority to impose any requirements to the interior of the lot; the only thing the Board can impact is the curb cut and anything that impacts or threatens public safety. After a brief discussion, Member Roman suggested getting a second opinion from the Town counsel, Bart Mayer. A brief discussion followed regarding how to define private roads and driveways. Member Roman stated she would like to have more guidance on the matter, maybe from Central New Hampshire Regional Planning Commission. She stated some towns have specific regulations to allow private roads and multiple houses. Member Lehmann made a motion for the Board to contact CNHRPC and have them send model driveway regulations for private roads; seconded by Member Roman and unanimously approved. After a brief discussion, it was decided that Member Buckley would continue working on the driveway regulations; Chairperson Rauth will contact the CNHRPC about private road model regulations wording, etc.

The next topics discussed with the NHMA attorneys were the roles of the Select Board, Planning Board and Zoning Board in citizen questions and disputes. Chairperson Rauth referred to Alternate Select Board Member Johnson's resident's question regarding setbacks for RV's that was brought to the Planning Board for interpretation at a past meeting. Chairperson Rauth stated the attorneys basically said that the Select Board should handle issues related to citizens' disputes. After a brief discussion, Chairperson Rauth stated the Board never did give Select Board member Johnson an answer regarding the RV setback question. Member Roman stated the question was whether or not an RV was a 'building'. While Member Lehmann looked up the current definition of 'building' in the Zoning Ordinance, Chairperson Rauth stated the NHMA attorneys said sometimes the Select Board may need to talk to an engineer or sometimes they need to talk to a building inspector or the Town lawyer. She stated the attorneys told them it was not the Planning Board's place to give those interpretations. The interpretation should come from the Select Board, the enforcing body. At this time Member Lehmann quoted the definition of 'building' from the Zoning Ordinance: "Any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry, other public or private purposes, or accessory thereto, excluding structures for storage of crops." Select Board Member Fanjoy will inform Selectman Johnson at the next public meeting that Planning Board agreed that in their opinion an RV is a 'building' as defined in the Zoning Ordinance.

The next topic was the COPART site plan review. COPART had not been able to complete the application in time to have a public hearing at this evening's Planning Board meeting. Mrs. Larson informed the Board she had been contacted by Web Stout, Licensed Surveyor, who was working on the site plan for COPART. Mrs. Larson informed Mr. Stout of the deadline of 3:00 p.m. June 25, 2014 for submission of the completed application in order to set the Planning Board public hearing for July 17, 2014. Alternate MacAllen asked if there were any alternatives if COPART does not comply at all. Member Roman stated the Select Board enforces the

ordinances and Member Lehmann stated they could get injunctive relief, i.e., have a court force them to do the site plan. Member Roman also stated the Board was not without enforcement which falls under the Select Board. Chairperson Rauth stated the Planning Board can require from COPART further information or conduct special studies. Also, under the Driveway Regulations, the Planning Board can review off-site improvements related to ingress and egress. After a brief discussion, Member Roman suggested getting advice from Town counsel. Member Roman made a motion to ask the Select Board for permission to consult with Town counsel on the parameters of the site plan review and the extent of the site plan review under the circumstances of this case; motion seconded by Member Lehmann and unanimously approved.

At 9:01 p.m. Member Lehmann made a motion to adjourn; seconded by Member Roman and unanimously approved.

These minutes were approved as amended at the July 17, 2014 Planning Board Meeting.

Susan Rauth, Chairperson

Approved as Amended