

TOWN OF SUTTON
Planning Board
Pillsbury Memorial Hall
Meeting Minutes
April 12, 2016

Present: Planning Board Members: Carrie Thomas, Chairperson; Bob DeFelice, Julie McCarthy, and Jim Lowe, Members; Bill Curless, Ex-Officio[for part of the meeting] ; (Roger Wells, Member, was absent); Laurie Hayward, Land Use Coordinator (LUC); Steve Bagley, Sutton Road Agent [for part of the meeting]; Ted Gallup, partner in T&G Land Holdings; Crispin Fletcher, owner of property on Roby Road, and Jeff Evans, surveyor and applicant; and other interested parties, including Tara Mahady- Coltey.

The meeting was called to order at 7:05 PM, by Carrie Thomas, Chairperson.

Administrative:

Minutes of previous meetings: The Chair noted that there were not enough members who were present at the last meeting to approve those minutes. The minutes for the meeting of March 22, 2016 were tabled.

Robert Stewart, the applicant in the 2014 minor subdivision Approved with Conditions and the individual who requested the consultation, was not present. The Chair passed over the consultation and took up the Fletcher application.

New Application: The Chair opened the review of the Application for Lot Line Adjustment PB 2016-06, Crispin and Christine Fletcher, request a Lot Line Adjustment, affecting two lots, both of which are owned by the Fletchers, TML # 01-859,251 and 01-885,282. Jeff Evans showed the plan and explained that the size of the two lots after the Lot Line Adjustment, remain the same. The Chair asked if the point is simply to straighten out a line. Evans replied that the purpose of the Lot Line Adjustment is to have two separate lots of record and to straighten property line between the two lots.

The Chair asked whether members had questions or concerns. Crispin Fletcher spoke briefly explaining that the plan is to sell the property to friends and this change simply makes the property line more logical. **Bob DeFelice moved that the request for Lot Line Adjustment be approved; Lowe seconded the request and it was approved unanimously by Thomas, DeFelice, McCarthy, and Lowe.**

The LUC explained the process. She told the parties present that minor Lot Line Adjustments do not require a Public Hearing and advance notice to abutters. The process involves the Planning Board meeting to review the application and to take information from any interested parties at the meeting. The Planning Board deliberates, the decision is made, and the decision is published. If the Board approves the request; then, notices are sent to abutters and they have 30 days to appeal the Planning Board decision. At the end of the 30 days appeal period, assuming that there are no appeals, the LUC takes the Mylar to the Merrimack County Registry of Deeds and has it registered. The LUC further explained that once she has the recorded document from the registry, she sends a copy out to the owners. She offered that, if the owners would email her, she would email them copies of the registered document as soon as she receives it.

Crispin Fletcher, Tara Mahady- Coltey, and Jeff Evans, surveyor and applicant, left the meeting at this point.

Bill Curlless, Ex-Officio, joined the meeting at this point.

Consultation – Planning Board Case 2014-03: It was noted that the applicant, Bob Stewart, who had requested a consultation regarding Open Conditions on the 2014 minor subdivision for T&G Land Holdings was not yet present. The LUC stated that Ted Gallup, one of the partners in T&G Land Holdings, is present. The LUC suggested the Board proceed and then realized that the Road Agent was not present and is integral to any discussions as the two Open Conditions relate to driveway permits.

The Chair explained to members that this is about driveways and a large tree in the sight line. The Chair asked the LUC for a quick update. The LUC explained that she had been trying since the 2014 decision to get the applicant, Bob Stewart, to resolve the Open Conditions for the minor subdivision of the property in question. The Conditions for approval were two-fold: one was that a large tree that interfered with the sight lines be removed and the other was that the Road Agent approves the three driveway permit applications. The LUC further explained that there is a time limit of two years for completion of conditions. Lowe asked what happens if the owners default on these requirements? The LUC replied that, there would be no subdivision. There is a two-year period allowed by both state statute and town regulations in which to complete Conditions. To have a subdivision, the owners would be required to reapply. Because a significant change in Zoning Ordinances was approved by town vote in March 2016, a resubmitted application for minor subdivision of the property in question would be considered in light of new zoning requirements that might result in a different decision. Lowe pointed out that was spelled out in a letter that the LUC sent to the applicant and the two owners.

Board members discussed the issue of default and asked the LUC to further describe the process if there is a default and to explain what the cure is. The LUC explained that a default would require the entire application and public hearings process to begin again. The LUC suggested that a much better solution is for the owner to work with the Road Agent and devise an agreement to meet the Conditions of Approval for the subdivision. DeFelice asked if there is a default and a new application, would the two years begin anew. The LUC stated that, if a new application were approved, the clock would start again with two years to complete the Conditions. The LUC reiterated that the new application would be considered under the new zoning rules and the Conditional Approval might be lost entirely. DeFelice asked if the Planning Board couldn't change the Conditions. The LUC stated the Planning Board could only rescind the Conditional Approval and begin again under current Zoning. DeFelice asked why they are having a consultation if that is the case. The LUC stated that she was hoping that the Road Agent would be present as it seems to her that the opportunity comes with the owners and the Road Agent being able to hash the issues out with the Planning Board in such a way that the Road Agent is able to approve the three driveway permits and agree with the owners on a cure to sight distance/tree issue, presumably that the tree creating the problem be removed. The Board must be satisfied that actions, if taken before July 22, 2016, will satisfy the Conditions. It was noted that the Road Agent still wasn't present.

Ted Gallup stepped forward and apologized for length of time this issue has been left open. He explained that his original understanding was that they could simply prove that each lot could handle a driveway. Gallup added that he thought that the final design could be dictated by what a buyer wanted to do and with the Board having final control when the buyer comes into the picture and require trees be removed and or culverts be added at that point. DeFelice responded that, the Board could see requiring that culverts be added at specific locations as part of final permits; but, applying with a driveway location that cannot work because the design has placed that driveway at a spot where there is not adequate sight distance is a serious

safety issue and one that needs to be worked out before the curb cut is approved and the subdivision as designed is approved. Gallup stated that he understands why the Road Agent might want that tree removed. He stated that he has a price of \$3,000 to remove the tree in question. He told Board members that he doesn't want to spend that money unless it is necessary and pointed out that a future owner might choose to place the driveway in a completely different spot. Gallup then stated that he had discussed this "with legal" and understands that the Mylar has been registered and he has received tax bills for all three lots and he thinks the town would need to go to superior court to revoke that approval. Curless asked the owner if he had checked the Notice of Decision that was registered at the Registry of Deeds along with the Mylar and that clearly states the Conditions which must be met for the subdivision to be final. The owner expressed his unhappiness with the length of time this has remained an unresolved issue and that his understanding from the applicant Bob Stewart was not clear on what needed to be done and when.

The LUC explained that this is an issue about access to the property and access to the property must be determined to be safe for the community, for the condition of the road, and according to regulations before an application can be approved. If the Road Agent sees something that might be a problem, including that the sight distance is not adequate, he then must require that problem be addressed before there can be a valid driveway permit. Both McCarthy and Curless explained that the Planning Board has relied on Stewart's plan to tell them where the driveway access will be and that is what they use to determine whether driveway access is acceptable. The Chair reiterated that the Board has a responsibility and relies on the Road Agent to judge the safety and adequacy of the design that has been presented.

Gallup told Board members that one of the three driveways was already approved by Paul Parker, the previous Road Agent. The Chair explained that all three driveways must have Road Agent approval. If there is a prior approval on file, then the Road Agent should be able to approve that driveway. Gallup reiterated that he feels the tree removal should not be at his expense. Gallup further explained that he thought that a future owner would be required to take the tree down, not the current owner. Both McCarthy and DeFelice explained that the Planning Board has a responsibility to only approve a new lot if it meets all of the Sutton Zoning Ordinance and Subdivision Regulations, including those that relate to driveway access and design. In this case that responsibility is not met by the design proposed because of the sight distance and drainage questions and that is reflected in the Conditions placed on the approval. There was a brief discussion of what process might be used to determine what the Road Agent needs to consider the approval final when the Road Agent is not present. DeFelice asked if the Land Use Coordinator could try to contact the Road Agent. This was done and the Road Agent was contacted and was on his way.

Report: Land Use Coordinator –

While the Board was waiting for the Road Agent to arrive, the Chair asked the LUC to report on her news. The LUC explained that she has an agreement for the sale of her house. She does not at this point know where she will be living; however, she is likely to move south to be nearer to her family. She has explained this to the Select Board and offered to continue in her current capacity for an extended period of time if the Select Board can agree to give her some latitude in terms of the amount of time that she is in the office and the number of days in the office. The LUC's intention is to provide the support to make sure that critical actions are taken in the appropriate time frame so that meetings, hearings, and office hours are maintained; as well as that Notices, Agendas, and Minutes are published and/or mailed as required. Also she has offered to provide instruction and support to anyone that she is asked to train. Curless thanked the LUC for her willingness to stay on for an extended period of time. Hayward told Board Members that she has enjoyed her work as Land Use Coordinator and hopes to make any transition as easy as possible.

The LUC next reported on a meeting that she and the Town Administrator had with Franco Rossi, one of the principals from CAI. CAI is a specialist in digital mapping and the company behind the digital tax maps on the websites of New London, Sunapee, and Newbury. The LUC explained that she feels that there is a great opportunity available to the Town of Sutton if a decision is made to pursue having CAI develop and deploy a web application and then handle the annual updating and maintenance of Sutton Tax Maps. The cost for this service has come down significantly over the past few years. The LUC added that using CAI's services would free up some of the time that she spends now. For example, the process of checking and developing abutters' lists is automated in CAI's system. This would mean that a future LUC would not necessarily need to know how to handle digital mapping and would save time over the current process for accessing and providing maps and the same for abutters' lists. The LUC stated that a few other costs such as the annual ESRI contract might be reduced or eliminated as well. It was also noted that it should be relatively easy to incorporate information in both the Road Management Software database and the Access database that the LUC developed for the town. DeFelice asked the LUC what she thought the cost might be to deploy the CAI tax maps. The LUC stated that she thought it might initially be several thousand dollars and half that each year if deployed over two years as was discussed. McCarthy stated that she thought maybe the Planning Board budget could contribute to covering the cost. The LUC stated that she did discuss with the Town Administrator that the Land Use Budget for this year could cover maybe \$1,200 in the form of \$1,000 in funds from the Professional Service line item and the balance from the Computer line item. She also noted that here might be some amount that the Highway budget could contribute if the Road Management software and some of the GIS maps the LUC has worked on like the map of bridges and culverts are incorporated as well.

Report: Select Board –

Curless reported on the status of the work being done on Corporation Hill Road. He explained that the Road Agent will be putting paint on trees to identify the ones the Highway Department hopes to remove. He noted that Corporation Hill Road is a scenic road and that dictates that trees cannot simply be removed without either Select Board or Planning Board action. Curless further explained that the Select Board can approve the removals if they declare the trees a public hazard. He said the Select Board was in favor of sending it to the Planning Board for the usual process for tree removal on a scenic road which involves a public hearing. Curless suggested that once the Road Agent has marked the trees in question that Planning Board Members take a drive by to see the ones identified for removal.

The Sutton Road Agent, Steve Bagley, arrived.

Continuation of Consultation – Planning Board Case 2014-03: The Chair reopened the consultation, explaining to the Road Agent that they are discussing the 2014 Conditions placed on the Subdivision Approval with Conditions that was given T&G Land Holdings. The Chair showed the Road Agent and Members the map of the proposed subdivision. The Road Agent told those present that he had discussed the problems with the proposed driveways when the subdivision design first came to his attention and that was more than two years ago. The Road Agent explained that one lot has possible drainage issues and he suggested that something be done to direct some of the water to a different point. He added that the drainage issue may make it difficult to keep a driveway in that location without some effort to redirect some of the water.

On a second driveway, Bagley explained that there was a diversion created; but, it was not built robust enough to divert the water. He stated that bigger rocks should have been used at that location. Gallup stated that is the driveway that the previous Road Agent approved. Bagley stated that he has nothing on file in the way of a permanent driveway permit. Bagley further explained that the approval should have been a temporary permit for logging and those have two years before they expire. Bagley suggested that the LUC check the

town hall files to see if there is a permit on file that he doesn't have. Gallup reiterated that he feels he already has one previously permitted driveway and one where the cost to remove a tree is \$3,000 and he doesn't want to take down the tree because of the expense. Curless stated that they need to remember that the approval of the subdivision was only given if the tree was removed to allow proper sight distance for the driveway. There was discussion between the partner/owner, the Road Agent, and Board Members regarding ways to approach tree removal and drainage issues and how to best meet the Conditions of Approval for the subdivision. It was agreed that the drainage can be left as a condition of the driveway permit and handled as part of the building permit. Gallup agreed to remove the tree within the allotted timeframe. The Road Agent and Board Members expressed the opinion that the quoted price to remove was excessively high. The Road Agent suggested to Gallup that he obtain additional quotes and offered names of individuals who might be of assistance. He also suggested the owner have the large pine topped. The LUC asked if topping the tree was good enough to remove the sight line issue. Bagley explained that topping the tree would just make removal easier and the owner could then have the trees that are in the way removed at a reasonable price.

Ted Gallup left the meeting at this point.

Other Business: The Chair handed out information about a "new" invasive plant which has not been found in New Hampshire until found here in Sutton at Smiley Grove which is at Kezar Lake. New Hampshire Department of Environmental Services (DES) has sent representatives to investigate and do some things to mitigate. There was a brief conversation about invasive plants locally.

Minutes of the previous meeting Continued: The Chair noted that Curless, who was present at the March 22, 2016 meeting, is now present. It was noted that one of the members who was at that meeting has moved and is not available; however, all of the other members who were there are now present to vote. And, the Board could now take up those minutes. The Chair asked for a motion regarding the minutes from March 22, 2016. **Low moved to accept the previous meeting minutes; Curless seconded the motion and it was approved unanimously.**

Old Business: The Chair asked the LUC whether there was something to report on the ITW cell tower. The LUC explained that she had been in contact with Mark Moser, the engineer/Consultant the Board hired to work on the ITW cell tower Site Plan Review. She had asked him to do a final review. The LUC told Board Members that there is, currently, about \$1,200 in the escrow account set up to pay consultant fees. Moser did an inspection and members have his email in their packets. Moser reported that he had a couple of concerns and a suggestion. The concerns are that the compound fence enclosure has not been completed and there is an area that needs vegetation planted to stabilize the area. Moser reported that he thought one more site visit is likely all that is needed. This means that no additional escrow funds would be requested at this time. Moser's suggestion is that the one culvert that was to be installed and has not been installed; probably should not be. The LUC recommended that the Board take a vote on whether to accept that recommendation and not require that culvert be installed.

Curless made a motion to approve the recommendations of the Engineer [Mark Moser, regarding the ITW cell tower installation at the former Blaney property just off Route 103]. DeFelice seconded the motion. There was a brief discussion about whether they could simply vote whether or not to require a culvert. The LUC was asked whether she thought such a change could be done once the Conditional Approval was given. The LUC explained that the specific culvert was not part of the conditions. The culvert is though part of the original design proposal that was submitted; but, it is not unusual to make adjustments as the project is

actually built. So, accepting the Planning Board's consultant's recommendation that a certain design element of the proposed design not be required, she believes, is not the same as changing a Condition of Approval and would not require new applications and/or public hearings. **Lowé suggested that the motion be revised slightly to a motion to accept Mark Moser's report and recommendation. The Board voted unanimously in favor of the motion as amended.**

There was a brief discussion about the Open Conditions Report which has only a few open items: the ITW cell Tower [discussed above], the Mapes maple trees which should be inspected later this spring, and T&G Land Holdings {the consultation held this meeting, discussion above}.

Work Session: Subdivision & Site Plan Review Regulations: The Chair asked members if they wished to begin a work session on Roger Wells' suggestions for changes to the Regulations. The LUC suggested that, because Roger Wells would likely be at the next meeting, members take the copies in their packets home and study them and be ready at the next meeting to offer suggestions. The LUC asked that members bring the copies back for the next meeting.

Meeting schedules: The LUC told members that, because of the impending sale of her home and the time she expects to be away from the office to pack and move, she does not expect to be available for the meeting on the 4th Tuesday of May. She offered that the Board could handle taking minutes if they wished. Otherwise, they could cancel that meeting and have the single meeting required each month by statute be the meeting on Tuesday, May 10th. The Chair pointed out that the meeting on the 4th Tuesday of May, May 24, 2016, is the Tuesday before Memorial Day Weekend. The LUC told Board members that she is available and expects to work through the entire month of June.

New Member status: The LUC told members that she did not get the information on potential new member David Angeli to the Select Board in time for an answer for this meeting. The LUC will pursue this over the next week. The Chair mentioned that she is still working on recruiting one or two other individuals for the Planning Board.

Next regular meeting is scheduled to be held on April 26, 2016 at 7:00 PM.

There being no further business, the Chair called for a motion to adjourn, Curless moved and the motion was seconded and voted unanimously to adjourn at 8:40 PM.

Respectfully submitted,

Laurie Hayward
Land Use Coordinator