

**TOWN OF SUTTON**  
**Planning Board**  
Pillsbury Memorial Hall  
Meeting Minutes  
October 28, 2014

**Present: Planning Board Members: Carrie Thomas, Chairperson; Carole O'Connell, Bob DeFelice, and Roger Wells, members; Dan Sundquist, Ex-Officio; (Julie McCarthy and Peter Blakeman, members, were absent); Laurie Hayward, Land Use Coordinator (LUC); Clayton Platt, applicant; and Matthew Ayer, an abutter and interested member of the public.**

**The meeting was called to order** at 7:00PM, by Carrie Thomas, Chairperson.

**Public Hearing:** The Chair opened the first public hearing and asked the LUC to read the notice. The LUC read:

You are hereby notified of a Public Hearing to be held on Tuesday, October 28, 2014 at or around 7:00 p.m. at the Pillsbury Memorial Town Hall, 93 Main Street, Sutton Mills, NH, concerning a request by **Gregory and Patricia Mapes**, for a Site Plan Review of their new septic plan, in a Rural-agricultural district, at 63 Shaker St., Tax Map #07-726,194.

You are invited to appear in person or be represented by agent or counsel and provide reasons why the request should or should not be granted. Please address written responses to: Sutton Planning Board, PO Box 487, North Sutton, NH 03260. All responses will be read into the record.

Plans are available for your review at the Town Office.

The LUC explained that the Board should know that the applicants have not paid the full fees and costs for the Site Plan Review and that one of the items the Board needs to address during the hearing is what fees and costs the Board will require the applicant pay. She further explained that at the time of the withdrawn case the previous year, the Board agreed that Mapes could pay the costs associated with the application; but, the fee would be waived.

The LUC also told the Board that she had received a very brief email from David Burnham, the Sutton Health Officer, regarding the septic system and could read that now or later in the course of the hearing.

The Chair asked the LUC to read Burnham's comments and then she would have the applicant make his presentation. The LUC read as follows:

"Hi Laurie,  
I went to the site and observed that there was no odor and no apparent breakout anywhere around the leach field. I also observed that there are no screened downward turning elbows on the top of the vent pipes for the leach field. I would strongly suggest that that be corrected after checking to be sure the vent pipes are clear of any obstructions.  
Respectfully, Dave Burnham, Health Officer."

The Chair invited Mapes to make his presentation. Mapes gave a brief history, beginning with the previous hearing, explaining that it was premature as the septic plan design by Provan & Lorber had not received final New Hampshire

Department of Environmental Services (NHDES) approval at that time. He further explained that the original engineer working on this left Provan & Lorber in the middle of the process and Mapes did not realize that for some time. He did eventually get things moving again and now NHDES has given their approval. The LUC confirmed the NHDES approval and opened the copy of the approved septic system design for board members to view. Mapes noted that the approved plan roughly doubles the capacity of the existing system. Mapes pointed out that the existing system remains fine.

Mapes explained that when the property was originally purchased, he did not realize that there would be any issues with converting it to residential use. There were issues and that meant that they had to apply to the Zoning Board of Adjustment (ZBA). The Chair asked if the use didn't include rental apartments. Mapes replied that the business originally had two apartments on the upper level. The change they made was to add a third apartment by converting the former business area to their residence.

The Chair called for Board member questions. Wells asked for the number of bedrooms in the current structure. Wells clarified that he expects that the current 1,000 gal capacity would support two bedrooms. Mapes says they have more bedrooms; but are not using the property in that way at this time. Wells asked what the purpose is of getting this Site Plan Review approved. Mapes said it is to bring everything into compliance with town requirements after an erroneous report that the septic system had failed. The LUC explained that this came before the ZBA a few years earlier as a change of use- taking the structure from a commercial use to a combined residence and apartments. This application for Site Plan Review was a result of the ZBA decision to approve that requested change of use. The ZBA handed down a Conditional Approval. There were two conditions, that the applicants obtain a NHDES approved septic design in order to prove that a septic system could be installed in case of septic system failure and secondly that the applicants plant vegetative screening.

Wells asked if the three trees shown on the plan represented the required vegetative screening. Mapes indicated that was not the vegetative screening; they planted lilacs. O'Connell asked the applicant how the building is currently used. Mapes stated that two apartments are rented and he and his wife live there as well. O'Connell asked, as there has been reference to "bedrooms", for clarification whether these apartments also include kitchens and bathrooms. Mapes explained that there are two apartments, each with two bedrooms, and there is a larger unit which is their residence - so it could be called a three apartment building.

The Chair called for any comments from the public. There was none. **Wells moved that the hearing be closed; DeFelice seconded; and it was voted unanimously to close the public portion of the hearing.**

Wells opened deliberations, asking for clarification of what the Board is reviewing. The LUC explained that it is in the Board's area of interest to determine whether they wish to deal with both the septic design and the screening. The Chair asked if they want to consider screening if there is no requirement that the new septic system be built at this time. Wells asked if the ZBA requirement for screening was intended to screen the septic field. The LUC stated that she understood that screening was for the benefit of abutter properties and more generally about the change of use to include apartments. She added that although the septic system was not required to be installed unless there was a septic system failure; the vegetative screening was to be done immediately. Wells indicated that he assumes that the best location for screening is along the street right of way. Mapes explained that after the ZBA decision, he did plant lilacs along the front as vegetative screening. Mapes said that he couldn't find anything that would direct what to plant.

DeFelice suggested that they address the fees. The LUC explained that in 2013 the Board agreed to give on the fees; but, required that the costs be paid. The Chair read from the application the list of fees. Sundquist asked what the total administrative costs would be. The LUC stated that she had not brought the detail on costs but she listed rough costs for newspaper notice \$52 and abutters notices at \$6.49 each and the Notice of Decision \$12.49. Sundquist asked for a total estimate for this application. The LUC said the costs would very roughly be \$120. Wells asked why the board would reduce the charges to this applicant. The LUC said "need". Sundquist stated this would be because of financial

hardship. Wells recommended that in cases such as this the minimum that the applicant should pay is the costs connected with processing the application, not to include LUC costs, plus 10% and rounded up to the next dollar.

**Sundquist moved that in cases of financial hardship, the minimum the applicant should pay is the costs plus 10% and rounded up to the next dollar. Wells seconded the motion and it was voted unanimously.**

There being no additional discussion the Chair asked for a motion on the Site Plan Review. **Wells, moved that the application be approved and that there be a requirement for a 2 ½ inch caliper, bare root red maple, a “swamp maple”, acer rubrum, planted every 20 feet on center along the right of way in those areas that are cleared of trees. Sundquist seconded the motion.** The Chair called for discussion. O’Connell asked if this was necessary as a condition of approval. Sundquist spoke explaining that he was well aware of the history and that back when this property was owned by Streams Ministry, the then Board required vegetative screening that was never installed. Wells explained that he does not believe this requirement is a significant financial burden as the trees can be purchased bare root, inexpensively and the applicant can plant them himself. Wells also noted that they should do well in the environment. **The motion to approve the Site Plan Review with the condition that there be a requirement for 2 ½ inch caliper, bare root red maples, a “swamp maple”, acer rubrum, to be planted 20 feet on center along the right of way in those areas that are cleared of trees was voted unanimously.**

The LUC explained to Mapes that she would get an invoice to him the next day for the costs plus 10% as agreed during the hearing and would appreciate a check in payment as soon as possible. The LUC further explained that Mapes would receive a copy of the recorded Notice of Decision once she has the book and page from the registry of deeds.

**This ended the first hearing, PB 2014-07.**

**The Chair opened the second public hearing, a continuance of PB 2014-06.** The LUC explained this is a continuance of **Case 2014-06**, concerning a request by **Jon Feins**, for a Minor Three-Lot Subdivision of the same property which was formerly known as Phase II of Harborview Subdivision; located on Stonehouse Road; Sutton, Tax Map # 10-688,134 which is in a Rural-agricultural district.

The Chair asked if the LUC had any information pertaining to the case. The LUC explained that she does have information for the Board before they proceed on this. She explained that, at the last meeting it was stated by the applicant that there would not be any connection to permit access via Haynes Road and that leaves the only means of access being through New London via King Hill Road. Statutes require that any bordering town which has the road which provides sole access to a proposed subdivision must be notified. The LUC stated that she had contacted Lucy St. John, who is the Planning and Zoning Administrator for New London and discussed the issue of sole access through New London. After speaking the LUC emailed a notice regarding this meeting to the New London Planning and Zoning Administrator. Unfortunately, the next New London Planning Board meeting is scheduled for tonight so the LUC could not tell those present what the New London response would be.

The LUC explained that this board can move forward with their work; but, until the Board hears something otherwise, they must assume that New London approval of the access road is a condition of any approval that Sutton might give.

The Chair asked Platt if he had anything new for the Board. Platt stepped forward and showed the Board the newly revised Plan to the Board, noting that he renumbered the lots as Lot 1, Lot 2, and Lot 3 to make it less confusing. He also explained that Lot 1 now has a separate driveway off Stonehouse Road, so there is a two-lot common driveway for lots 2 and 3 rather than the originally proposed three-lot common driveway or there could be separate driveways for each Lot 2 and Lot 3 by using the same entrance for two driveways. Wells asked if that means there is an easement for Lot 2 through Lot 3. Platt said that Lot 2 would have an easement through Lot 3 and that does avoid some wetlands. Wells asked where the entry is and Platt replied right where the current logging road is. O’Connell asked Platt if this proposal has any changes to the lot configuration and Platt replied there were no such changes from the original plan.

The Chair posed the question whether the Board needed to have knowledge of exactly where the driveways were proposed to be located. Sundquist replied they definitely needed to know where each curb-cut was to be located and where any proposed easements were to be located and those easements would need to be incorporated into deeds going forward. Board members extensively discussed the issue of driveways and easements and documentation; including whether future buyers of these lots would be able to locate their driveways where they wished or would need to build a driveway specified during the Planning Board Subdivision approval process and/or would have to return to the Planning Board for any driveway change from the approved plan. DeFelice noted that for changes from an approved driveway plan, a future owner would need to return to the Planning Board and to show that there is a feasible way to build it.

Wells asked if there is a conversation that should be held about what this subdivision should be like and how that would relate to what our Regulations require. Wells further explained that he feels the Board should consider what town Regulations require of a single family lot development after subdivision approval is given. He questioned how or whether, when there is an approved subdivision, there is a process to review of how driveways are built other than where they access the road. Wells concluded that if the Board wishes to do something about the driveway plans, now is the time to do it.

O'Connell asked if she understood correctly that there was a statement that these lots could be subdivided again. Wells pointed out that they were greater than 2 acres, the lot size minimum. The Chair explained that, to further subdivide, the owner would be required to come back to the Planning Board for subdivision approval. Sundquist reminded the Board that, during the first hearing, he asked Feins if Feins would be willing to limit the lots to no future subdivisions and that Feins indicated that he would like to reserve the ability of future owners to do one extra lot on each of the three so that, for example a lot could be given to a child or children. Sundquist stated that this discussion about whether there can be additional subdivisions is part of the process of these hearings. Wells pointed out that this is the time to do this.

The Chair explained that at that time, she heard an expression of concern regarding diminishing value without the ability to subdivide. She further stated that the issues that are apparent now, of topography- with steep slopes, lots of wetlands near the road and a poorly constructed access road – will still be there when the three lots are sold and if someone wants to subdivide.

Sundquist pointed out that the Board might want an agreement that there be no additional or only one additional subdivision of each lot rather than leave this open to substantial additional development of lots. Sundquist added that it might be useful from the owner's point of view to agree to a limitation such as only one additional single lot subdivision. The Chair asked if such an agreement would be binding on future owners and Sundquist said 'yes'. Sundquist indicated that the benefit of such an agreement to the applicant becomes clearer when dealing with the issues surrounding Stonehouse Road.

Sundquist explained that the limiting factor to this entire subdivision proposal is Stonehouse Road. The Chair expressed a concern that this really could be a very big issue in terms of implications for Sutton tax payers. Sundquist urged Board members to think ahead and consider how the question should best be handled and to settle this issue of further subdivision. The Chair asked if this is the right forum to settle a question about subdivisions on difficult terrain and with poor or limited size road access. Wells asked the applicant if he knew whether the property was in Current Use. Platt answered he thought so and the LUC confirmed that it is in Current Use. Wells pointed out that as all of this land is in Current Use, the owner is not paying much in property taxes. Wells gave the example of 25 acres that he had part ownership in and that the tax bill for a year was only about \$30; his point being that for large parcels of land, owners often do not pay the value of subdivide-able land. The Chair expressed her concern regarding setting precedent in connection with subdivisions where there is difficult terrain and/or a limited capacity and/or poor road.

The Chair acknowledged Matthew Ayers who asked for an explanation from Platt about the individual proposed lots' access from Stonehouse Road and about where the houses would be sited on each lot. Ayers and Platt consulted the plan and Platt showed Ayers driveway cuts and explained where houses could be sited. Wells provided an explanation of how current use worked, explaining that someone could place all but the two acres immediately surrounding the house into current use and if they then went to subdivide that piece some portion or all of it would drop out of current use as it became subdivided land. He explained that is the result of current zoning which calls for a minimum of 2 acres for a lot and at least 10 acres for Current Use, so lots with a house must be twelve acres or more to apply for and get Current Use status.

Sundquist spoke stating that he has some reports and observations that he would like to enter into the record. Sundquist encouraged the Board to think carefully about limiting factors. Sundquist told members that he met with the Road Agent and they walked Stonehouse Road. They looked at the capacity of the road to carry traffic and the capacity of the road to be improved. He did this recognizing that the situation with Stonehouse Road is remarkably similar to the situation with Birch Hill Road and the Rogers subdivision. He reminded members that the town had just had to levy \$55,000 to improve Birch Hill Road in the interest of public safety and specifically to improve its ability to carry the extra traffic from a three lot subdivision. Sundquist told the group that Steve Bagley, the Road Agent, and he looked at and assessed the condition of Stonehouse Road and what would be needed. It was determined to be a two rod road, 33 feet of right of way between stone walls. Most of the downhill portion of the road from the Copeland property the actual travel-way is set over a few feet to allow drainage from the westerly side of the road which increases as it travels downhill. Sundquist stated that the Road Agent saw no potential to widen the road. The road has four foot shoulders and maybe a foot of gravel on either side and it is below the usual 14 foot minimum standard. There is room for three gravel turn-outs for plows and emergency vehicles. Those opportunities exist at the driveways on the Copeland lot and the two Delafield lots. Those turn-outs would help with vehicle passage especially during the winter. This would help with the current capacity and for passage of emergency vehicles.

Still, there remains a serious issue with road carrying capacity. Improvements that could be made include many tree removals on the west side from the Copeland's property to the New London town line this could allow for a means of storing snow. Sundquist did note that the section of Stonehouse immediately in front of Feins property has been improved by the former Road Agent. Sundquist asked the Board to consider whether the road is insufficient and then to consider what would be a reasonable judgment of the needs for the road and whether there is a reasonable possibility of making changes to the road to improve its capacity. Sundquist cited problems with trees currently growing within the right of way and areas of ledge that might require blasting. Wells raised the issue of whether the Board can make conditions that require a future owner to return to the Board for example for wetland crossings, steepness, or lack of access for public safety vehicles. Sundquist encouraged Board members to consider whether this is a case where the Board might want to look at the exaction process which would have the owner pay a percentage of the cost of the improvements to be made by the town. Sundquist further stated that they must think into the future and determine just how much capacity can be added to Stonehouse Road. Sundquist pointed out that the town cannot waive the responsibility to provide for public safety and that if the road just cannot handle increased traffic, they may have to consider the application "scattered and premature".

Sundquist gave his opinion that there is some place where common ground could be found with Feins, including perhaps agreeing to share costs proportionately. The Chair asked if all of the work under consideration would need to be done if they were just considering a three lot subdivision with no possibility of further subdivision. Sundquist indicated that he believes that it would. He also noted that this is why it is so important that they understand whether this is for three lots with no further subdivision or three lots with no more than one additional subdivision or three lots with no limitation on subdivision because the Board needs "a nose count" to estimate vehicles per day and what it would take to provide that kind of capacity. And Wells added this is also needed to assess what the fair share is. There ensued a brief discussion of how an exaction fee would be calculated. Sundquist again sited the Rogers subdivision on Birch Hill Road, explaining it was based on new house lots divided by current house lots to give a percentage of the cost that the

applicant/owner would pay as an “exaction fee” to go towards the costs to improve the road in order to allow for the approval of the subdivision.

Wells explained what was required of the Meadowview subdivision, where they had to show how they could construct a road that would meet requirements and they then paid \$40,000 towards that road work. Wells pointed out another incident with the Falvey subdivision where they addressed similar issues. Sundquist asked the LUC to contact town counsel regarding the town’s responsibility regarding difficult driveways, including the responsibility to provide for safety to people and property. The LUC explained that she had already discussed this with town counsel and specifically asked if just requiring sprinklers was adequate and had been told that sprinklers could help save lives in a fire; but, the town has a responsibility to provide for safety of property and for access for ambulance and rescue services as well. The Chair asked the abutter, Ayer, for his comments on the road. Ayer said that he is “fine” with Stonehouse Road as long as there is no additional traffic. There was some discussion regarding the need to remove trees and that Stonehouse Road is a scenic road. Ayer told the Board that he would not like to see trees removed.

**Wells moved and Sundquist seconded to continue the Public Hearing on PB2014-07, Feins, to Tuesday, November 11, 2014.** The question of the deadline came up and is from date application is accepted as complete [on September 11, 2014]. So an extension is not required at this time. Wells asked the LUC to get really clear and detailed info from town counsel as that is needed to determine exactly what can the Board require and what their responsibility is. Sundquist asked the LUC to pose the question to town counsel whether exaction is something with strict rules and whether there is any ability to negotiate for example how many future subdivisions. And, to also ask how responsible the town is for safety when proposed driveways are very long and steep and there are not clear Regulations about those conditions.

**There being no additional input, it was voted unanimously to continue the hearing to November 11, 2014.**

Board member O’Connell left the meeting at this point.

**Administrative:**

There was a brief discussion and decision to table much of the balance of the agenda which would have covered Select Board and Open Condition reports as well as much of the work on the Master Plan and the Regulations.

**Minutes of previous meetings:** The Chair asked for a motion regarding the minutes of previous meeting on October 14, 2014 and explained that O’Connell, before leaving had asked for an amendment to the minutes that clarifies that it is Vernondale Store, not Bob DeFelice personally, that will have paper copies of the community-wide survey.

**Wells moved to approve the minutes as amended. DeFelice seconded and it was voted unanimously to approve the minutes of October 14, 2014 as amended.**

**Regulations:** There was a discussion about Town Subdivision Regulations, impact fees, and exaction fees. Wells pointed out that it is not so much a question of whether a lot is “build-able”; but, a question of at what cost it can be made “build-able” and who will pay the cost. Included in the discussion points was how better zoning might make decisions easier- for example, if there were an increased lot minimum for very steep lots. There was a brief discussion about current single properties with steep driveways. Wells pointed out that it is the Subdivision Review process that involves the Planning Board in a discussion of driveways. The Chair indicated her concern that property owner rights be considered and that they consider precedence. Wells pointed out that consideration of what is best for the wider community as a whole also has a place in the process. It was pointed out that not just the Birch Hill, but also the Meadowview subdivision that were required to share the costs of improving road access.

**Master Plan:** The LUC told the Board that the community-wide electronic questionnaire on Survey Monkey is now closed. As of this date the combined total of responses to the survey online and paper, totals 195, exactly the

number of responses given in the 2005 survey. The LUC reported that she has nearly completed the tabulation of both the Survey Monkey electronic responses and the paper survey responses. The LUC asked how the Board would like to move forward and whether she should send them the results of the survey or hold off until it is time for the kick-off of the Master Plan. The Board directed the LUC to send them the survey results as soon as she has them completed.

**Next regular meeting is scheduled to include the continuance of PB 2014-06 and will be held on November 11, 2014 at 7:00 PM.**

**There being no further business, Sundquist moved; DeFelice seconded and it was unanimously voted that the meeting be adjourned at 9:20 PM.**

Respectfully submitted,

Laurie Hayward  
Land Use Coordinator