

**Pittsfield Planning Board  
Town Hall, 85 Main Street  
Pittsfield, NH 03263  
Minutes of Public Meeting**

**DATE:** Thursday, June 16, 2016

**AGENDA ITEM 1:** Call to Order

Chair Clayton Wood called the meeting to order at 7:02 P.M.

**AGENDA ITEM 2:** Roll Call

Planning board members present:

Clayton Wood (chair),

Daren Nielsen (vice-chair),

Jim Pritchard (secretary),

Pat Heffernan (arrived at 7:10 PM),

Paul Nickerson (alternate), and

Carole Richardson (alternate for the selectmen's ex officio member)

Planning board members absent:

Gerard LeDuc (selectmen's ex officio member) and

Roland Carter (alternate)

Members of the public appearing before the planning board: Jesse Pacheco, building inspector.

“Members of the public appearing before the planning board” includes only members of the public who spoke to the board. It does not include members of the public who were present but who did not speak to the board.

**AGENDA ITEM 3:** Public Input

Paul Nickerson sat in place of Pat Heffernan, and Carole Richardson sat in place of Gerard LeDuc.

No public input.

**AGENDA ITEM ADDED:** Agenda review

Clayton Wood said that he would need to leave at 8:15 PM.

Clayton Wood said that the board would hear the application to approve James Donini's lot line adjustment on July 7, 2016.

Clayton Wood asked about a submitted application for a driveway permit.

Jim Pritchard said that the application had arrived on Friday, June 10, 2016, and that the application did not require board action tonight.

**AGENDA ITEM 4:** Approval of the Minutes of the June 2, 2016 Meeting

Clayton Wood moved to approve the minutes of June 2, 2016, as written in draft.

Daren Nielsen seconded the motion.

Discussion:

Paul Nickerson said, "I was just going to say when Gerry, Gerard said something about that three-year thing, and the selectmen had a thing that they already use on that. It didn't, Jim didn't put that in here."

Jim Pritchard said, "Where, what page?"

Paul Nickerson said, "That would have been the last, beyond the last end of it. When I said something, and Gerard said the same thing, which he spoke and told you, when you were talking about three years and they don't pay their taxes, they can come to the selectmen and they make out something different, make payments, or there's two or three different things. But I just noticed you never put what he said down, so I'm just."

Clayton Wood asked Paul Nickerson whether Paul Nickerson wanted Gerard LeDuc's missing statement to be added to the minutes.

Paul Nickerson said, "Well, yes, it should be in here because it is, it is true. It's like, you left it at the end of three years, you've got three years of back

taxes, you can't do nothing, yes you can. You can come to the selectmen, you know that, right?"

Carole Richardson said, "Yes."

Paul Nickerson said, "They do that. And you can make a deal with them so they don't take the land or put it under lien at the end of three years. You can come down to discuss that, which Gerry was trying to tell you. And maybe you don't have to pay the whole thing, but you can start making payments or whatever you can or make some kind of thing. Especially the old, the elderly can get in on that elderly thing."

Clayton Wood and Jim Pritchard asked where in the minutes discussion was Paul Nickerson referring.

Paul Nickerson said, "It didn't get in there."

Daren Nielsen said that Paul Nickerson had said that the missing statement was "at the tail end."

Clayton Wood said that he did not understand how the missing statement was relevant to the planning board. (Comment of recording secretary Jim Pritchard: The agenda item was number 5, and its title was "Sale of Town Owned Property Policy.")

Jim Pritchard said that he did not want to have to listen to the whole audio recording to try to find Gerard LeDuc's missing statement.

Paul Nickerson said, "It would be right after what I said about the three years, which you said, well, when I put in, he did put that three years, which I said, no, you don't need to put another three years because that gives them six years. And then Gerry spoke up, and that's when Gerry spoke up, but he said after what I said didn't get in here. What mine was right on the end anyways when we was talking about people being able to take their house back. That was that discussion."

Clayton Wood said that he did not remember when the discussion in question had happened.

Jim Pritchard identified the following passage in agenda item 5, page 7, as probably being the discussion to which Paul Nickerson was referring:

“Paul Nickerson said that the three-year hold time is after three years of tax lien so that the three-year hold time is actually six years of tax arrearage.”

Clayton Wood asked Paul Nickerson how Paul Nickerson wanted the minutes to be changed.

Paul Nickerson said, “I’d have to listen to what he said.” Paul Nickerson did not specify how he wanted the minutes to be changed. Paul Nickerson said that Gerard LeDuc had talked about the board of selectmen’s having a way of making payments so that the land would not be taken by town deed.

Carole Richardson said that property owners in tax arrearage could come to the board of selectmen before three years.

Jim Pritchard said that the topic of discussion was the sale of town-owned property and that a discussion of property in tax lien would have been off-topic.

Pat Heffernan arrived, at 7:10 PM, and replaced Paul Nickerson on the board.

Jim Pritchard offered to listen to the audio recording near Paul’s landmark statement to try to find what Gerard LeDuc had said. Jim Pritchard also said that Paul Nickerson could suggest how to revise the draft minutes.

Paul Nickerson rejected Jim Pritchard’s suggestions and criticized how Jim Pritchard writes the minutes. Paul Nickerson said that Jim Pritchard writes the minutes in his own words and omits things that people said.

Clayton Wood said that Paul Nickerson’s criticism was “not right” and that Paul Nickerson should say how he wanted the minutes to be changed.

Daren Nielsen asked Paul Nickerson to say how he wanted the minutes to be changed.

Paul Nickerson said that he would say nothing more on the matter and that Gerard LeDuc was responsible for correcting the missing statement in question. Paul Nickerson said that he would leave the meeting at 8:00 PM.

The board continued discussing Paul Nickerson's objection to the minutes.

Jim Pritchard moved to defer approval of the minutes of June 2, 2016, to a later meeting.

Pat Heffernan seconded the motion.

Vote to defer approval of the minutes of June 2, 2016, to a later meeting: carried 4 - 0 - 1. (Voting "yes": Jim Pritchard, Daren Nielsen, Pat Heffernan, and Clayton Wood. Voting "no": none. Abstaining: Carole Richardson.)

#### **AGENDA ITEM 5: Subdivision Regulations**

Jim Pritchard said that he had assembled the board's most recent draft, from June 8, 2016, hurriedly and that he had since checked citations. Jim Pritchard said that he had proofread the document and had made many small corrections. Jim Pritchard said that he had made the following major changes to the draft subdivision regulations:

1. Article 4, section 1, (a): Add new items to the checklist:
  - (1) Specify type of review sought: conceptual consultation, design review, or formal review.
  - (2) Specify the name of the applicant's representative.
  - (3) Specify whether the land under consideration is on or near a state highway. (Needed for notice to New Hampshire Department of Transportation.)
  - (4) Specify whether the land under consideration is near the top of the bank of any lake, pond, river, or stream. (Needed for notice to New Hampshire Department of Environmental Services.)

2. Article 4, section 3, (d): Revised to reflect change in RSA 676:4-b, I, letting applicant request his preferred expert to vet his application.
3. Article 5, section 1: Revised to give very detailed instructions on how to write a notice.
4. Article 5, section 4, (a): Revised to specify clearly that what RSA 676:4, I, (e), defines as a “minor subdivision” must have a hearing in order to be approved.

Clayton Wood said that the checklist should be clear in requiring the signatures of all property owners if there are multiple owners.

Pat Heffernan asked how near to a state highway is near.

James Pritchard said near to a state highway means within 500 feet.

Pat Heffernan asked about multiple signatures on the Donini lot line adjustment application.

Clayton Wood said that James Donini owns both lots.

Pat Heffernan asked where the two signatures are to be made on the current form.

Jim Pritchard said that the signature boxes are in the upper right hand corner.

Clayton Wood asked for confirmation that design review includes both a completeness review and a merits review in the same manner as for a formal review (except not leading to approval).

Jim Pritchard said that the design review does include both a completeness review and a merits review in the same manner as for a formal review (except not leading to approval).

Clayton Wood asked for confirmation that the draft regulations say what an application for design review must include in order to be complete.

Jim Pritchard cited draft regulations article 3, section 4, (b):

“Every application for design review shall meet the content standards and the submission procedure of article 4 for an application to approve the same land use except that applications for design review shall be clearly marked ‘Design Review’.”

Clayton Wood said that design review is procedurally similar to formal review except that design review has a 180-day time period and the applicant can change his application while it is in process.

Clayton Wood referred to the checklist for street addresses and said that vacant lots may not have street addresses.

Jesse Pacheco agreed that vacant lots may not have street addresses.

Clayton Wood asked about the mandatory denial when an applicant denies a site visit (draft regulations article 5, section 5, (b)):

“If the applicant denies permission for a public meeting for a site inspection, then the board shall disapprove the application. (See RSA 676:4, I, (e), (2), and article 4, section 1, (e).)”

Jim Pritchard said that a site inspection *per se* is not in the checklist. The board’s only authority to ask for a site inspection is via article 4, section 1, (e):

“All information in addition to the contents specified in article 4, section 1, (a) through (d), that the board needs to decide the application. The board may find that it needs this information during either the completeness review or the merits review and shall either reject the application as incomplete or disapprove the application, depending on which review is in progress, if the applicant does not provide the additional information. (See RSA 676:4, I, (e), (2).) If the board finds that it needs information in addition to the contents specified in article 4, section 1, (a) through (d), then the board shall tell the applicant in writing what the additional information is and why the board needs the additional information.”

Jim Pritchard said that the board can ask for a site inspection if and only if the board actually needs a site inspection to decide the application. If the board does actually need a site inspection to decide the application, and if the applicant denies the site inspection after being given the reason for the

site inspection, then RSA 676:4, I, (e), (2), gives the board the authority to deny the application without further consideration. Jim Pritchard said that denial without further consideration was appropriate when an applicant refused a site inspection because the information that the board would get from a site inspection was discretionary and because the board had agreed years ago that it would not grant conditional approval upon discretionary conditions. (Planning board minutes of September 1, 2011, agenda item 4, a (“The board shall not grant conditional approval of an application, pending receipt of studies or reports that the board requires before deciding the application.”).)

Pat Heffernan asked what would be a reason for needing a site inspection.

The board discussed the Wood subdivision on Shaw Road (decided November 6, 2014) as being an example of where board members would need to see the site because of the shared driveway, the terrain, and the town’s lack of standards for emergency-vehicle access in such a situation. Jim Pritchard said that the board could have asked the fire chief for his opinion but that the board members are the actual decision makers. Clayton Wood said that the current fire chief, Peter Pszonowsky, should develop standards for emergency-vehicle access.

Daren Nielsen asked about the 180-day time allowed for design review and when the board might not explicitly vote to end the design review.

Clayton Wood said that the board might be waiting for an applicant to provide required information.

Daren Nielsen asked whether an applicant could reapply for a new design review after a previous design review had ended.

Clayton Wood and Jim Pritchard said yes.

Clayton Wood explained that a time limit on design review was necessary because RSA 676:12, VI, grandfathers applications for design review. Clayton Wood said that the board could end a design review before the end of 180 days.

Daren Nielsen referred to article 4, section 1, (d), (18), (G), and suggested that the soil-disturbance activities (a) through (h) would be easier to read if they were in outline format instead of run-in format.

Jim Pritchard agreed and said that he would try to rework this subparagraph. Jim Pritchard said that he had not put soil-disturbance activities (a) through (h) in outline format because article 4, section 1, (d), (18), (G), also has subparagraphs (1) and (2) following.

Clayton Wood discussed article 4, section 1, (d), (18), (G), and how the highway agent, George Bachelder, was concerned that the regulations should have good control for runoff and erosion.

Daren Nielsen said that the comments included in the draft regulations are very helpful.

Clayton Wood said that the comments had noted which regulations might give rise to conditions precedent.

Jim Pritchard said that he had intended that these comments should be the basis of a checklist of potential conditions precedent.

Clayton Wood discussed that all conditions precedent must be satisfied before the board can give an application final approval and that a checklist would help to avoid the board's forgetting any conditions precedent.

Jim Pritchard said that the regulations that the board would adopt would not include the comments, but, Jim Pritchard said, the board should keep an annotated version of the regulations that had the comments. Jim Pritchard said that finding the source material for the proposed regulations had been a big job and that the comments memorialized these sources for future boards.

Clayton Wood discussed article 7, section 3, Sample Letter of Credit. Clayton Wood asked about phased release of a letter of credit. (See RSA 674:36, III, (b).)

Jim Pritchard said that he had wanted to understand the phased release of performance security before tonight's meeting but that he had not had enough time. Jim Pritchard said that the state law (RSA 674:36, III, (b)) requires the regulations to allow for phased release. Jim Pritchard said that

the performance agreement can specify in a straightforward manner the time in which various parts of the project will be done, but, Jim Pritchard said, he did not know how a letter of credit would be released in phases. Jim Pritchard said that the phased release might be by multiple letters of credit for multiple parts of the project or that one letter of credit might be reduced in amount. Jim Pritchard said that he planned to ask Concord how they reduce performance security in phases.

Clayton Wood discussed a residential development where he had lived in Bartlett and that had been developed in three phases. Clayton Wood said that the phased release of the performance security kept the developer on schedule.

Jesse Pacheco referred to the development and road construction of what is now Hill Top Drive and said that the town had neglected to get performance security.

Jim Pritchard asked how many phases a project might have.

Clayton Wood said that the number of phases would depend on the project.

The board continued discussing security-release matters.

Clayton Wood said that performance security protects not only the town but also both the developer himself and the people who would buy into the development. Clayton Wood said that the financial institution that guarantees the project also considers the viability of the project.

Jesse Pacheco said that many people cannot get performance security and that the requirement for performance security protects the town from “fly-by-night” developers.

Clayton Wood repeated that he wanted to preserve the comments. Clayton Wood asked about a checklist for the conditions precedent.

Jim Pritchard said that he wanted to keep the comments identifying the conditions precedent and to have a checklist of conditions precedent. Jim Pritchard said that he intended that the comments should be preserved in an annotated version of the subdivision regulations, that is, the comments

should be preserved in the body of the approved regulations in the same manner as the comments are presented in the body of the draft regulations.

Clayton Wood said that preserving the comments as in-body annotations had the advantage in that the board could improve the comments as the board learns more.

Paul Nickerson suggested speaking to financial institutions that do bonding.

Jim Pritchard said that he wanted to start by asking Concord.

Clayton Wood suggested advertising both the subdivision regulations as the board would adopt them and the subdivision regulations with the comments.

Paul Nickerson left the meeting at 8:00 PM.

Clayton Wood said that he did not want the board to get “bogged down” in regulations on performance security.

Pat Heffernan said that asking Concord for advice was a good idea.

Clayton Wood said that bonds (as opposed to letters of credit) can be difficult to call.

Daren Nielsen asked about the difference between a letter of credit as performance security and a letter of credit to buy something.

Jim Pritchard that a letter of credit is a letter that the bank writes saying that the bank will pay a certain amount of money on certain conditions. Credit to buy something is not a letter of credit.

The board discussed the differences between various types of securities: letters of credit, bonds, and mortgages. Clayton Wood said that bonding companies will resist paying because bonding companies are like insurance companies. Jim Pritchard said that a letter of credit is not an insurance policy. Clayton Wood said that mortgages are the worst option.

Jim Pritchard referred to the table of contents and said that the subdivision regulations had been organized to follow how an application would be processed.

Clayton Wood asked when monuments (permanent boundary markers) for construction projects are supposed to be set.

Jim Pritchard referred to article 9, section 3, (d):

“Survey Monuments (permanent boundary markers) shall be set before the town’s final inspection, but no survey monument shall be set until all construction that would disturb or destroy the survey monument (permanent boundary marker) is completed.”

Clayton Wood left the meeting at 8:17 PM.

Daren Nielsen replaced Clayton Wood as acting chair.

Daren Nielsen asked about the comments still presented in red, underlined italics.

Jim Pritchard said that some of the things in red, underlined italics, such as creeping subdivisions, might have details that the board might want to adjust. Other things in red, underlined italics, such as the tolerances on survey angles and distances, are irresolvable problems.

Pat Heffernan asked about how to measure distances on an arc.

Jim Pritchard said that a surveyor could measure a circular arc by measuring a chord of the arc and a point on the arc. Three points define a circle.

**AGENDA ITEM 6: Members Concerns**

Jim Pritchard said that he had some concerns about the way that the office of the selectmen had handled the transition of former administrative secretary Dee Fritz’s functions to Jim Pritchard as acting administrative secretary.

Jim Pritchard said that he received no notice that Dee Fritz would be leaving. Jim Pritchard said that he would not have known that Dee Fritz would be leaving if he had not been at the selectmen’s meeting where her departure was announced. Jim Pritchard said that the transition would have been much more difficult if he had not known to meet with Dee Fritz and discuss her functions before she actually did leave. Jim Pritchard said that

town administrator Cara Marston had been concerned about Jim Pritchard's seeing nonpublic information in Dee Fritz's files, but Jim Pritchard thought that this matter was not reason not to notify him of Dee Fritz's impending departure.

Jim Pritchard said that town administrator Cara Marston had taken custody of all of Dee Fritz's files, including hard-copy files, on concerns that they might include some nonpublic information, and Jim Pritchard thought that some of the planning board's files had not been released. Jim Pritchard said that the selectmen could not take custody of planning board records. (RSA 91-A:4, III.)

Carole Richardson said that the selectmen had not had "anything to do with this, this is the town administrator."

Jim Pritchard said that he was not trying to blame any particular person and that he referred to the selectmen because, Jim Pritchard said, he understood that the town administrator acted under the board of selectmen's authority. Jim Pritchard said that he did not know who was responsible.

Carole Richardson said that the town administrator is responsible, that the town administrator runs the town hall, and that the selectmen do not run the town hall. Carole Richardson said that Jim Pritchard should speak to the town administrator.

Jim Pritchard said that he was not looking for trouble but that the office of the selectmen must purge itself of non-selectmen's records if the office of the selectmen is going to have the kind of access control that the office of the selectmen has. (RSA 91-A:4, III.)

Daren Nielsen asked whether Jim Pritchard had asked about these records.

Jim Pritchard said that he had spoken to the administrative assistant, Bonnie Theriault. Jim Pritchard said that he had told Bonnie that he did not know whether town administrator Cara Marston was waiting for Jim Pritchard to do something. Jim Pritchard said that Bonnie Theriault had said that she would speak to Cara Marston, and Jim Pritchard said that he had had no answer.

Jim Pritchard referred to the desk that Dee Fritz had used, which, Jim Pritchard said, was not being used and was much nicer than the one that he had been given. Jim Pritchard said that he had asked for the desk and that Bonnie Theriault had said that the office of the selectmen was reserving the desk for the possibility of the selectmen's hiring someone to work in the office of the selectmen. Nothing happened on a new hired person, so, Jim Pritchard said, he had asked about the desk again, and this time Bonnie Theriault said that the desk was to be given to the police department. Jim Pritchard said that sending the desk to the police department after it had been unused for about a month and right after he asked for it seemed odd.

Jim Pritchard referred to the book *New Hampshire Practice, Land Use Planning and Zoning*. Jim Pritchard said that town administrator Cara Marston had said more than once that she had nothing to do with the planning and zoning boards, so, Jim Pritchard said, he could not understand why Cara Marston would be using this book. Jim Pritchard said that the book used to be in what is now the planning office (and what was formerly just the building department office) years ago and that the book is public property. Jim Pritchard said that he understood that there was some problem when Jesse Pacheco and he had asked for permission to go and get the book. Jim Pritchard said that the book does not belong to the board of selectmen and that the book is public property. Jim Pritchard said that the book should be in the planning office especially given the new access restrictions at the office of the selectmen.

Jim Pritchard said that he felt that there was an attitude that the town hall is private property and that agencies such as the planning board are tenants on someone else's property. Jim Pritchard said that he did not know about the matter but that he was obliged to say something about it. Jim Pritchard said that he was troubled because the town hall is public property and is supposed to be accessible.

Daren Nielsen suggested that Jim Pritchard create a list of things that he needed to do his job.

Jim Pritchard said that he did not know all materials that the planning board had had in Dee Fritz's custody.

Daren Nielsen said that Cara Marston should be able to redact nonpublic information.

Jim Pritchard said that he had asked Dee Fritz whether any of the materials that Dee Fritz had made accessible to Jim Pritchard included any nonpublic information, and that Dee Fritz had said that there was no nonpublic information, but that Cara Marston said that there was nonpublic information.

Jim Pritchard said that not notifying him of Dee Fritz's departure and giving away the desk in the manner that happened is evidence of an improper attitude.

Daren Nielsen said that the planning board had wanted Jim Pritchard to evaluate the planning board administrator's job so that the board could document the job.

Jim Pritchard said that he was not looking to blame anyone or solve anything. Jim Pritchard said that the level of access restriction is increasing. Jim Pritchard said that the access restriction is a problem because the town hall is supposed to be public. Jim Pritchard said that his concern was less that he could not do Dee Fritz's job and more that adequate respect for the town hall as a public place is lacking.

Pat Heffernan suggested speaking to Dee Fritz about missing records.

Jim Pritchard said that he did not want to speak to Dee Fritz until he had confirmed that the records are not in the town hall.

Carole Richardson said that Jim Pritchard should speak to Cara Marston, not Bonnie Theriault.

Jesse Pacheco confirmed that all of the hard-copy records that Dee Fritz had been keeping on her bookshelf at her desk had been taken away.

Jim Pritchard said that he did not feel comfortable in the office of the selectmen.

Carole Richardson said that she did not feel comfortable in the office of the selectmen.

Jesse Pacheco said that he understood that the town was getting furniture that Mr. Freeze was donating.

Carole Richardson said that the police department is getting a conference table and chairs.

Jesse Pacheco said that other desks might be available in the building.

Carole Richardson repeated that Jim Pritchard should speak to Cara Marston about any planning board records.

Pat Hefferson asked what had prompted the sudden rise in access restriction.

Carole Richardson said that everyone is afraid.

Pat Heffernan asked, "Of what? Somebody coming in and stealing pencils?"

Carole Richardson said that she did not know what people were afraid of. Carole Richardson said that she thought that the books of state statutes should be available for the public to read, but these books are kept out back. Carole Richardson said that she did not understand the access restrictions.

Daren Nielsen asked whether Carole Richardson were feeling some of the same concerns that Jim Pritchard had voiced.

Carole Richardson said that she was feeling exactly the same concerns. Carole Richardson said that she did not find the town hall a friendly place. Carole Richardson said that the people who work at the town hall do not feel safe.

Daren Nielsen asked whether there had been any actual incidents.

Carole Richardson said, "apparently," although she did not know specifically. Carole Richardson said that she would have said "no" to the new security door to the office of the selectmen.

Jim Pritchard said that Carole Richardson's concerns about the law books were important because these books are records that could be replaced easily.

Pat Heffernan said that he could see Cara Marston's position to a point.

Jim Pritchard asked how did making Bonnie Theriault sign in and out improve security.

Jesse Pacheco asked why was there no concern for his and Jim Pritchard's security in the planning and building office.

Carole Richardson said that she had worked at the state house for 30 years and that they did not have security there.

Jesse Pacheco said that he had come to the meeting to discuss the board's field trip to town-owned properties on June 13, 2016.

Jim Pritchard said that the board should end the discussion of the town hall access restriction.

Carole Richardson asked whether Jim Pritchard wanted help from the selectmen.

Jim Pritchard said no. Jim Pritchard said that he would work with Cara Marston and that he did not want to escalate any problem.

Pat Heffernan said that he could relieve Jesse Pacheco of some of his building inspection for wiring. Pat Heffernan said that he was a deputy inspector.

Carole Richardson asked whether Jesse Pacheco were on vacation.

Jesse Pacheco said that he was on vacation from the town. Jesse Pacheco said that he did not know who was directing building inspection but that he thought that Cara Marston was directing building inspection.

Jesse Pacheco, Pat Heffernan, and Carole Richardson briefly discussed a few other building inspection matters.

**AGENDA ITEM 7: Public Input**

No public input.

**AGENDA ITEM 8: Adjournment**

Pat Heffernan moved to adjourn the meeting.

Daren Nielsen seconded the motion.

Vote to adjourn the planning board meeting of June 16, 2016: carried 4 - 0 - 0. Voting "yes": Jim Pritchard, Daren Nielsen, Pat Heffernan, and Carole Richardson. Voting "no": none. Abstaining: none. The planning board meeting of June 16, 2016, is adjourned at 8:52 P.M.

Minutes approved: July 21, 2016

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Clayton Wood, Chairman

Date

I transcribed these minutes (not verbatim) on June 18, 2016, from notes that I made during the planning board meeting on June 16, 2016, and from a copy that Chairman Clayton Wood made on June 17, 2016, of the town's digital recording of the meeting.

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Jim Pritchard, planning board recorder and secretary