

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

DATE: Tuesday, July 26, 2016

AGENDA ITEM 1: Call to Order

Chair Clayton Wood called the meeting to order at 7:00 P.M.

AGENDA ITEM 2: Roll Call

Planning board members present:

Clayton Wood (chair),
Daren Nielsen (vice-chair),
Jim Pritchard (secretary),
Pat Heffernan, and
Roland Carter (alternate)

Planning board members absent:

Gerard LeDuc (selectmen's ex officio member),
Carole Richardson (alternate for the selectmen's ex officio member), and
Paul Nickerson (alternate)

Members of the public appearing before the planning board: Gordon (Don) Hackett, alternate member of the conservation commission; Lisa Hackett; Chris Hill, chair of the conservation commission; Bryan Mika, vice-chair of the conservation commission; Bill Miskoe, alternate member of the conservation commission; and Diana Westgate, member of the conservation commission.

“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: Tour of town-owned properties at 33 Main Street and 37 Main Street.

The board went by foot to 37 Main Street and toured this property. The board then went by foot to 33 Main Street and toured this property. The board then returned to the town hall at 8:02 PM.

AGENDA ITEM 4: Development of a recommendation under RSA 41:14-a, I, on the board of selectmen's proposal to sell the town-owned property at 37 Main Street.

The planning board discussed the five dwelling units that had been in use at 37 Main Street as condominium units. Jim Pritchard suggested that the town should abandon these dwelling units as nonconforming uses, under the abandonment standard of *Lawlor v. Salem*, 116 N.H. 61, 352 A.2d 721 (1976):

The right acquired by a prior owner to maintain a trailer in a residential zone as a prior nonconforming use was valid so long as it was continued, but it could be lost by abandonment. "Abandonment depends upon the concurrence of two factors: (1) an intention to abandon or relinquish the use, and (2) some overt act or failure to act which carries the implication that the owner neither claims nor retains any interest in the use. [Citation omitted.] The decisive test is whether the circumstances surrounding such cessation of use are indicative of an intention to abandon the use and the vested rights therein."

The board agreed to recommend the abandonment of the previously used dwelling units as nonconforming uses because this abandonment would make the property subject to the current zoning ordinance, which, in turn, would make covenants restricting the number and location of dwelling units unnecessary. (See zoning ordinance, article 3, section 3, (b), (1) and (6), and article 2, section 3, DWELLING ABOVE BUSINESS.)

The board discussed the economic development committee's recommendation to demolish the barn and grant a lot line adjustment to the Josiah Carpenter Library. (See economic development committee's letter in the *Suncook Valley Sun* on July 20, 2016, which is attached to this minutes document.) Board members and the public agreed that the structures at 37 Main Street, including the barn, are in good condition; that the barn foundation is an impressive feat of engineering and construction; that a lot line adjustment would not require demolishing the barn; and that satisfying

the library's needs would be easier before the town sells the property than it would be after the town sells the property. Nonetheless, the board agreed that the board could not base its recommendation on possible library needs that neither the library nor the board of selectmen has expressed to the planning board. But the economic development committee's recommendation made clear to the planning board that such library needs might exist.

Pat Heffernan left the meeting at 8:59 PM, before the board finished its deliberations on 37 Main Street.

Roland Carter sat in place of Pat Heffernan.

Clayton Wood moved the board to recommend in favor of selling 37 Main Street on the following conditions:

1. The town shall abandon the previous use of the dwelling units as nonconforming uses, under the abandonment standard of *Lawlor v. Salem*, 116 N.H. 61, 352 A.2d 721 (1976).
2. The planning board's recommendation to sell the property assumes that the Josiah Carpenter Library, which abuts 37 Main Street and is on a very small and narrow lot (tax map U-3, lot 43), has no interest in acquiring land or any building from 37 Main Street. The planning board assumes that the library has no interest in acquiring land or any building from 37 Main Street because neither the library nor the board of selectmen has told the planning board that the library has such interest. If the library does have interest in acquiring land or any building from 37 Main Street, then the planning board's recommendation to sell the property is cancelled.

Daren Nielsen seconded the motion.

Vote to recommend in favor of selling 37 Main Street on the following conditions:

1. The town shall abandon the previous use of the dwelling units as nonconforming uses, under the abandonment standard of *Lawlor v. Salem*, 116 N.H. 61, 352 A.2d 721 (1976).

2. The planning board's recommendation to sell the property assumes that the Josiah Carpenter Library, which abuts 37 Main Street and is on a very small and narrow lot (tax map U-3, lot 43), has no interest in acquiring land or any building from 37 Main Street. The planning board assumes that the library has no interest in acquiring land or any building from 37 Main Street because neither the library nor the board of selectmen has told the planning board that the library has such interest. If the library does have interest in acquiring land or any building from 37 Main Street, then the planning board's recommendation to sell the property is cancelled.

carried 4 - 0 - 0. Voting "yes": Jim Pritchard, Daren Nielsen, Clayton Wood, and Roland Carter. Voting "no": none. Abstaining: none.

The approved recommendation statement is attached at the end of this minutes document.

AGENDA ITEM 5: Development of a recommendation under RSA 41:14-a, I, on the board of selectmen's proposal to sell the town-owned property at 33 Main Street.

Jim Pritchard said that the planning board appeared to have only two recommendation options for 33 Main Street:

1. Abandon the property's previous use of dwelling units as nonconforming uses and sell the property by any means possible, or
2. Demolish the building and make a public parking lot.

Clayton Wood moved to recommend against selling 33 Main Street and to recommend instead that the town demolish the building and make a public parking lot.

Daren Nielsen seconded the motion.

Vote to recommend against selling 33 Main Street and to recommend instead that the town demolish the building and make a public parking lot: carried 4 - 0 - 0. Voting "yes": Jim Pritchard, Daren Nielsen, Clayton Wood, and Roland Carter. Voting "no": none. Abstaining: none.

The approved recommendation statement is attached at the end of this minutes document.

AGENDA ITEM 6: Adjournment

Clayton Wood moved to adjourn the meeting.

Roland Carter seconded the motion.

Vote to adjourn the planning board meeting of July 26, 2016: carried 4 - 0 - 0. Voting “yes”: Jim Pritchard, Daren Nielsen, Clayton Wood, and Roland Carter. Voting “no”: none. Abstaining: none. The planning board meeting of July 26, 2016, is adjourned at 9:19 P.M.

Minutes approved: August 4, 2016

Clayton Wood, Chairman

Date

I transcribed these minutes (not verbatim) on July 28, 2016, from notes that I made during the planning board meeting on July 26, 2016, and from the digital audio recording that Chairman Clayton Wood made during the meeting and uploaded to the Internet.

Jim Pritchard, planning board recorder and secretary

Attachments:

1. The economic development committee’s recommendation for the disposition of the town-owned properties at 33 Main Street and 37 Main Street. The economic development committee’s recommendation appeared in the *Suncook Valley Sun* on July 20, 2016.
2. The planning board’s approved recommendation, of July 26, 2016, on the board of selectmen’s proposed sale of the town-owned property at 37 Main Street.

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3. The planning board's approved recommendation, of July 26, 2016, on the board of selectmen's proposed sale of the town-owned property at 33 Main Street.