

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

DATE: Thursday, August 4, 2016

AGENDA ITEM 1: Call to Order

Chair Clayton Wood called the meeting to order at 7:03 P.M.

AGENDA ITEM 2: Roll Call

Planning board members present:

Clayton Wood (chair),
Daren Nielsen (vice-chair),
Jim Pritchard (secretary),
Pat Heffernan, and
Gerard LeDuc (selectmen's ex officio member)

Planning board members absent:

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

Members of the public appearing before the planning board: None.

“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

No public input.

AGENDA ITEM 5: Application by James E. Donini Jr., 43 Locke Road, Pittsfield NH 03263 for a Lot Line Adjustment to increase the area of the land at 43 Locke Road, tax map R-53, lot 15-2, from 4.81 acres to 20.80

acres, and to decrease the area of the land at 186 Webster Mills Road, tax map R-53, lot 16-2, from 18.62 acres to 2.63 acres, both in the Rural zoning district.

1. Review for completeness and acceptance by the board
2. Public hearing if the application is accepted by the board
3. Application review based on merit

The board deferred agenda item 4, minutes approval, until after agenda item 5, Donini application.

Clayton Wood said that the board had given James Donini a continuance of the board's completeness review from the planning board meeting on July 7, 2016, to tonight's meeting, on August 4, 2016. Clayton Wood asked James Donini whether he could present the information that the board had found necessary to complete the Donini application for lot line adjustment.

James Donini said that he was working with a new surveyor, Carl Sherblom, and that Carl Sherblom was getting the information from the New Hampshire Department of Environmental Services on the locations of his two septic systems. James Donini said that Carl Sherblom could help James Donini's surveyor David Vincent transfer the information from the New Hampshire Department of Environmental Services onto the lot line adjustment plat but that this process would take another two weeks.

Clayton Wood reviewed the defects that the board had found in the Donini application:

1. The locations of the septic systems are not shown on the plat and must be shown on the plat.
2. The date of the plat is currently stated as February 11, 2015, and must be changed to February 11, 2016.
3. The signature block for the Epsom Planning Board must be changed to eliminate the statement that Epsom approves anything. The statement must say that the town of Epsom abuts the land under consideration but that the Epsom Planning Board has no jurisdiction over the plat because the plat shows no land in Epsom.
4. The waiver requests do not have specific reasons and must be revised to have specific reasons.

Clayton Wood asked the Doninis whether they had given specific reasons for their waiver requests.

Casey Donini said that she had notified their surveyor that the reasons for the waiver requests were not sufficient, and that the surveyor had said that he would take care of this problem.

James Donini asked whether he should have Clayton Wood review their waivers reasons before the September 1 meeting or whether reviewing these reasons was a matter for the board meeting.

Clayton Wood said that reviewing the reasons was a matter for the board meeting and that the Doninis should submit their reasons to Jim Pritchard (the acting administrative secretary of the board). Clayton Wood asked whether the Doninis wanted a continuance to the September 1, 2016, meeting.

James Donini said yes.

Clayton Wood moved to continue consideration of the Donini lot line adjustment to September 1, 2016.

Daren Nielsen seconded the motion.

Discussion:

Gerard LeDuc encouraged the Doninis to submit their information as soon as possible so that board members could prepare for the September 1 meeting.

Vote to continue consideration of the Donini lot line adjustment to September 1, 2016: carried 5 - 0 - 0. Voting "yes": Jim Pritchard, Daren Nielsen, Pat Heffernan, Clayton Wood, and Gerard LeDuc. Voting "no": none. Abstaining: none.

AGENDA ITEM 4: Approval of the Minutes of the July 21, 2016, and July 26, 2016, Meetings

Gerard LeDuc moved to approve the minutes of July 21, 2016, as written in draft.

Daren Nielsen seconded the motion.

Discussion:

No board member stated any problems in the draft minutes.

Vote to approve the minutes of July 21, 2016, as written in draft: carried 5 - 0 - 0. Voting “yes”: Jim Pritchard, Daren Nielsen, Pat Heffernan, Clayton Wood, and Gerard LeDuc. Voting “no”: none. Abstaining: none.

After the meeting, Jim Pritchard noticed an error in the year stated in agenda item 4, page 2:

“Jim Pritchard moved to approve the minutes of June 2, 2106, as written in draft.”

should be

Jim Pritchard moved to approve the minutes of June 2, 2016, as written in draft.

Jim Pritchard corrected this error.

Pat Heffernan moved to approve the minutes of July 26, 2016, as written in draft.

Daren Nielsen seconded the motion.

Discussion:

No board member stated any problems in the draft minutes.

Vote to approve the minutes of July 26, 2016, as written in draft: carried 4 - 0 - 1. Voting “yes”: Jim Pritchard, Daren Nielsen, Pat Heffernan, and Clayton Wood. Voting “no”: none. Abstaining: Gerard LeDuc.

AGENDA ITEM 6: Subdivision Regulations Discussion

The board reviewed the major changes that Jim Pritchard had made since the last draft, dated June 16, 2016:

Page 27: Article 4, section 1, (d), (16), (D):

a signature block with the following statement for the planning board's endorsement by the board's agents according to article 5, section 8, (b): "We certify that the Pittsfield Planning Board gave this plat final approval on _____ and that all conditions precedent to final approval have been satisfied."

Jim Pritchard said that a similar certification from the Land Use Regulations for the Town of Loudon (the Loudon subdivision regulations), section 12.5, item 20, (page 24) had inspired him to propose such a certification for Pittsfield.

The board agreed that a certification on conditions precedent would help to remind the board that it must verify that all conditions precedent to final approval have been satisfied before the board can endorse and record the plat.

Page 35: article 4, section 1, (d), (17), (X): A limitation on wetlands surveys to areas of construction and to areas within 25 feet of construction.

Jim Pritchard said that he was proposing this limitation on wetlands surveys because the board had had a practice of granting waivers to wetlands surveys when the applicant is not proposing construction. Jim Pritchard said that the limitation on wetlands surveys came from the following reasoning: (1) a developer typically does not have to survey outside the lot being subdivided or developed, (2) a developer can build immediately adjacent to a setback line, (3) of the various zoning setback requirements, the minimum street, side, and rear setbacks in the Light Industrial/Commercial District are the most strongly based on practical, instead of aesthetic, considerations, and (4) the minimum street, side, and rear setbacks in the Light Industrial/Commercial District are all 25 feet.

The board agreed with the proposed limitation on wetlands surveys and with the reasoning behind the limitation.

Daren Nielsen asked how the boundary of a wetlands is defined.

Jim Pritchard read the statutory definition of a wetlands:

WETLANDS: “WETLANDS” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. (RSA 674:55, Wetlands, and RSA 482-A:2, Definitions, X.)

Page 37: Article 4, section 1, (d), (18), (E): A limitation on topography surveys to areas of construction and to areas within 25 feet of construction.

Jim Pritchard said that this limitation on topography surveys came from the same reasoning behind the limitation on wetlands surveys.

Page 41: Article 4, section 1, (d), (18), (F), (3): A limitation on topography surveys to areas of construction and to areas within 25 feet of construction.

Page 51: article 4, section 1, (e), (1): Site inspections and related comment.

Jim Pritchard said that he had moved the statement of a site inspection as additional information that the board might need to decide the application. The statement of a site inspection as such additional information had been in article 5, Application-Review Procedures.

Clayton Wood said that a site inspection belongs in article 4, section 1, (e), because a site inspection is no different from other information that the board might need to decide an application.

Jim Pritchard discussed the large comment that he had added under the site inspections subparagraph. Jim Pritchard explained that the board might need a site inspection despite expert evidence because the board is the decision-maker and because the board, as the decision-maker, might need to overrule the expert evidence. Jim Pritchard’s comment listed a number of cases giving guidance on when a planning board can and cannot overrule expert evidence.

Page 53: Article 4, section 3, Fees

Clayton Wood asked whether the fee numbers could be put in a document separate from the subdivision regulations.

Jim Pritchard said that he thought that the fee number had to be in the subdivision regulations document and would require a public hearing to be changed.

Clayton Wood agreed.

Daren Nielsen asked whether the draft subdivision regulations document had all fees listed together in article 4, section 3, Fees, for comprehensive reference.

Jim Pritchard said yes.

Daren Nielsen asked whether third-party experts that the board uses would bill the applicant.

Jim Pritchard and Clayton Wood said that the third-party experts would bill the town.

Page 63: Article 5, section 5, Unpaid Fees

Jim Pritchard said that this section would apply only in cases where the applicant does not pay a fee when the administrative secretary bills the applicant. Jim Pritchard said that this section defines a dispute-resolution process. Jim Pritchard said that the board had agreed that it would not extend credit to applicants after the dispute that arose in the Wood subdivision over fees. (See planning board minutes of May 7, 2015, agenda item added, page 10: “Jim Pritchard said that the draft subdivision regulations (to be considered in agenda item 7) get the board ‘out of the banking business.’”)

Daren Nielsen asked whether the regulations specified what happens when pre-defined fees differ from the actual cost.

Jim Pritchard said that the regulations do specify what happens to such differences. Jim Pritchard said that the regulations say that the difference between the newspaper charge and the pre-defined fee gets either refunded or charged if the newspaper fee is either less than or greater than the pre-defined fee.

Daren Nielsen and Clayton Wood discussed that the board should bookkeep such fees and the disposition of the differences between charges on the application and what the applicant has paid and been refunded.

Clayton Wood said that having a regulation that is clear about what happens when the applicant owes money would be good.

Jim Pritchard said that also having a regulation for dispute resolution would be good. Jim Pritchard gave as an example James Donini's dispute over the fee that former administrative secretary Dee Fritz had charged him. Jim Pritchard said that he had found that James Donini's dispute was valid.

Clayton Wood said that the appeal process seemed to take a lot of time but that it was the worst-case scenario for a dispute. The board should get enough money in advance in escrow to avoid such situations because the board wants to keep applications moving through the process without delays that should be unnecessary. Clayton Wood said that AHG Properties had had such an escrow account.

Jim Pritchard said that fee disputes for expert services were more problematic than notices for fees because state law (RSA 676:4, I, (d), (1)) says that the applicant must pay notice fees in advance, but state law (RSA 676:4-b, I) says that the planning board may require the applicant to reimburse the board for expert services. The word "reimburse" indicates that the applicant will not pay in advance.

The board agreed that the time periods specified in proposed article 5, section 5, Unpaid Fees, for the various phases of dispute resolution would probably need adjustment.

Page 74: Standards for Performance Security

The board reviewed the contents of article 7: standards for a performance promise, a model performance promise, and a model letter of credit that refers to the model performance promise. The board compared the performance promise standards to the cost itemization and security release example that Jim Pritchard had obtained from Concord. The performance promise provides a cost itemization of proposed work, the town grants a certificate of performance on the work when the work is finished, and the developer takes the certificate of performance to the bank to reduce the

performance security according to the work confirmed done and according to the cost of the work as estimated in the performance promise and confirmed in the certificate of performance.

Page 113: Article 12, section 1, (b), (3), Typical Roadway Cross Section:

The board noted that the dimensions on this diagram are illegible and that the diagram refers to a table not in the subdivision regulations.

Jim Pritchard agreed to ask Matt Monahan for help in finding a legible diagram.

AGENDA ITEM 7: Members Concerns

No board member stated any concern.

AGENDA ITEM 8: Public Input

No public input.

AGENDA ITEM 9: Adjournment

Clayton Wood moved to adjourn the meeting.

Pat Heffernan seconded the motion.

Vote to adjourn the planning board meeting of August 4, 2016: carried 5 - 0 - 0. Voting "yes": Jim Pritchard, Daren Nielsen, Pat Heffernan, Clayton Wood, and Gerard LeDuc. Voting "no": none. Abstaining: none. The planning board meeting of August 4, 2016, is adjourned at 8:14 P.M.

Minutes approved: September 1, 2016

Clayton Wood, Chairman

Date

I transcribed these minutes (not verbatim) on August 6, 2016, from notes that I made during the planning board meeting on August 4, 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