

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

DATE: Thursday, February 18, 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),

Pat Heffernan (vice-chair),

Jim Pritchard (secretary),

Daren Nielsen,

Gerard LeDuc (selectmen's ex officio member), and

Paul Nickerson (alternate)

Planning board members absent:

Roland Carter (alternate) and

Larry Konopka (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: Review of the process for the planning board to provide review and recommendation on the sale of land by the board of selectmen per RSA 41:14-a

Clayton Wood said that he had found guidelines for sales under RSA 41:14-a in Moultonborough, New Hampshire. Clayton Wood said that he wanted

not only to review and recommend on the subject properties but also to suggest guidelines for future sales of town-owned properties.

Jim Pritchard asked whether he should recuse himself. (Comment of recording secretary Jim Pritchard: Jim Pritchard's mother has a purchase and sale agreement with the selectmen to buy tax map R-44, lots 7 and 8, and Jim Pritchard signed the purchase and sale agreement by power of attorney for his mother.)

Clayton Wood said that Jim Pritchard's recusal was not necessary at this time because the board was going to discuss process in abstract and not in relation to the particular properties under consideration.

Clayton Wood said that he was considering to propose a public hearing even though RSA 41:14-a does not require the planning board to hold a public hearing. Clayton Wood said that he had first considered the problem of how to review and recommend a proposed sale as if the town did not have a buyer yet. Then, Clayton Wood said, he received Mary Pritchard's proposal explaining what her intent for the land was and why the town should sell tax map R-44, lots 7 and 8, to her, and this proposal had given him additional perspective on information that might help. Clayton Wood said that the board had no information from the other buyer (of tax map R-48, lot 6) or from members of the public, and Clayton Wood said that he was not comfortable specifically soliciting information unless the board held a hearing to give everyone a chance to speak.

Daren Nielsen asked for clarification of the arrangements that the board of selectmen had already made.

Clayton Wood said that the board of selectmen had reached agreements with two potential buyers for tax map R-44, lots 7 and 8, and for tax map R-48, lot 6. Clayton Wood said that one of the buyers had submitted information to support the sale but that the other buyer had not submitted information and that use of information from one buyer but not from the other buyer or from members of the public might be unfair. Clayton Wood said that using guidelines for the review and recommendation was important. Clayton Wood said that he wanted to hold a public hearing so that the board could invite all interested parties to attend and present evidence. The hearing would also help the planning board develop guidelines for future sales.

Clayton Wood reviewed the guidelines from Moultonborough. The Moultonborough Board of Selectmen must review their list of town-owned properties each year and must categorize each property according to how the town acquired the property, whether the selectmen intend to sell the property, and whether the parcel of land is nonconforming to the zoning ordinance. If the board of selectmen decides to sell the property, then that decision activates the process of review and recommendation by the planning board and by the conservation commission.

Clayton Wood said that he had discussed the required reviews and recommendations with Chris Hill, chair of the conservation commission. The conservation commission will meet to address this matter on February 25, 2016.

Daren Nielsen asked whether Clayton Wood was proposing to use the Moultonborough guidelines as a starting point for Pittsfield's review. Daren Nielsen said that he had a few concerns with the Moultonborough process.

Clayton Wood said that he intended the Moultonborough guidelines to be a helpful reference.

Jim Pritchard asked whether the Moultonborough guidelines had been adopted by the town boards or whether the guidelines had been adopted by the town meeting.

Clayton Wood said that he did not know but that the guidelines appeared possibly to have been part of the warrant article that the town meeting approved.

Clayton Wood repeated that the planning board does not have to have a public hearing but that the law does not prohibit the planning board from having a public hearing. The board of selectmen must have two public hearings. (RSA 41:14-a, I.)

Clayton Wood said that the master plan is the basic document for deciding what the town's best interest is. Clayton Wood said that the planning board would be concerned with how the sale would affect land use in the area. Clayton Wood said that an important condition that the Moultonborough guidelines emphasize is whether the lots are nonconforming to the zoning ordinance and whether the lots are buildable.

Daren Nielsen asked why nonconformance to the zoning ordinance matters in whether the town should sell a nonconforming lot.

Paul Nickerson said that the town would have to let any potential buyer know that a nonconforming lot was in fact nonconforming.

Jim Pritchard said that nonconformance to the zoning ordinance was important because the zoning ordinance requires the merger of nonconforming lots with abutting property under common ownership as a condition of building. (Zoning ordinance article 4, section 2 (“Non-conforming contiguous lots under the same ownership shall only be developed with such adjacent lot.”).) Jim Pritchard said that this zoning regulation is a statement of the town’s wishes. Jim Pritchard said that, because of this zoning regulation, nonconformance is a condition that the planning board should consider. Jim Pritchard said that the Moultonborough guidelines say that nonconformance is a condition to consider in recommending whether to sell the property. (Moultonborough guidelines addendum paragraph 3: “Consistent with the spirit of the purpose and authority of the zoning ordinance, the Selectmen will endeavor to retain all non-conforming parcels or merge such parcel with abutting parcels.”)

The board discussed the importance of considering a lot’s nonconformance in supporting the integrity of the town’s zoning plan. Jim Pritchard said that, as an example, the town might have a nonconforming lot that would be entitled to a variance, and that the town should not sell such a lot for development. Clayton Wood said that supporting the integrity of the town’s zoning plan is the planning board’s job. Paul Nickerson emphasized the importance of selling nonconforming lots to abutters. Daren Nielsen said that the process of planning board review should apply to every town-owned property considered for sale.

Clayton Wood said that tax-deeded properties appeared to be exempt from the requirement for review and recommendation by the planning board and by the conservation commission. (See article 12 of the March 8, 1994, town meeting warrant, authorizing the board of selectmen to sell tax-deeded properties according to RSA 80:80, but also see article 26 of the March 13, 2007, town meeting warrant, authorizing the board of selectmen to sell any land or buildings, with certain enumerated exceptions, after and only after (1) review and recommendation by the planning board, (2) review and

recommendation by the conservation commission, and (3) two public hearings, all according to RSA 41:14-a.) Jim Pritchard said that, as a matter of policy, probably every town-owned property considered for sale should go through the planning board review process. Jim Pritchard said that the minutes for the warrant article (article 26 of the March 13, 2007, town meeting warrant) had said that the purpose of the warrant article was economic development, which obviously does not apply to the two properties under consideration.

Clayton Wood emphasized the helpfulness of the Moultonborough guidelines for the selectmen's decision on whether to sell any given town-owned property.

Paul Nickerson again emphasized that abutters should have preference in buying a nonconforming lot. Paul Nickerson said that a person buying a nonconforming lot might not build on it.

Jim Pritchard said that a person buying any lot might do something other than building, for example, the buyer might farm the lot, but that the purpose of a lot is typically to have a building at some time.

Clayton Wood said that the planning board's analysis of a lot's nonconformance is similar to the board's analysis of a subdivision. For the board's analysis, the board should assume that a person buying a lot will build on it now.

Daren Nielsen asked whether the pest house lot (tax map R-48, lot 6) were nonconforming.

Clayton Wood said yes. The pest house lot (tax map R-48, lot 6) has only one acre (where the zoning ordinance requires two acres). Clayton Wood reminded the board that the board is not discussing the specifics of the two properties under consideration.

Clayton Wood asked whether the board agreed that it should hold a public hearing to review the two properties under consideration. Clayton Wood said that no state or local law requires the hearing, so the board does not have to do notices by certified mail; notices by first-class letters will do. Clayton Wood suggested notifying the abutters and the potential buyers.

The board discussed (1) how Clayton Wood had found the Moultonborough guidelines, (2) the helpfulness of guidelines, and (3) the timetable for the planning board's and the conservation commission's reviews and recommendations and the board of selectmen's ultimate decision on whether to sell.

Daren Nielsen asked whether any of the tax-deeded properties had been nonconforming.

Gerard LeDuc said that he did not know that any of the tax-deeded properties was nonconforming.

(Comment of recording secretary Jim Pritchard: All of the tax-deeded properties except sale 13 (tax map R-49, lot 4) appear to be nonconforming, and most are vacant. Sale 13 is conforming but is heavily encumbered by an easement to the Public Service Company of New Hampshire. Sale 13 is also vacant.

Sale 1 (tax map R-35, lot 19): nonconforming in area (the lot has a house)

Sale 2 (tax map R-15, lot 21): appears to have no frontage (the lot is vacant)

Sale 3 (tax map R-11, lot 13): nonconforming in area (the lot has a house)

Sale 4 (tax map R-11, lot 8): nonconforming in frontage (the lot is vacant)

Sale 8 (tax map R-47, lot 5): nonconforming in frontage (landlocked) (the lot is vacant)

Sale 9 (tax map R-43, lot 11): nonconforming in frontage (the lot is vacant)

Sale 10 (tax map R-43, lot 4): nonconforming in frontage (the lot is vacant)

Sale 11 (tax map R-30, lot 1): nonconforming in area (the lot is vacant)

Sale 12 (tax map R-11, lot 15): nonconforming in area (the lot is vacant)

Sale 14 (tax map R-37, lot 6-2): nonconforming in frontage (landlocked) (the lot is vacant)

Sale 15 (tax map R-35, lot 48): nonconforming in frontage (the lot has a well and septic system but all of the former buildings have been removed)

*****End of comment.)

Paul Nickerson asked whether the town had recorded deeds for the auction properties.

Jim Pritchard and Gerard LeDuc said yes. The town has recorded deeds for all of the auction properties except the two properties under consideration (tax map R-44, lots 7 and 8, and tax map R-48, lot 6). (Comment of

recording secretary Jim Pritchard: A deed for auction sale 3, tax map R-11, lot 13, has also not been recorded. The buyer was Alton Rollinsford, LLC.)

Daren Nielsen asked whether RSA 41:14-a explicitly excluded tax-deeded properties from the planning board's and the conservation commission's reviews and recommendations. Daren Nielsen's question prompted board discussion about the legislative process by which tax deeded properties were exempt from the planning board and conservation commission review process. Jim Pritchard said that he thought that the town meeting had created these exceptions, but he said that he was not sure. Paul Nickerson also said that he thought the town meeting had created these exceptions. The board did not resolve this question.

Clayton Wood moved the board to hold a public hearing on March 3, 2016, to review the board of selectmen's proposed sales of town-owned properties at tax map R-48, lot 6, and tax map R-44, lots 7 and 8, and to decide whether to recommend for or against the proposed sales (see RSA 41:14-a).

Gerard LeDuc seconded the motion.

Discussion: None.

Vote to hold a public hearing on March 3, 2016, to review the board of selectmen's proposed sales of town-owned properties at tax map R-48, lot 6, and tax map R-44, lots 7 and 8, and to decide whether to recommend for or against the proposed sales (see RSA 41:14-a): carried 4 - 0 - 1. Voting "yes": Daren Nielsen, Pat Heffernan, Clayton Wood, and Gerard LeDuc. Voting "no": none. Abstaining: Jim Pritchard.

Clayton Wood said that he would post and send notices tomorrow.

AGENDA ITEM 4: Adjournment

Pat Heffernan moved to adjourn the meeting.

Gerard LeDuc seconded the motion.

Vote to adjourn the planning board meeting of February 18, 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 February 18, 2016, is adjourned at 7:42 P.M.

Minutes approved: March 14, 2016

Clayton Wood, Chairman

Date

I transcribed these minutes (not verbatim) on February 20, 2016, from notes that I made during the planning board meeting on February 18, 2016, and from a copy that Chairman Clayton Wood made on February 19, 2016, of the town’s digital recording of the meeting.

Jim Pritchard, planning board recorder and secretary

Attachment: Town of Moultonborough, New Hampshire, guidelines for sale of town property

Office of Selectmen
6 Holland Street • Post Office Box 139
Moultonborough, N.H. 03254
(603) 476-2347

Statement of Policy
No. 19

Sale of Town Property

The Town of Moultonborough, with the passage of Article 33 at the 2003 Town Meeting, adopted the provisions of RSA 41:14-a authorizing the Selectmen to dispose of Town properties.

The selectmen shall review all property held by deed to determine their intent for that property. Property held by Tax deed will be held for a minimum of three years. Thereafter, the Selectmen will annually review properties with tax deeds held for three years after the date of record. The annual review shall determine whether each parcel should be retained by the Town or made available for sale.

Town owned lots will first be offered to owners of abutting, nonconforming lots for merger with their nonconforming lot. Any nonconforming Town property will be offered to abutters for merging with abutting lots or to local associations for recreational use or green space.

Those properties that are intended for sale will be offered annually.

The selectmen may convey these properties by advertised sealed bids. The selectmen shall have the power to establish a minimum amount for which the property is to be sold and the terms and conditions of the sale.

Any proceeds from such sales will be deposited into a Trust Fund for future acquisition of real estate.

Addendum 1. Process

Addendum 2. Property Evaluation and Categorization

This policy shall be effective immediately upon adoption and shall remain in effect until superseded or amended.

Date of Adoption:
July 29, 2004

Karel A. Crawford, Chair, Board of Selectmen
Jerry D. Hopkins, Selectman
Ernest E. Davis, Jr., Selectman

Addendum 1

Process

The selectmen, by the 1st of July, shall annually review all property held by the Town, including parcels that were tax dedeed at least three years from the date of record, to determine their intent for that property.

The Selectmen shall categorize those properties held by deed with their determination noted for each parcel.

Consistent with the spirit of the purpose and authority of the zoning ordinance, the Selectmen will endeavor to retain all non-conforming parcels or merge such parcel with abutting parcels.

Pursuant to RSA 41:14-a, the Selectmen shall first submit any such proposed property sale to the planning board and to the conservation commission for review and recommendation by those bodies.

After the selectmen receive the written recommendation of the planning board and the conservation commission they shall hold 2 public hearings at least 10 but not more than 14 days apart on the proposed sale.

However, prior to the selectmen's vote, upon the written petition of 50 registered voters presented to the selectmen, according to the provisions of RSA 39:3, the proposed sale shall be inserted as an article in the warrant for the town meeting.

The selectmen's vote shall take place no sooner then 10 days nor later than 14 days after the second public hearing which is held.

The selectmen shall adequately advertise the properties to be sold, requesting sealed bids by not less than four weeks after the last advertisement. The selectmen shall have the power to establish a minimum amount for which the property is to be sold and the terms and conditions of the sale.

The goal is to complete any sale be the 1st of December.

Any proceeds from such sales will be deposited into a Trust Fund (to be established by Warrant Article at the March 2005 Town Meeting) for future acquisition of real estate.

Town owned Land

	Map & Lot	Address	Description	Value	Date of Record	Deed Record	Former Owner	Conforming lot	Abutting Lots	Selectmen's Decision
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