

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

**DATE:** Thursday, July 7, 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 (arrived at 7:27 PM),

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

Paul Nickerson (alternate)

Planning board members absent:

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

Roland Carter (alternate)

Members of the public appearing before the planning board: Deidra Benjamin, Mike Benjamin, Charlene Case, James Donini, and Mrs. Donini.

"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.

No public input.

**AGENDA ITEM 4:** Approval of the Minutes of the June 2, 2016, June 13, 2016 and June 16, 2016 Meetings

The planning board deferred approval of the minutes until after agenda item 5, the board's review of James Donini's lot line adjustment application, and until after agenda item 6, the board's discussion of the board of selectmen's proposed sales of town properties at 81 Main Street, 114 Main Street, and 31 Berry Avenue. The planning board did not review the minutes at all at tonight's meeting because the board's other business extended the meeting long past the board's usual adjournment time of 9:00 PM.

**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

Clayton Wood explained the two-step review process of first determining whether the application is complete and then reviewing the application for its merits. (RSA 676:4, I, (c), (1).) Clayton Wood explained that the completeness review would not have a public hearing but that the merits review would have a public hearing. (RSA 676:4, I, (b); RSA 676:4, I, (e), and DHB v. Pembroke, 152 N.H. 314, 876 A.2d 206 (2005).)

Clayton Wood read the notice of the completeness review and of the merits review.

Clayton Wood listed the materials that board members had received for the Donini application:

1. Notice to abutters
2. Application form
3. James Donini's letter of February 11, 2016, authorizing surveyor David Vincent to represent him
4. State subdivision approval for lot 16-2
5. Subdivision application completeness checklist
6. Subdivision regulations waiver request form

7. Abutters list
8. David Vincent's letter of July 13, 2015, addressing the comments of the third-party review (Matt Monahan, of Central New Hampshire Regional Planning Commission)
9. Application plat
10. Tax cards for the two lots in the land under consideration
11. James Donini's letter saying that nothing had changed since the application was before the board in 2015 but withdrawn without prejudice. James Donini now owns both lots where before he had owned one of the lots and his sister, Erin Commerford, had owned the other lot.
12. The Epsom Planning Board's letter of May 27, 2016 ("The [Epsom Planning] Board reviewed the plan forwarded with your letter and has determined that there are no regulations, etc., that would preclude or affect the lot line adjustment.")
13. Jim Pritchard's letter of June 19, 2016, to James Donini ("Matt [Monahan, of Central New Hampshire Regional Planning Commission,] did supply the board with a copy of the state-approved [subdivision] plan, but the plan does not show where the septic systems are.")

Clayton Wood said that the subdivision approval from the New Hampshire Department of Environmental did not show the locations of the septic systems and that board would need documentation of their locations to confirm that each septic system is wholly on the lot that that septic system serves.

James Donini said that he did not understand why he needed to show the location of the septic system on lot 16-2 (the currently large lot proposed to be made small) because the New Hampshire Department of Environmental Services had said that he had both an existing septic system and room for a second septic system.

Jim Pritchard explained that the board needs to confirm that each septic system does not extend beyond the lot that that septic system serves.

James Donini asked whether he could draw the septic system on the plat.

Jim Pritchard said that James Donini could not draw the septic system on the plat because the state law requires the survey to be done by a licensed land surveyor. (RSA 674:37 and RSA 478:1-a, I.)

James Donini asked whether it was too late to submit the information saying where the septic system was.

Jim Pritchard explained that the board would create a list of things that the application would need to be accepted as complete. Jim Pritchard said that he had encouraged James Donini to submit the information saying where the septic system was so that the things that the application would need to be accepted as complete would be minor.

Clayton Wood said that the very large relocation of the shared lot line created uncertainty in whether the septic system for lot 16-2 was wholly on the same lot and that showing the septic system would remove this uncertainty and make the lot worth more if the Doninis were to sell the lot. Clayton Wood said that the septic system should be not only on the same lot but also outside the setback yard.

Daren Nielsen asked for confirmation that the state approval was for a septic system that could be installed, not for the existing septic system.

James Donini said yes. James Donini said that Carl Sherblom had dug the test pits for the secondary septic system not currently installed on lot 16-2. James Donini said that Joe and Steve Carson had installed the existing septic system on lot 16-2. James Donini said that the tract of land under consideration, that is, both lots combined, have three septic systems.

Jim Pritchard gave James Donini a copy of the state-approved plan showing where a septic system could be but not where the existing septic system is.

Daren Nielsen asked how James Donini would show where the septic system on lot 16-2 was.

Clayton Wood said that a surveyor would determine the location.

Clayton Wood listed other defects in the Donini plat:

1. The date of the plat is currently stated as February 11, 2015, and must be changed to February 11, 2016.
2. 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.

James Donini asked how the New Hampshire Department of Environmental Services had known the approximate location of the septic system on lot 16-2.

The board did not know.

Jim Pritchard moved the board to find that the Donini lot line adjustment is not a development of regional impact. (See RSA 36:54 through RSA 36:58.)

Clayton Wood seconded the motion.

Discussion:

Jim Pritchard said that the boundary that the land under consideration has with Epsom might make this project a candidate for a development of regional impact. (See RSA 36:55, II (“Proximity to the borders of a neighboring community.”)) Jim Pritchard said that the project is not a development of regional impact despite the land’s boundary with Epsom because no new construction is proposed and the number of lots will remain the same. If the board were to decide that the application presented potential regional impact, then the board would refer the application to Epsom and to the Central New Hampshire Regional Planning Commission, but the board has already consulted both Epsom and the Central New Hampshire Regional Planning Commission, and Epsom has said that it has no regulations that affect the application, and Central New Hampshire Regional Planning Commission has said that the application appears to have no regional impact.

Vote that the Donini lot line adjustment is not a development of regional impact: carried 5 - 0 - 0. Voting “yes”: Jim Pritchard, Daren Nielsen, Clayton Wood, Paul Nickerson, and Gerard LeDuc. Voting “no”: none. Abstaining: none.

The board proceeded to discuss James Donini’s requests for waivers of subdivision regulations, which the application states as follows:

Checklist 14, 19 & 34 (5.B.2.b.6, 5.B.2.b.1 & 5.B.2.b.10)

Location of water bodies, streams and wetlands delineated and stamped by a Certified Wetland Scientist. Soils and test pit data stamped by a Certified Soil Scientist.

Checklist 21 (5.B.2.b.6 & 10.F.1)

Granite bounds to be at each change of direction and at road frontage.  
Iron rods are proposed at each corner.

Clarification of this waiver request by the surveyor's letter of July 13, 2015:  
6) A waiver has been requested to allow iron rods at the proposed lot corners where stone bounds are required.

Checklist 25 & 26 (5.B.2.b.5)

Topographic contours data at 5' contour intervals with spot elevations where needed.

Checklist 27 & 31 (5.B.2.b.6 & 5.B.2.b.7)

Existing Right-of-Way widths for Locke Road and Webster Mills Road.

Clarification of this waiver request by the surveyor's letter of July 13, 2015:  
8) A waiver has been requested regarding providing the right of way widths of Locke Road and Webster Mills Road on the plan.

\*\*\*\*\*End of the waiver requests

The application states the following reason to cover all four waivers:

It is our opinion and believe that the waivers should be granted based upon the following reasoning;

The granting of the waivers will not result in a review that overlooks issues that may address impacts that are detrimental to public safety, health or welfare or injurious to other property.

The waivers will not, in any manner, vary the provisions of the Pittsfield Zoning Ordinances, Master Plan, or Official Maps.

The submittal, upon granting of such waivers may be reviewed in such a fashion as to secure substantially the objectives, standards and requirements of these regulations.

A practical hardship, or unnecessary and unreasonable expense, would result from strict compliance with the foregoing submission regulations that clearly outweighs the benefit of providing the required information.

\*\*\*\*\*End of James Donini's stated reasons for the four waiver requests

Jim Pritchard objected to granting the waivers on this single reason because the reason is not specific to each of the waivers and to the land under consideration. (See RSA 674:36, II, (n), (2).)

Pat Heffernan arrived at 7:27 PM.

Clayton Wood noted Matt Monahan's suggested reason in part:

"The requested waivers seem reasonable given that there is no additional construction proposed"

but Clayton Wood agreed that the applicant must state his own reasons and must do so in writing.

Jim Pritchard cited and read Pittsfield Subdivision Regulations, section 2, K, which in part says,

"The request for the waiver arises out of unique physical conditions, which exist in the proposed subdivision; ... The applicant shall submit a petition for any such waiver in writing at the time when the application is filed for the consideration of the Planning Board. The petition shall state fully the grounds for the waiver and the section(s) of the regulations for which waivers are requested."

Mrs. Donini asked whether the reasons for the waivers were something that the surveyor should submit.

Jim Pritchard said yes.

Mrs. Donini asked whether she and James Donini could write their own letter asking that the waivers be granted because they were proposing no new building.

Jim Pritchard said that she and James Donini could write their own letter asking that the waivers be granted but that the board could not say what reasons to give.

Clayton Wood said that the surveyor works for the Doninis and that the surveyor should know what reasons to give.

Mrs. Donini asked whether she could give the same reason—that the Doninis are not proposing any new construction—five times.

Clayton Wood said that the Doninis would have to explain why the specific regulations that the Doninis want waived have no meaningful application to the Donini project. Clayton Wood gave as an example soil analysis necessary for building when the Doninis are proposing no building.

Mrs. Donini asked for clarification that the Doninis had to give specific reasons because each waiver is for something specific.

Clayton Wood said yes and suggested that the Doninis review the waivers with the board. Clayton Wood referred to the second waiver requested:

Checklist 21 (5.B.2.b.6 & 10.F.1)

Granite bounds to be at each change of direction and at road frontage.

Iron rods are proposed at each corner.

Clayton Wood said that the Doninis needed to explain why they wanted to substitute iron rods for granite posts as boundary markers on the highway boundaries.

Mrs. Donini asked whether they could give the reason that iron rods are cheaper.

Clayton Wood said that the Doninis could give that reason if they wanted to.

James Donini asked what other reason could there be.

Clayton Wood said that the regulations require granite boundary markers at the highway boundaries because the granite boundary markers are more permanent.

Jim Pritchard said that Clayton Wood's example illustrated why the board cannot tell the Doninis what the reasons to give for their waiver requests. Jim Pritchard said that the fact that the Doninis are not proposing any new construction may support one waiver request but may not support another waiver request.

Mrs. Donini said that their situation was awkward because they had had problems with their surveyor and because now they were hearing that they had to return to their surveyor.

Jim Pritchard said that he had been trying to help the Doninis in saying that they did not have to return to their surveyor if they did not want to. Jim Pritchard said that the Doninis could return to their surveyor if they did not feel qualified to state reasons for themselves.

Clayton Wood said that the subdivision regulations require granite boundary markers at the highway boundary because highway work can easily remove iron rods. Clayton Wood said that the New Hampshire Department of Transportation had removed an iron rod in front of his land in just this way.

James Donini said that he thought that his surveyor, David Vincent, had proposed granite boundary markers where the regulations require granite boundary markers.

Clayton Wood read from David Vincent's letter of July 13, 2015:

"A waiver has been requested to allow iron rods at the proposed lot corners where stone bounds are required."

Clayton Wood said that there might be a reason to propose iron rods instead of granite posts at the highway boundary but that David Vincent had not given such a reason. Clayton Wood said that there might be a pipe, a rock, a culvert, or some other thing that would make granite posts inappropriate.

James Donini asked who would decide whether to grant the waiver.

Clayton Wood said that the board would decide whether to grant the waiver. Clayton Wood said that the application currently did not have enough information to enable the board to decide whether to grant the waiver.

Clayton Wood referred to the request for a waiver from the requirement to show topography. Clayton Wood said that not building might be a reason for this waiver.

Clayton Wood referred to the request for a waiver from the requirement to show the widths of Webster Mills Road and Locke Road. Clayton Wood said that the fact that Webster Mills Road and Locke Road are old roads requiring a lot of surveying might be a reason for this waiver.

Mrs. Donini asked what the first request for a waiver had been.

Clayton Wood said that the first request for a waiver had been “Location of water bodies, streams and wetlands delineated and stamped by a Certified Wetland Scientist. Soils and test pit data stamped by a Certified Soil Scientist.” Clayton Wood said that the Doninis would need to ask for a waiver of the requirement to have soils and test pit data stamped by a certified soil scientist.

Clayton Wood suggested that the Doninis could speak to building inspector Jesse Pacheco for help in giving reasons for their waiver requests.

Jim Pritchard agreed and said that the board’s telling the Doninis what reasons to give is not appropriate.

Clayton Wood suggested that the Doninis could also speak to Matt Monahan.

Jim Pritchard said that the Doninis’ reasons should address the waivers requested.

James Donini said that the first waiver, to show the location of water bodies and so forth, was obvious because the Doninis are not proposing any building.

Mrs. Donini said that the board cannot give reasons for the Doninis' waiver requests and that the board is suggesting that the Doninis speak to Jesse Pacheco for help.

Jim Pritchard listed the defects that the board had so far identified:

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.

Jim Pritchard asked about Matt Monahan's request to state the current use assessment status.

Clayton Wood said that stating the current use assessment status is no longer necessary because both lots are now under current ownership.

Mrs. Donini asked for a copy of David Vincent's letter of July 13, 2015.

Daren Nielsen gave Mrs. Donini his spare copy.

James Donini asked what would happen if the board did not grant the waivers.

Clayton Wood said that what would happen would depend on which waiver is denied. The Doninis would have to do the required task, or the application would remain incomplete.

Mrs. Donini asked whether the Doninis had to use a specific form for stating their reasons for requesting waivers.

Jim Pritchard said no.

Paul Nickerson expressed his concern that the board needs to know where the septic system on lot 16-2 (the currently large lot proposed to be made small) because selling lot 16-2 might be difficult if the septic system is too close to or is beyond the boundary of lot 16-2.

Jim Pritchard moved the board to find the Donini application incomplete.

Clayton Wood seconded the motion.

Discussion:

Jim Pritchard listed the defects that the board had identified:

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.

(Comment of recording secretary Jim Pritchard: The plat must also list the dates of the revisions 1, 2, and 3. (RSA 478:1-a, VIII, (f).))

Mrs. Donini asked about the correction to the signature block for the Epsom Planning Board.

Jim Pritchard said that the signature block for the Epsom Planning Board must not say that the Epsom Planning Board approves anything but must instead say that the Epsom Planning Board has no jurisdiction over the plat because the plat shows no land in Epsom. Jim Pritchard gave Mrs. Donini the Merrimack County Registry of Deeds's sample signature blocks for such situations.

Vote that the Donini application is incomplete: carried 5 - 0 - 0. Voting "yes": Jim Pritchard, Daren Nielsen, Clayton Wood, Paul Nickerson, and Gerard LeDuc. Voting "no": none. Abstaining: none.

Pat Heffernan replaced Paul Nickerson on the board.

Jim Pritchard said that he would write minutes for tonight's meeting within 5 business days and that the board would issue a notice of decision promptly after that.

Mrs. Donini asked whether the Doninis would have to pay to give notice of the next meeting.

Jim Pritchard asked whether the Doninis could have their submissions ready for the board's regular meeting in August (August 4, 2016).

Mrs. Donini said that they could have their part done by August 4 but that she could not say what their surveyor could do.

Jim Pritchard said that the board could continue the matter to the August meeting and then continue the matter again if the surveyor did not have his part done. Jim Pritchard moved to continue consideration of the Donini lot line adjustment to the board's regular meeting in August (August 4, 2016).

Pat Heffernan seconded the motion.

Vote to continue consideration of the Donini lot line adjustment to the board's regular meeting in August (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.

Clayton Wood invited input from members of the public who had come for the Donini lot line adjustment.

There was no public input on the Donini lot line adjustment.

Clayton Wood said that he would give the Doninis Matt Monahan's telephone number.

The board's notice of decision finding the Donini application incomplete is appended at the end of this minutes document.

**AGENDA ITEM 6:** Review and Recommendation for the Board of Selectmen's Three Proposed Sales of Town-Owned Properties at 81 Main Street (tax map U-3, lot 32), 114 Main Street (tax map U-2, lot 15), and 31 Berry Avenue (tax map U-1, lot 73)

Clayton Wood suggested that the board discuss the three town properties and then request public input.

Daren Nielsen said that he and Jim Pritchard had toured the three town properties last week.

Daren Nielsen said that 81 Main Street is in the worst condition and that 81 Main Street is in the worst condition because it was gutted. The house may have had plaster walls, and they may have had some problems, but gutting the house created tremendous problems for whoever will work on it next. The barn is a post and beam building. The sills under the ell causeway and under the barn are completely rotted, but the barn could be jacked up and repaired because the barn is a post and beam building. The building at 81 Main Street is historic, and its condition is shameful.

Daren Nielsen said that 114 Main Street is in a neighborhood of nice homes. The balusters on the staircase are gone, but the railing is still there, and new balusters could be made. Most of the plaster remains, and the rooms are intact. The house is disgustingly trashy and stinking, but the main structure of the house is solid. The particleboard currently covering the floor could be removed, the floors could be sanded, and they would be very nice. The ceilings have some problems. The carriage house was turned into living space, and this use of the carriage house was unfortunate. People who buy old houses want them for the houses' historic integrity. 114 Main Street still has historic integrity. The porch has major problems.

Daren Nielsen said that 31 Berry Avenue has three levels. The overall structure and walls are straight. The porch at 31 Berry Avenue has major problems. The roof at 31 Berry Avenue has serious problems. The barn carriage house is in very good condition.

Clayton Wood said that he had owned two old houses and that seeing what had happened to these three houses was devastating.

Daren Nielsen agreed and repeated that people who buy old houses do so for historic value.

Clayton Wood said that 81 Main Street is in the Commercial District whereas 114 Main Street and 31 Berry Avenue are in the Urban District. Clayton Wood said that the Commercial District does not have many buildings suitable for business and that the building at 81 Main Street could be rehabilitated for a small business. Clayton Wood said that 81 Main Street is one of the few properties in the Commercial District that is level with the road. Clayton Wood said that the building had had a ticket counter (for the stagecoach that used to use the building as a depot) but that the ticket counter is gone. Clayton Wood said that the town has many historic houses and that many of these houses are in trouble. Clayton Wood said that 33 and 37 Main Street (not on tonight's agenda) are historically significant. 33 Main Street is the oldest commercial building in town. 81 Main Street has a reasonable foundation. Clayton Wood said that the houses at 114 Main Street and 31 Berry Avenue are big but that they are in single-family-home neighborhoods. 31 Berry Avenue is very near the middle high school.

Daren Nielsen agreed that the homes around 114 Main Street and 31 Berry Avenue are nice, single-family homes. These neighborhoods make 114 Main Street and 31 Berry Avenue good for investment.

Paul Nickerson said that 114 Main Street is in the best condition and is worth saving. The fireplace is new, and the cellar is complete with a new furnace.

Daren Nielsen said that the porches are the biggest problems at 114 Main Street and at 31 Berry Avenue.

Paul Nickerson said that 114 Main Street is historic and that cleaning the house is the biggest part of rehabilitating 114 Main Street.

Daren Nielsen said that the house at 114 Main Street should be cleaned before the town auctions it. Just cleaning the house will substantially increase the auction value of 114 Main Street.

Paul Nickerson said that 114 Main Street has the best roof. The shingles are buckled and need to be replaced.

Daren Nielsen said that he would be adamant that the town should prohibit 114 Main Street and 31 Berry Avenue from being multi-family dwellings. Daren Nielsen said that these houses were in their dilapidated condition because they had been multi-family dwellings.

Pat Heffernan asked whether 114 Main Street had been lawfully registered with the housing standards board as a multi-family dwelling.

Paul Nickerson said that 31 Berry Avenue had had five families living in it in the 1990s.

Gerard LeDuc said that 114 Main Street was not a legitimate multi-family dwelling.

Clayton Wood said that the zoning ordinance allows multi-family dwellings in the Urban zoning district.

Daren Nielsen said that the town could impose covenants.

Gerard LeDuc said that he would recommend that 31 Berry Avenue be single-family or at least have fewer dwelling units.

Charlene Case said that she had lived at 31 Berry Avenue from 1985 to 1994. It was a single-family dwelling with an accessory apartment when she lived there. Charlene Case said that she had lived there with her husband and three children. She sold it to Jon Lebrun. Charlene Case said that Jon Lebrun had made the stairs to the second-story accessory apartment lawful so that he could rent the accessory apartment, but that the next owner had kept the house as a single-family dwelling. Charlene Case said that the discussion about apartments confused her.

Gerard LeDuc said that five separate families had been living at 31 Berry Avenue. Gerard LeDuc said that 31 Berry Avenue had not been a lawful multi-family rental with the housing standards board. Gerard LeDuc said that these families now own 146 Concord Hill Road, which Richard Munn formerly owned.

Charlene Case said that the people that the board was calling five separate families were in fact only one family. Charlene Case said that the building never had five separate dwelling units.

Paul Nickerson said that five families had been living together at 31 Berry Avenue. Paul Nickerson discussed the living arrangements of the family that lived at 31 Berry Avenue before Charlene Case.

Clayton Wood said that the state law (newly adopted RSA 674:71 through RSA 674:73) requires the town to allow accessory apartments but that the law does not prohibit the town from prohibiting renting. Clayton Wood said that stopping a large family from inhabiting such a house would be difficult.

Charlene Case said that a large house would attract a large family.

Daren Nielsen asked whether Charlene Case still lived in the area.

Charlene Case said that she lived on Manchester Street. Charlene Case said that the neighborhood is very nice.

Daren Nielsen said that the prior owner of 31 Berry Avenue had removed every major appliance and every major fixture.

Paul Nickerson said that the roof at 31 Berry Avenue is in very bad condition, that the roofing boards were rotted and would have to be replaced, and that the job would cost, in his estimate, “a couple hundred thousand. ... You’re talking \$250,000 in that big building.” Paul Nickerson said that the barn is in very good condition. Paul Nickerson said that the equipment in the cellar is in bad condition.

Charlene Case said that she had reconditioned the chimney at 31 Berry Avenue. Charlene Case said that she wanted 31 Berry Avenue to remain single family.

Daren Nielsen said that the problem that these properties have is about equity and the economic viability of rehabilitating them. Daren Nielsen said that the cost of rehabilitation might be more than the market value of other buildings in the neighborhood.

Clayton Wood referred to the field trip that the economic development committee sponsored to Franklin, NH. Clayton Wood said that the Franklin city officials had stressed that each dollar that the city invested in the downtown came back in immediate taxes as only \$0.60. Clayton Wood said

that Franklin is trying to raise the values of whole neighborhoods and get the money back in the long run. Clayton Wood said that the municipality must either “provide incentives or find money to fill in those gaps.”

Daren Nielsen said that the board of selectmen is struggling to get the properties back on the tax rolls, but, Daren Nielsen said, the board of selectmen’s focus should be on managing these properties so that they raise the values of the neighborhood properties, not just on getting these three properties back on the tax rolls. Daren Nielsen said that the long-term value of raising the values of neighborhood properties would outweigh the value of putting the properties back on the tax rolls immediately.

Clayton Wood said that there must be some incentive, plan, and patience to improve these properties. Clayton Wood said that the board of selectmen wants someone to pay the back taxes, put \$50,000 in escrow for repairs, and then pay \$6000 in taxes. Clayton Wood said that these financial burdens will discourage potential buyers.

Daren Nielsen said that he and Jim Pritchard had discussed the problem of taxes and how the board of selectmen might deal with these problems.

Jim Pritchard said that he disagreed with the emphasis that one of the selectmen had put on putting the three properties back on the tax rolls. Jim Pritchard said that the board of selectmen’s emphasis should be on trying to improve the neighborhood. Jim Pritchard said that the board of selectmen must also understand that it must find some way to allow buyers to establish equity in the properties, because basic economics says that no one will buy the properties just to lose money. Jim Pritchard said that taxes presented a big equity problem and that he was trying to look at the matters that the town actually can control. Jim Pritchard said that the board of selectmen wants assurance that the buyers will rehabilitate the properties, but the board of selectmen must understand that requiring financial security to rehabilitate a building presents substantial opportunity costs: The person posting the security will have to have the security money in the first place, he will not have use of the security money while he is rehabilitating the building, and he will not have use of the building while he is rehabilitating the building. These opportunity costs would encourage prospective buyers to go elsewhere. Jim Pritchard said that a problem that he continually hit in analyzing equity potential is that he did not really know what improvements and how much money rehabilitating these properties would require. Jim

Pritchard suggested that the board of selectmen should hire a qualified person to report on what improvements, how much money, and how long rehabilitating these properties in a way that would preserve their historic appeal would require. The board of selectmen could then advertise this information with the properties when the properties themselves were advertised for sale. Jim Pritchard thought that the fact that the buyer would be informed might provide some assurance that the buyer would actually be able and inclined to do the work.

Daren Nielsen said that he and Jim Pritchard had specifically discussed the problem of high tax assessments.

Jim Pritchard said that the board of selectmen should put the properties out to a well-advertised auction, with individual notice to all abutters and to the former owner, and that the assessed value should be the auction sale price, whatever that sale price might be. Jim Pritchard said that the board of selectmen should overrule the town's contract appraiser if the town's contract appraiser disagreed. Jim Pritchard said that the board of selectmen could say that a well-advertised auction is the best indication of market value. Jim Pritchard said that the board of selectmen has this authority. (RSA chapter 76.)

Pat Heffernan asked how long the auction sale price would hold as the assessed value.

Jim Pritchard said that this question of how the assessed value would change as repairs happen related to his proposal for a report on what rehabilitating the buildings would require. Jim Pritchard said that the assessed value would increase from the auction value according to the rehabilitation-requirements report's schedule of value added. Jim Pritchard said that this way of increasing the assessed value allows the owner to turn his own physical labor, colloquially called "sweat equity," into property equity because the owner can do the work himself and does not have to hire a contractor to do the work.

Pat Heffernan asked for clarification that the assessed value would start as the auction price and then increase incrementally, and that the increments would be the values that the rehabilitation-requirements report stated for the work actually done.

Jim Pritchard said yes. Jim Pritchard said that advertising the auction thoroughly is crucial to this plan because the auction must be an arm's length sale in order to be the appropriate assessed value and in order to give the board of selectmen a valid basis to overrule the town's contract appraiser.

Clayton Wood asked whether the board of selectmen could use RSA 79-E.

Jim Pritchard and Pat Heffernan said no, that RSA 79-E is just for commercial buildings.

Jim Pritchard said that the board of selectmen must show leadership in tax assessment matters. Jim Pritchard said that, in 2002, he had shown with substantial numerical analysis that the appraiser's valuation of the whole town was completely wrong, but that the board of selectmen had responded by saying that they were not experts. Jim Pritchard said that the board of selectmen must be prepared to overrule the town's contract appraiser when the market value is clear.

Daren Nielsen said that the board of selectmen should be looking for a mechanism such as could be used for business to give some tax relief (RSA 79-E).

Clayton Wood said that the house at 31 Berry Avenue, being near the schools, could appeal to a young couple starting a family.

Jim Pritchard said that he had done much study of using financial security to guarantee the rehabilitation of the three town properties. Jim Pritchard said that he had just worked on performance security in the subdivision regulations and that the two situations are similar. Jim Pritchard referred to information from Concord showing that the municipality calculates the required security by listing the constituent improvements and their costs and then taking the total cost. The municipality allows the developer to reduce the security according to the work actually done and the itemized cost estimate. Jim Pritchard said that estimating the costs of rehabilitating the three town properties is similar to estimating the costs of other development projects but that requiring financial security presents the large opportunity costs of (1) having to have the security money, (2) not having use of the security money while the building is being rehabilitated, and (3) not having use of the building while the building is being rehabilitated. Jim Pritchard

said that his analysis of performance security assumed that the buildings need a huge amount of work, but that he did not know how much work the buildings really need.

Daren Nielsen said that securing the work and having contractors do the work in phases would make building equity difficult or impossible. Daren Nielsen emphasized that the rehabilitation-requirements report would assume that hired contractors would do the work, but, Daren Nielsen said, the owner could build equity by doing the work himself.

Jim Pritchard said that the rehabilitation-requirements report would tell the town whether the properties have positive or negative value. Jim Pritchard said that he did not know whether the properties have positive or negative value. Jim Pritchard said that the board of selectmen will have very few alternatives to a simple auction if they do not get the rehabilitation-requirements report.

Clayton Wood said that the town must give some incentive, must have some patience, and must understand the equity problem.

Jim Pritchard emphasized that his tax-assessment proposal is completely lawful and that the board of selectmen, not the town's contract appraiser, is the decision-maker assessor. Jim Pritchard said that a well-advertised auction defines market value and that the rehabilitation-requirements report gives an appropriate way to increase the assessment as work happens. Jim Pritchard said that the project will be doomed if the board of selectmen does not allow the owner to convert sweat equity into property equity.

Pat Heffernan said that some of the work would require a hired contractor.

Daren Nielsen said that owners could do the work themselves and that the board of selectmen should have the building inspector involved in the project and working with each owner before the owner begins any work.

Jim Pritchard said that the rehabilitation-requirements report would allow prospective buyers to decide what work they could do themselves and what work they would have to hire someone to do.

Pat Heffernan said that the rehabilitation-requirements report would be very helpful in allowing prospective buyers to assess the project.

Clayton Wood said that the board was discussing the equity of not only making the buildings affordable to buy but also affordable to pay their taxes.

Paul Nickerson agreed that the board of selectmen should get a rehabilitation-requirements report from someone truly qualified to make such a report. Paul Nickerson asked for confirmation that RSA 79-E is not applicable.

Jim Pritchard said that RSA 79-E is not applicable but that the board of selectmen can reach the desired result by simply appraising the property reasonably. Jim Pritchard said that the town's contract appraiser is often unreasonable. Jim Pritchard said that the town's contract appraiser in 2002 was appraising vacant 2-acre house lots for \$35,000 when vacant 2-acre house lots were actually selling for about \$24,000 and when not one single sale supported the \$35,000 base value. Jim Pritchard said that the town elects selectmen to be decision-makers, not to defer to hired people who work in Concord.

Daren Nielsen read the town's contract appraiser's values for the three town properties in question:

81 Main Street: \$66,000  
114 Main Street: \$128,000  
31 Berry Avenue: \$155,000

The board agreed that these assessments seemed unreasonable. Jim Pritchard said that the board was discussing whether these properties had negative values.

Clayton Wood asked whether the board had anything preliminarily for a recommendation.

Jim Pritchard asked whether the board agreed that the properties should be rehabilitated in a way that would preserve their historic appeal, if possible.

Pat Heffernan said that the board of selectmen should definitely get a rehabilitation-requirements report from someone truly qualified to make such a report. Pat Heffernan said that such a person should know what

would be required for building code updates, such as for wiring, plumbing, mechanical, fire-rating and protection, the roof, the disposal, and so forth.

Pat Heffernan said that the board of selectmen should definitely assess the property for taxes at whatever the property's auction selling price might be.

Paul Nickerson said that 31 Berry Avenue would cost no less than \$500,000.

Jim Pritchard referred to Concord's methods of estimating a job. The method breaks up the job into its elementary constituent pieces and then sums the constituent pieces.

Daren Nielsen and Jim Pritchard said that a property's having negative value would not necessarily make the property hopeless. Daren Nielsen said that the historic appeal of the property might have special value to the individual owner. Jim Pritchard said that an owner might be able to overcome the negative-value problem by converting his own labor, or sweat equity, into property equity. Jim Pritchard repeated his theme that the board of selectmen must allow someone to convert sweat equity into property equity.

The board agreed with this theme.

Jim Pritchard asked whether the board agreed that requiring a person to post financial security would be too much of an impediment to converting sweat equity into property equity.

Pat Heffernan said yes.

Daren Nielsen asked what assurance would the town have that the buyers would rehabilitate the buildings.

Jim Pritchard said that the town's ability to get such assurance was limited. Jim Pritchard said that a covenant requiring a single-family dwelling would provide some assurance because a contractor's buying the property would probably be not economically viable and because the person who would buy the building would probably live there and need to rehabilitate the building. Jim Pritchard said that putting a covenant on the property and giving prospective buyers the rehabilitation-requirements report is probably the best assurance that the town can get.

Paul Nickerson referred to Claremont's buy-back covenant for buyers who did not do the work that they promised.

Pat Heffernan said that requiring performance security would be a substantial impediment for almost anyone.

Jim Pritchard said that the impediment would be especially great for any person intending to do the work himself.

Jim Pritchard listed what the board had agreed so far:

1. The town needs to estimate the costs of rehabilitation.
2. The board of selectmen must allow people to create equity in the properties.
3. Any equity created will most likely have to come from the owner's own labor, or sweat equity.
4. Requiring performance security would greatly impede turning sweat equity into property equity.

Jim Pritchard said that these conclusions narrow the possibility of what the town can do. Jim Pritchard suggested that he and Daren Nielsen review the minutes of tonight's meeting and have a proposal for a meeting in two weeks.

Daren Nielsen asked Gerard LeDuc to comment on how the board of selectmen might react to the planning board's discussion.

Gerard LeDuc said that three selectmen would probably reject hiring someone to do a rehabilitation-requirements report.

Deidra Benjamin said that she worked as a consultant for the Town of Alton and that her firm did a lot of volunteer work for Alton. Deidra Benjamin suggested that there may be people in Pittsfield who can estimate what rehabilitating these properties would require and who would volunteer their services.

Daren Nielsen asked whether Pat Heffernan and Jesse Pacheco could estimate what rehabilitating these properties would require.

Jim Pritchard said that he had anticipated that the selectmen would reject hiring someone to do a rehabilitation-requirements report, but, Jim Pritchard

said, the town is currently the owner of the three properties and has an owner's responsibilities. Jim Pritchard said that the board of selectmen is the decision-maker about what to do with these three properties and that the board of selectmen could either try to put the properties back on the tax rolls as fast as possible or try to improve the neighborhood, as Franklin is trying to do. Jim Pritchard thought that trying to improve the neighborhood would be the better approach. Jim Pritchard said that the planning board could suggest an alternative if the board of selectmen refuses to hire someone to do a rehabilitation-requirements report.

Clayton Wood said that volunteerism would have to play an important roll in this project.

Gerard LeDuc said that the Suncook Valley Regional Development Corporation would present a proposal on July 20, 2016, for the rehabilitation and use of 33 and 37 Main Street.

Pat Heffernan said that success would lead to more success but that the first project would be more difficult.

The board discussed getting volunteers involved with at least one of the three town properties.

The board agreed to meet again on July 21, 2016.

Daren Nielsen noted that only one of 17 abutters, Charlene Case, had attended tonight's meeting. Daren Nielsen asked whether Charlene Case knew whether her neighbors were concerned.

Charlene Case said that she could not speak for her neighbors but that she was impressed with the board's forward thinking.

**AGENDA ITEM ADDED:** Deidra and Mike Benjamin's conceptual consultation of a site plan at 100 Leavitt Road

Deidra Benjamin said that she and her husband had lived in Pittsfield for about one and one half years, that her husband worked in Lee, but that they were considering opening an automobile body repairing business where they live at 100 Leavitt Road, Pittsfield. Deidra Benjamin said that the property

had been used previously as a garage and that the zoning board of adjustment had granted a variance for the garage.

Clayton Wood asked for clarification that the business by itself would be a principal use and would not be a home occupation.

Deidra Benjamin said that the business would be a principal use.

Clayton Wood asked what zoning district the property is in and what zoning permit the business would need.

Pat Heffernan and Jim Pritchard said that the zoning district is the Rural District and that the business would need a special exception. (Pittsfield Zoning Ordinance, article 3, section 3, (b), (2) and (6), for major automobile repair shop.)

Deidra Benjamin gave board members a draft site plan and said that she thought that she and her husband met the requirements for an exemption from site plan review. Deidra Benjamin said that she and her husband would not be adding anything inside or outside.

Jim Pritchard copied for board members the conditions for an exemption from site plan review. (Site plan review regulation, section II, B.)

Clayton Wood said that an application for an exemption from site plan review would answer many questions.

Jim Pritchard said that he had had an opportunity to prepare for the Benjamins' conceptual consultation and that it was not clear to him that the Benjamin proposal would not be exempt from site plan review.

Deidra Benjamin wanted to get some sense from the board as to whether her application might be exempt from site plan review.

Jim Pritchard repeated his opinion that an exemption from site plan review was not out of the question. Jim Pritchard said that he thought that the board should notify abutters of an application for exemption from site plan review. Jim Pritchard said that he thought that the law (RSA 676:4, I, (e)) required the board to notify abutters.

Clayton Wood said that the board should discuss whether to notify abutters.

Pat Heffernan said that abutters would know about the proposal when the Benjamins applied to the zoning board of adjustment.

Clayton Wood and Jim Pritchard said that the zoning board of adjustment and the planning board do separate reviews. Clayton Wood said that the planning board should notify abutters of an application for exemption from site plan review. Jim Pritchard said that everyone would know that the planning board would have to notify abutters if the planning board were not granting an exemption but were instead doing full site plan review.

Paul Nickerson asked how abutter notification worked for a manufactured housing park.

Jim Pritchard read RSA 672:3 in part:

“For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park form of ownership as defined in RSA 205-A:1, II, the term ‘abutter’ includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board.”

Clayton Wood asked for confirmation that the Benjamins would not be building anything, and how many cars the business would have.

Diedra Benjamin said that the Benjamins would not be building anything and that the business would have one or maybe two cars.

Clayton Wood encouraged the Benjamins to look ahead to the number of cars that they would be servicing for some time into the future so that they would not expand beyond the extent of their exemption from site plan review. Clayton Wood agreed that an exemption from site plan review did not seem to be out of the question.

Gerard LeDuc said that the Benjamins would need to show the square footage of their building.

Jim Pritchard said that the requirements for off-street parking spaces depend on the square footage of the building.

Clayton Wood asked whether the Benjamins would do engine work or just body work.

Mike Benjamin said that he could do both types of work.

**AGENDA ITEM 7: Members Concerns**

Members' concern 1: Jim Pritchard's concern with remaining questions about the draft subdivision regulations.

Jim Pritchard said that he had distributed to board members the remaining major questions that the board should resolve in the draft subdivision regulations. Jim Pritchard said that he wanted board members to be thinking about these questions.

Members' concern 2: Jim Pritchard's concern with large amounts of paperwork accumulating in some board members' folders.

Jim Pritchard said that some board members do not take the paperwork put their folders and that the weight of the accumulating paperwork is wrecking the hanging folder in the filing cabinet. Jim Pritchard proposed to hold accumulated paperwork in the planning office for a month and then discard it.

Pat Heffernan said that he was using his folder for storage.

The board discussed whether to put paperwork in all folders or to rely on distribution of documents by e-mail. Jim Pritchard and Clayton Wood thought that the board should put paperwork in all folders.

Members' concern 3: Gerard LeDuc's concern with the board of selectmen's public forum on July 19, 2016.

Gerard LeDuc encouraged planning board members to attend the board of selectmen's public forum on July 19, 2016, and to speak about having an expert evaluate and report on what improvements, how much money, and

how long rehabilitating the three town properties (81 Main Street, 114 Main Street, and 31 Berry Avenue) would require.

Members' concern 4: Gerard LeDuc's concern with the economic development committee's meeting on July 20, 2016.

Gerard LeDuc encouraged planning board members to attend the economic development committee's meeting on July 20, 2016, in order to learn what the economic development committee would propose for 33 Main Street and 37 Main Street.

Clayton Wood said that the planning board should choose at least one of the various town properties and try to make the board's vision work.

**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 July 7, 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 July 7, 2016, is adjourned at 9:46 P.M.

Minutes approved: July 21, 2016

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Clayton Wood, Chairman

Date

I transcribed these minutes (not verbatim) on July 9, 2016, from notes that I made during the planning board meeting on July 7, 2016, and from the

digital audio recording that Chairman Clayton Wood made during the meeting and uploaded to the Internet.

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Jim Pritchard, planning board recorder and secretary

Attachment: Notice of decision finding James E. Donini Jr.'s application for lot line adjustment approval incomplete