

BOARD OF SELECTMEN

September 14, 2020

MEMORIAL BUILDING

4:00 P.M.

The following are to be considered draft minutes only until approved by the Board at their next meeting.

The meeting was called to order at 4:00 p.m. and began with the Pledge of Allegiance.

Selectmen present: Tamara Butcher, Chairwoman, Dick Hendl and George McCusker

Others present: Whit Smith, Pam Laurie and Kurt Laurie

Zoom Attendees: Wayne Smith, Sue-Ann Kazenas, Kara Zaleskas, Andy D'Amico and Gene Hayes

Dick started the meeting off with a few words about the election last Tuesday. Dick spoke with several people who worked at the election and that came to vote. Everyone seemed very pleased with how it went. Having the election at the fire house was a great venue for keeping everyone socially distanced. Pixie and B. Manning deserve a lot of credit for taking the guidance from the state which changed almost weekly and putting it in to something that was coherent. Dick also added that it was no secret that he was not in favor of buying the Acuvote machine. Dick said the machine surprised him. It worked smoothly and everyone was out of there in record time with one tenth of the people that we used to have hand counting. Dick said if we can pull this off in November we will be on the right track.

Scheduled Appointments:

The Laurie's are before the board concerning their zoning permit application. Tamara asked about the Laurie's septic design, there are two. One design for two bedrooms in the house and one in the garage and one design with a total of four bedrooms. Whit said there is an approval dated September 8th, which is the second design. Tamara informed the Laurie's that in the town of Springfield an ADU must be attached to the main house and needs to be approved through the planning board. The Laurie's will need to discuss this with the planning board on Thursday.

Whit stated that in response to the board of selectmen's request the Laurie's had Mr.

Dombrowski modify their septic design to be for four bedrooms. That design went to, and came back from, the state that what was approved was two bedrooms in the house and a one-bedroom ADU. Whit is not sure why the state didn't take note of the four-bedroom design that Mr.

Dombrowski submitted. Whit stated that Mrs. Laurie represented to him in an early visit what was going in the garage would be a bathroom and a bedroom. Whit said for it to be an ADU it must also have kitchen facilities. Kitchen facilities make it a second dwelling unit. What Whit was saying to the planning board is are we treating an unattached garage with a bedroom and a bathroom as a dwelling unit or not. There is no precedent for that in the town in terms of permitting. The intention was to get clarification from the planning board as to whether a garage with a bedroom and a bathroom constitutes a second dwelling unit. Strict reading of our town's

ordinance does not give us any guidance on that. Whit saw the reference to the ADU, and the inference there if it is in fact an ADU, whether it's attached or not, under the state standard it must meet the four standards for everyday living; eating, sleeping, sanitation and cooking. If the state was interpreting that as an ADU and for some reason the Laurie's had told either Dombrowski or the examiner that there is an assumption that there is cooking facilities. The fact that there is cooking facilities, that automatically makes it a second dwelling unit, so we don't need to ask the planning board if it is or not. If it is treated as a second dwelling unit, in the town of Springfield, because the town is allowed to modify the rules that the state promulgated in June of 2018, in order to have an ADU the town's rules say it has to be attached to principal residence. Therefore, the garage would not qualify as an ADU. Whit said that is okay; a second dwelling unit is permitted under the town's zoning ordinance provided you get an approval from the planning board, just like you would have to get an approval if it was treated as an ADU. Whit stated whether it is an ADU is not that important. If it has a kitchen, that is important because it requires planning board approval. If it has no kitchen then the only thing that hangs Whit up is he isn't sure if it is treated as a second dwelling unit or not under Springfield's rules. If it's not a second dwelling unit, bedroom and bathroom permitted, then you can get a permit based on meeting the board of selectmen request for a four-bedroom design and the fact that the property is only supporting one dwelling unit. If it is a second dwelling unit then the planning board can go ahead and approve it pursuant to the subdivision rules. Whit added there is plenty of precedent in this town for approving what you've got as a second dwelling unit. Once the planning board says okay that's fine, and you've got a septic design for four bedrooms you can have a zoning permit then as well. Whit said we are caught in a bit of a circle here. If it's not a second dwelling unit Whit needs the planning board to tell him it's not and then we can go ahead. If it is a second dwelling unit, the planning board has to approve the second dwelling unit. Either way you'd be entitled to a permit. We are waiting on the planning board. Whit said it is not an ADU under Springfield rules, because, until our ordinance changes, it's not attached.

The Laurie's are looking to give two elderly people a place to live, that's all. That is understood by Whit and the board. Whit said we are looking to try to make a consistent application of the rules in town. Pam understands that, but the intent of the law, if you read the law the state passed, is to help people with elderly parents or somebody in the family that you are trying to help. Pam said there are many towns in NH that don't require an ADU to be attached. To the Laurie's the fact that their lot is only 200 feet wide makes it so that it doesn't make sense for the garage to be attached. Kurt asked what is considered attached. Whit said a common doorway; something accessible from one part of the structure to the ADU and back. There are also six other requirements for ADU's. In addition to there being a doorway between the two, that has to be secure from both sides, providing secured privacy to both. Tamara copied that page of the zoning ordinance and offered it to the Laurie's.

Pam asked if they will be getting their permit today or not. Tamara stated they will not be getting the permit today, that is dependent on what planning board says on Thursday.

Tamara said the planning board will either tell the board it is a separate dwelling unit or that it is not a separate dwelling unit. Tamara said if there is cooking facilities within it, it will be considered a separate dwelling unit. They can't approve a permit until planning board tells them what it is.

Kurt asked which septic design the board will let them use. The board said the four-bedroom septic will be used. Whit added that will give the most flexibility. Kurt asked why they couldn't use the three-bedroom design. Tamara said they are unable to use that design because the way the board looks at what is being built, they have four bedrooms not three. Kurt stated that is a design from an engineering company and they can change that any way they want. Tamara agreed they can change the design. Tamara asked Whit if it is a separate dwelling will they need to fill out a separate application for that. Whit does not believe so. Pam feels this whole thing is very gross; from the letter received from the board on. Pam stated they have been good residents for thirty years and don't appreciate how they are being treated by the select board. Pam again stated they will be at the planning board on Thursday and asked who will hand them their permit. Tamara said depending on what the board's decision is, she and Dick will be at the meeting and could possibly provide the permit then. Tamara stated the town's ordinance has changed dramatically in the last ten year and everyone that does anything new has to go by the current ordinance. Whit stated his job is not enforcement it is to work with property owners and help them through these things. He understands it can seem confusing and you can feel like you are getting the run around. Whit accompanied the Laurie's outside for further discussion.

Tamara read aloud the message sent by Amber Ruggles stating she would like to have a fall farmer's market / craft fair / yard sale in town on the 26th of September either at the field or the town hall. Amber is wondering if this is possible during Covid times and free as they will all be residents. She stated masks would be required if in the town hall, but outside might be better during these times though. Tamara shared that other towns have been holding farmer's markets and they've all been outside. Tamara has no issue with the event. George has no problem but asked what they will do if people don't wear a mask. Tamara said that would be up to the individual booth to post a sign or something. Tamara and Dick feel outside would be best and would give them more room to spread out. Dick feels if we are going to allow the event it should be contingent on social distancing and wearing masks. Dick made a motion to approve Amber Ruggles request to use the rec field for a community yard sale with the condition that everyone wear a mask and observe social distancing. The motion was seconded by George and unanimously approved.

Minutes of August 24, 2020:

Dick moved to accept the minutes of August 24th as written. The motion was seconded by George and unanimously approved.

Unfinished Business:

Tamara feels the board had very good acceptance in the past requesting residents that were in jeopardy of tax deeding to set up a payment arrangement with the town. This seemed to have been positively accepted and Tamara suggests we continue this process with the individuals on our list this year. George and Dick are in agreeance. Dick would also like to see the people that are currently on a payment plan come in to sign a new agreement. George and Tamara agree with that. Dick would also like to have everyone come in at the same time, and it can be first come first served.

Dick had a call from a resident of Hogg Hill who asked him to address the situation with Select Shepards at this meeting. Since this is a sensitive issue and it involves attorney client privilege Dick asked attorney Christine Fillmore to provide a statement that would meet the residents' requirements as well as protect any sensitive client/attorney privilege information. Dick read attorney Fillmore's statement which inserted below.

"The Town is currently involved with a court appeal filed on behalf of the owners of 373 Hogg Hill Road. Some residents have asked for an update on the status of that proceeding. While the Selectmen cannot discuss all aspects of ongoing litigation, we can provide facts that are public. The following information is all contained in public documents or occurred during public meetings.

As you may know, in December of 2019 the property owners asked the Board of Selectmen to sign a document stating that 373 Hogg Hill Road complies with all applicable zoning regulations in Springfield. The Board of Selectmen declined to sign that document. The property owners appealed that decision to the Zoning Board of Adjustment, which upheld the Selectmen's decision. The property owners then filed an appeal of the ZBA's decision in Sullivan County Superior Court on July 2. The appeal seeks to overturn the ZBA's decision and require the Selectboard to issue the certificate. It also alleges a variety of other claims and seeks damages from the Town.

The Town was officially served with the complaint as required by the Court on July 10. On August 11, as ordered by the Court, the Town filed a certified record of all proceedings at the Selectboard and ZBA regarding the request for the zoning certificate. On August 12, the Town filed with the Court a formal answer to the complaint. On September 11, the property owners filed with the Court a reply to the Town's answer. As of today, nothing further has been filed with or scheduled by the Court on this case.

Normally, the next step in an appeal from a ZBA decision would be for the Court to schedule a hearing for each party's attorneys to argue their case based on the certified record. The hearing would usually be held within 3-6 months, depending on the court schedule, and a decision is generally issued approximately 3-4 weeks after that. However, the ongoing pandemic has delayed most hearings by many months. Some matters are being heard via electronic hearings, but other matters have been postponed indefinitely. We do not know when a hearing might be

scheduled in this case. There are also some other non-zoning claims in this appeal which could delay matters further. Until we hear more from the Court, we won't know."

Dick said Matt Decker sent him an email that the judge still has not issued the lien regarding the Stone property. He hopes it will be issued by the end of this week. We are also moving forward with a land use violation certification on the Brunelle situation.

Dick mailed a package to Governor Sununu concerning the other violation of the shoreland protection act on Lake Kololemook. That package was received, by certified mail, on the 10th of September. Dick also discussed the situation and sent Senator Ward copies of both the letters to the Governor and the letter to the assistant Commissioner. Dick saw her at the election and had a brief discussion with her, so that is still pending. Senator Ward said she would reach out to the Governor after a reasonable length of time to see what the situation is.

George shared that he got a call from someone about some political signs. The town picked up a whole row of signs that were on town property and they were being kept in the fire station. Peter told George to take them. George put the republican signs up on his property. George reached out to Linda Tanner to see if she wanted him to put her sign out or if she wanted him to meet her somewhere to return. George also has a Shaheen sign which he will give to her if she wants. George has not heard back from Linda Tanner yet. Tamara had a resident contact her last Tuesday saying they had put signs out and they disappeared. Tamara is not sure where the signs were placed, the resident didn't say. She wanted to know why they disappeared; she was concerned that maybe she wasn't supposed to be putting signs out. George said the ones he obtained were removed because they were on town property. Tamara will contact that resident and try to find out a bit more information.

Whit returned to the meeting to provide the board with an update on the Laurie's. The Laurie's would like to amend their application for a zoning permit, so it shows two bedrooms in the main house and no bedroom in the garage, for now. They will attend the planning board on Thursday night and describe the plan they would like to do. If they get approval to do that plan, they will move forward with the extra bedroom or second dwelling unit. The Laurie's do have a plan to put a kitchen in the garage. Whit's recommendation is to approve the zoning permit based on the four bedroom septic design, which we have in hand and it is approved by the state, with two or three bedrooms in the main house and for now no living space planned for the garage. They can then go to the planning board, ask for permission to create a second dwelling unit in the garage. If the planning board says that's fine, then we can process the appropriate paperwork to allow them to have either a third or a fourth bedroom on the premises depending on how you interpret it. Clearly a second dwelling unit would be there and would include cooking, eating, sanitation and sleeping. Dick asked if they decide to put a kitchen above the garage do they have to go back to the planning board and get permission for two dwelling units on that lot. Whit said absolutely, but they won't need to file a new zoning permit because they will be permitted for those two structures. To treat the second structure as a separate dwelling unit they will need planning board approval to do that. Dick asked how this is all documented and tracked. Whit

said it will be on the zoning permit application that is being revised for them and then the planning board minutes when and if they decide to do that. In the meantime, if they don't get an approval for a second dwelling unit then technically, they are prohibited from having a bedroom in that garage. Whit said from a procedural approach, first of all the house and detached garage are perfectly acceptable under our zoning ordinance based on the location, existence of wetlands, the size and the application fees that have been paid. The fact that there is a bedroom and bathroom planned for the garage will be drawn through on the application; in other words, they've revised their application and will initial and date it. Whit added that they would be able to have a bathroom in the garage without it becoming a second dwelling unit. Dick stated from the standpoint of the zoning permit there doesn't seem to be a difference whether there is a kitchen there or not. Whit said no, there is a huge difference if there's a kitchen or not. If there's no kitchen it may not be a second dwelling unit. Dick said the planning board will be the one to make the decision about the second dwelling unit, so will they have to come back with another zoning permit if they are going to put the kitchen in. Whit said no because the dimensional requirements of the structure are acceptable. Whit is comfortable signing the application with the changes that are being made. The board agrees. The board thanked Whit for his efforts.

Tamara asked George if he had heard anything from Pete about a paving date for Twin Lake Villa. George says he asks every couple of days, nothing yet. According to Pete roads are prepped. Tamara has heard from a couple of residents that Shad Hill is not ready yet. George will ask Pete again.

New Business:

Tamara stated the board received a letter from Orr & Reno concerning roads on Star Lake and Deer Hill area of town. Tamara suggests the board table this for now as she wants to read the declaration of covenants from the 18th of March 2010 and refresh her memory as to what those say. She would like to table this until the next meeting or possibly the meeting after that.

Tamara asked for thoughts on the Eversource 2019 appeal. Dick feels we should agree to stay with the heard. Tamara agrees and asked Jill to respond to them tomorrow that we want to continue as we are.

Tamara said planning board will be discussing the noise ordinance on Thursday. Tamara's understanding is it is still in the planning/draft stages. Shawn sent Kevin Lee a message that Simon was directed to contact Jill to be put on the planning board agenda to discuss this topic.

Board and Department Updates:

George said Conservation has had all their emphasis on the Rice property lately. Tamara said that is over now so they should be able to focus on other matters now. Dick had a conversation with Marla and he had suggested to her that since it looks like the state DES wants Conservation a little more involved in these things that when she sees something on Whit's report that looks like it might require a DES permit maybe the Conservation Commission could make the property owner aware of that potential responsibility and give them some guidelines. Apparently, DES

sent a booklet to the Conservation Commission and one of the first questions was “How do I know I need a DES permit”. Dick isn’t saying the commission has to enforce anything, but they could just give them the rudimentary requirements for it. The property owner can always call the wetlands scientist on duty who might be able to help as well.

Dick said the library trustees voted to change their meeting times from the last Thursday at 1pm to the last Thursday at 10am.

Tamara said the fire department will be meeting tomorrow night, which was moved because of voting. They responded to a brush fire in Hanover Sunday morning. They had one firefighter injured. He has a fractured foot, but he’s fine.

Correspondence and Signatures:

None

Miscellaneous Business:

Kara Zaleskas has called in because she had heard they have been mentioned in the minutes of the last meeting. Kara stated she and her sister are owners of 164 Four Corners Rd, and about a year ago they asked for a permit to build a deck. Kara is respectfully requesting that given the pandemic and on and off closures whether the board would be open to considering a six-month extension on the previously approved, now expired, zoning permit. Kara is hoping to have her papers submitted to DES within the next three weeks.

Kara asked the board, what the repercussions were if you don’t have approved permits. Tamara explained that repercussions are that fees/fines can be levied against the property; that’s about all that can be done on the town level. Dick explained the town has several actions that are ongoing. Going through the court system to get these matters enforced is a painful and expensive process. Whit explained there is more to the situation than just a fine, and in the majority of the cases the town usually prevails. There would be a court order issued for a daily fine that ranges anywhere from \$475 to \$600. The steps to get to that point is time consuming and expensive. Kara said she can see the town is working on establishing precedent through current actions that are time consuming and costly, but in the end they will result in some sort of precedent that will act as some sort of deterrent moving forward. Whit reiterated that just paying that after the fact fee does not excuse the conduct.

Kara expressed some concern on outdoor burning that had been happening, her main concern being it seemed they were burning materials that are not supposed to be burned. Kara asked what one does if this happens. Tamara informed Kara that if she notices this again she needs to contact fire department and provided the dispatch number, 643-2222.

Kara expressed a final concern, which was barking dogs. Kara said it seemed there were dogs outside all day unsupervised and barking which didn't seem to stop. Dick said the barking has stopped since about a week ago Saturday. Dick suspects they were being watched by the property owners. If it starts up again, he will have Sgt. Beaulieu handle it.

Kara thanked the board for their time. Tamara will make note on her expired zoning permit stating she has granted a six-month extension which will now expire on March 14, 2021.

Zoning Permits:

REPORT from ZONING COORDINATOR. -- Board of Selectmen - Monday, August 24, 2020.

Here is a summary of permit applications and Zoning Coordinator activity.

Application for Permit – Acted Upon, APPROVED

1. Mr. Craig Timek, 237 Georges Mills Rd., is planning to build/place an 8' x 8' shed off to the side of the house. Zoning Coordinator has been out to the site and area for the planned shed is marked. There are no wetlands issues, no set back issues, and the structure will be less than 35' tall. Based on site visit there does not appear to be any home business or commercial activity at the location. Applicant has represented the same on the Zoning Permit Application. Zoning Permit application approved per delegation of authority.

2. Brooks & Olivia Weathers, 1482 Main Street, want to build a 36' x 30' garage off to the side of their house. Zoning Coordinator has been out to the site and area for the planned garage is marked. There are no wetlands issues, no set back issues, and the structure will be less than 35' tall. Based on site visit and interview with the applicant there does not appear to be any home business or commercial activity at the location. Applicant has represented the same on the Zoning Permit Application. Zoning Permit application approved per delegation of authority.

3. David & Angela MacCreighton, 99 Old Grafton Road, would like to build an addition to their existing garage. The structure is planned to be 31 ft. back from the road. The MacCreighton's have been to the ZBA and have been granted a variance providing relief from the 35' setback requirement. Zoning Coordinator has been out to the site and area for the planned garage addition is marked. There are no wetlands issues, no set back issues, and the structure will be less than 35' tall. Based on site visit and interview with the applicant there does not appear to be any home business or commercial activity at the location. Applicant has represented the same on the Zoning Permit Application. Zoning Permit application approved per delegation of authority.

Open Applications - In Hand, But NOT Acted Upon.

4. Mr./Mrs. Laurie, Hogg Hill Road (house number not assigned), would like to build a log home with 2 bedrooms and a 3rd bedroom being converted to an office; and a detached garage with bedroom and bath in the garage. Original septic design has been modified to a plan for four (4)

bedrooms as requested by the Select Board. However, the State issued Septic Design Approval still indicates that it is for three (3) bedrooms – one of which is in an Accessory Dwelling Unit (ADU) in the detached garage. By inference and upon additional information, applicant is planning to add a kitchen in the garage. Applicant previously informed Zoning Coordinator that there were no cooking facilities planned for the garage. This apparent change in plan has not been discussed with the applicant. Application held pending review and decision by the Select Board. See item D in other Matters below.

Other Matters.

A. Visited with home-owner on 4 Corners road who is planning to place a “hoop house” 24’ x 12’ in the yard next to house.

B. Follow-up with Yankee Barn homes regarding development of “retired” properties in Eastman section. Was advised that one of the properties has sold. Expect Zoning Permit application regarding the house planned for that property. Nothing further to report.

C. At request of the Select Board, prepared letters to property owners regarding (i) action taken on complaint from neighbor about rental apartment inside single family dwelling and (ii) requirement for modified septic design on buildable lot.

D. Visited town office at the request of Hendl to review additional docs provided by Laurie. Found two (2) septic designs and one Approval for Construction of Individual Sewage Disposal System from the Department of Environmental Services. The newer septic design plan (Dombroski #458 stamped 09/03/2020) is for four (4) bedrooms. And the system design has been increased from 450 to 600 gallons per day. The prior design plan (Dombroski #458 stamped 08/07/2020) was for three (3) bedrooms and 450 gallons per day. Accordingly, Laurie has complied with the Select Board request that the septic design be modified to serve four (4) bedrooms.

However, the Approval for Construction of Individual Sewage Disposal System, dated 9/8/2020, from the Department of Environmental Services refers to 2 bedrooms in the home and 1 bedroom ADU, total flow 525 GPD. For a total of three (3) bedrooms. This does not match what is shown on the latest septic design (Dombroski #458 stamped 09/03/2020).

<< September 13, 2020 >>

Whit briefly summarized his report. He stated the Laurie’s permit application has now been resolved. George asked about there being no commercial activity on the Weather’s property. Whit said there is no commercial activity happening on the property. The only commercial activity Whit is aware of, outside of Mr. Weathers’ regular job, is that he processes wood on Route 4-A, which is approved. The lumber across the street from his Main Street property is for the garage being built, which has an approved permit.

Whit stated it was being discussed for both Mr. Kezar and Mr. LeBlanc to be scheduled for a consultation for the September planning board meeting. However, they are not on the agenda for this September. Whit would like the planning board to clarify what the requirements are because with the precedent being set with Twin Lake Villa, basically a statement of where you stand at a certain point and time, it seems that if that's the way we are going to operate that should be uniformly applied to people like Mr. Kezar. Mr. LeBlanc is a little different; the business is operated out of his truck. He doesn't operate the business at his home residence. Whit feels it's important to step carefully here so that these things are both applied consistently and not based on the flavor of the day.

Gene Hayes apologized for signing in late, as he missed the update on Select Shepards. Tamara informed Gene that a statement was read and it will be published in the minutes or he could stop into the office to read it.

Tamara made a motion to adjourn meeting. The motion was seconded by Dick and unanimously approved.

Meeting adjourned at 5:33p.m.

Jill Hastings
Deputy Administrative Assistant