

BOARD OF SELECTMEN

MAY 10, 2017

MEMORIAL BUILDING

1:00 P.M.

Meeting continued from Monday, May 8, 2017.

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

Selectmen present: Leigh Callaway, Chairman; Dick Hendl, and Tamara Butcher.

Others present: Keith and Sue Cutting, and Whit Smith.

Leigh reconvened the May 8th meeting at 1:00 p.m., and announced that he would be recording the meeting for his use in editing the draft of the Class VI and Private Road Policy.

Leigh's first order of business was to address a part-time versus full-time position as has been mentioned if the position of cemetery custodian is added to Cody Patten's job description. Leigh questioned if the Board wished to discuss and decide right now or table the issue until the Cemetery Trustees and Road Agent are present. The Board agreed to table discussion until Monday, May 22. Leigh noted the Cemetery Trustee's do not make the decision as to the full-time position. That is up to the Selectmen and Pete as to how that will be worked out.

The Draft of the talking points for the Class VI and Private Road Policy follows:

**Construction on Class VI and Private Roads.
Policy Talking Points
May 10, 2017
(in no particular order)**

Background: the governing body (BOS) has the authority to establish policy regarding construction on Class VI and private roads (RSA 674:41) Discussion and decisions on the points in the table below will be the basis of our policy. The list is not complete.

In the absence of such policy, the BOS has no authority to approve zoning permits on Class VI or private roads.

The Town's role concerning maintenance advice/consulting from the Road Agent and closing a road will be included in the "notice of limits". That "notice" will incorporate language giving the applicant a permit to maintain the road (RSA 236:9 through 236:12.)

1	<p>We should no longer refer to a “waiver.” That implies the Town has some responsibility when in fact we have no such thing for maintenance nor services requiring access. Instead, we should refer to a “Notice of Limits” – that’s the language used in RSA 641:41.</p> <p>Approval of a zoning permit on Class VI/private road will be contingent upon a “notice of limit” filed at the Sullivan County Registry of Deeds.</p> <p>Board agreed the reference will be Notice of Limits as per the RSA.</p>
2	<p>Some towns prohibit any construction on Class VI roads which is intended to be used for human habitation, either permanent or seasonal. When that policy applies, the rest of this little document does not apply.</p> <p>Board addressed concern with creating unbuildable lots. The Town has not denied construction on Class VI roads in the past. The Board is not in favor of making this part of the policy.</p>
3	<p>Many towns’ policy is to minimize and limit development on Class VI/private roads so as to discourage pressure to convert to Class V, and to encourage recreational/conservational use. Should Springfield adopt that as part of our written Statement of Purpose?</p> <p>Board concerned with such a policy minimizing the value of on those roads, and puts a negative tone on the policy. The Board is not in favor.</p>
4	<p>Some towns adopt policy designed to ensure against development that would involve danger or injury to health, safety or welfare of people living on Class VI/private roads. To do this, they require applicants to maintain Class VI and private roads so as to “ensure that emergency vehicles going to any structure built on Class VI or Private Roads will travel on roads that are properly constructed and maintained so as to be accessible in a safe manner at all times.”</p> <p>Springfield has no specifications for proper construction and maintenance. If this is to be our policy, then:</p> <ul style="list-style-type: none"> • the Town must draft and approve a set of road specifications, • applicants must bring the road up to those specification. Some towns require this to be done before approval of the zoning permit, • the Town would need to draft procedures and allocate resources to enforce those specifications. <p>Does Springfield want to adopt similar policy and procedure?</p> <p>Board does not feel this is the way Springfield does or wants to do business. When a person signs a “Notice of Limits” construction is done with knowledge of liabilities and limits. Submission of new private roads, or requests to make roads public are done through town vote. Subdivision on Class VI and Private Roads is handled at the Planning Board level. The Board agreed to table discussion as to how the policy would address Private Roads, and addressed Class VI roads only. Board discussed going</p>

	<p>backwards when there is no Notice on File. Can a zoning permit for construction be held “hostage” until a notice is filed?</p> <p>The Board would like to think more about Private Roads and how to handle requirement of notices moving forward.</p>
5	<p>The alternative to policy in (4) above is to not require emergency access and rely instead on an “at your own risk” policy reinforced with a “notice” which clearly defines the limits of the Town’s responsibilities and liability.</p> <p>Board agrees “yes” on Class VI roads. Private Roads to be determined. Concern noted regarding property values.</p>
	<p>General discussion: Keith Cutting reviewed his concern with property his family owns in the Gile Forest, and the issues with whether the road is Class VI or not. There are some who believe it was discontinued. At some point this will become an issue. The policy the board adopts could have an impact on the value of that property. He is interested in the policy the board adopts and what its impact will be.</p>
6	<p>Do we want more information in an application for a Zoning Permit in addition to that specified in the Zoning Ordinance? For example:</p> <ul style="list-style-type: none"> • A map showing <ul style="list-style-type: none"> ○ The size of the lot and its relation to the Class VI or Private Road, and showing the publicly maintained road which allows access. ○ The location and length of the driveway giving access to the Class VI/Private Road ○ The location/condition of bridges or culverts on the road. ○ Drainage and water courses ○ Travel distance to nearest Class IV or higher road. ○ The location of existing structures already located on the Class VI/private road, and whether or not those are occupied permanently or seasonally. • A general description of the Class VI/private road condition, including but not limited presence of ledge/boulders, flood/mud areas, adequacy of drainage, curves/switchbacks and proximity of trees. • A statement by the Road Agent. <p>Board discussed whether to make this part of the zoning permit application. Board members questioned why this information is needed if the Town has nothing to do with maintaining the road. Board agreed no extra information is required.</p>
7	<p>Planning Board review/comment: should we require all zoning permits on Class VI/private roads to be reviewed by the Planning Board? If not, are there exceptions? Some possibilities:</p> <ul style="list-style-type: none"> • Planning Board has already reviewed and commented on a permit on the same road. • Accessory improvements - adding a deck, porch or stairs

	<ul style="list-style-type: none"> • Replacement with no change in footprint. <p>Planning Board has input on the policy, but not on a case by case basis for each application. This is beyond the scope of the intent of the policy. Two board members are not in favor. Leigh would like to review this with the Planning Board and determine what they would like to see.</p>
8	<p>Do we want to be sure that others who access their property using the same Class VI/private road are notified? If so, how</p> <ul style="list-style-type: none"> • Correspondence • Certified correspondence • A public hearing by the select board? • Require the applicant to notify others and produce evidence that he/she has done so? <p>Are there exceptions to when we notify others?</p> <p>Presumably maintaining the road would be a group effort. Should there be a policy to make others proposing to use the road notify abutters. Board discussed why and how to handle notifications. What would the process and procedure be if notifications are required. Would notifications be required for all construction or for primary buildings only when there is no Notice of Limits on file. What will the specifics for determining abutters and when does that create an undue hardship. One member would like to see notices required, one would like to see limited notice requirements, and one does not support the requirement. Leigh would like review and comment by the Planning Board.</p>
9	<p>The Town will require a “Notice of Limits” in the chain of title. Do we want to have our Administration handle that – using our form? Or, like some other Towns, must the applicant at his/her expense, employ services of an attorney representing the Town, process the notice, and then produce evidence that such notice has been filed at the Registry of Deeds?</p> <p>The RSA says: “Prior to the issuance of a building permit, the applicant shall produce evidence that notice of the limits of municipal responsibility and liability has been recorded in the county registry of deeds.”</p> <p>Board agreed to require the Town form. The Town will collect the recording fee, and be responsible for recording at the Registry of Deeds. Leigh noted he has drafted an updated Notice of Limits, tailored to Springfield, that he will bring to a future meeting.</p>

10	<p>About getting an updated “notice” on file.</p> <ul style="list-style-type: none"> • When a property changes owner, there will be older versions of our “Notice of Limits” in the chain of title which will be binding on the new owner. NHMA says we may <i>not</i> require an updated notice in the Registry of deeds when a property changes owners. • Should we require signature on the latest “Notice of Limits” for each and every zoning permit? Is this even legal? For example: <ul style="list-style-type: none"> ○ Adding a deck ○ Building improvement with or without change in footprint. ○ Adding an accessory building. • When there is no notice on file at the Registry of Deeds, should we/can we require one with a zoning permit application? <p>What if no Notice of Limits exists (on a Class VI Road) and someone wants to add a deck or some other accessory building. The Board wants to be sure there is a Notice of Limits as required by law, but still comply within the law, and discussed how to proceed taking corrective action moving forward. Can the Board legally require a Notice retroactively? Leigh recommends review by legal counsel.</p>
11	<p>Some towns recommend property owner associations for the purpose of maintaining a road? Does Springfield want to make that recommendation?</p> <p>Board Ok with making a recommendation. This could also be handled at the Planning Board level if a new road is proposed within a development.</p>
12	<p>Planning Board review to consider:</p> <ul style="list-style-type: none"> • is the permit consistent with the Springfield Master Plan • potential pressure to change to Class V • additional expense to the town • Additional workload on or responsibilities of Town employees • minimize/limit development • personal safety/welfare of the applicant • precedent • aesthetics • hardship to future purchasers • conditions to permit approval • other relevant and reasonable considerations <p>Not applicable.</p>
13	<p>Should the policy mandate that approval be contingent upon favorable review by the Planning Board?</p> <p>Board agreed no.</p>

In reviewing the discussion that took place, the Board recognized there is a large difference between private roads and Class VI roads but the policy, as per the RSA needs to address both. The RSA was amended in 2002. The town has not required Notice of Limits for private roads in the past. The Board questioned whether there is a requirement to pursue retroactively.

Leigh noted, after Planning Board Comment, he will revise policy draft. Step 2 will be to present the Selectboard with a new notice form to use following formal policy acceptance.

Meeting adjourned sometime around 4:00 p.m.

Submitted by,

Janet Roberts,
Administrative Assistant