

**BOARD OF SELECTMEN**

**March 08, 2021**

**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: Whit Smith and Sergeant Beaulieu

Zoom: Wayne Smith and Cutting Farm

Tamara made an announcement to the zoom attendees. If anyone on ZOOM is having any issues hearing the meeting to please speak up and make the board aware at that time so they can address the problem.

**Scheduled Appointments:**

Ed Shank of Mascoma Valley Snow Travelers did not attend meeting.

**Zoning Permits:**

REPORT from ZONING COORDINATOR. -- Board of Selectmen - Monday, March 8, 2021.  
Here is a summary of permit applications and Zoning Coordinator activity.

Application for Permit – Acted Upon, APPROVED

1. Robert and Donna Ruel, 513 Stoney Brook Road, would like to have a 14kw generator installed next to their house. As previously reported the location on the lot (as currently configured) is well within the 35' side yard setback. Fortunately, the Ruel's own the lot next door and have initiated action to merge the two lots (papers filed, fees paid). Accordingly, the setback problem will be eliminated. There are no wetlands issues, and the generator is less than 35' tall. Applicant has represented on the application no Home Business or Commercial/Industrial activity. Permit application approved per delegation of authority.

Open Applications - In Hand, But NOT Acted Upon.

2. Rylee Preston, 112 Philbrick Hill Road, additional Zoning Permit application to build roof over deck (creating porch), created entry vestibule; add roof over-hang around planned structure.

3. David and Elizabeth Erickson, cabin off Morrill Road. No further action pending final plan from applicant. Applicant has been advised accordingly.

Other Matters.

A. Attended Zoning Board of Adjustment meeting. Valela application for Variance (garage encroaching side yard setback) continued pending visit to site by ZBA members on March 15. McGraw application for Special Exception to allow 2<sup>nd</sup> dwelling unit Approved.

B. Advise prospective property purchaser regarding expansion of residential structure on Dutchman Pond Road (Private Road; Sitte)

C. Additional consultation with resident property owner regarding application to either sub-divide 7-acre lot or to obtain permission from Planning Board to place second residence on the lot. Set meeting to review plans and prior application for sub-division. (Vassallo)

D. Respond to inquiry regarding 2<sup>nd</sup> dwelling unit and/or sub-divide lot to allow for additional dwelling; also, questions regarding rebuild of historic retaining wall (Hummel)

E. Inquiry from resident on Philbrick Hill Road regarding site placement for planned garage requiring action by the Zoning Board (Variance or Special Exception) (Gilbert).

F. Inquiry from resident on Stoney Brook Road regarding site placement for planned garage as to whether project can be done without Zoning Board action; additional restrictive covenants running with the property written in the deed. (Greene)

G. Inquiry regarding whether a Zoning Permit is required for home alarm system upgrade. Permit NOT required unless additional structure is added to house or accommodate the alarm system. (Farrenkopf)

H. Received inquiry from property owner identified only through email address: "If you have 2 dwellings on a property does the owner need to occupy one of those dwellings?" Responded accordingly.

"Generally speaking, where there are two dwelling units legally on the property (having been reviewed and approved by the Town Planning Board, or it is a situation that legitimately predates the Zoning Ordinance), it is not necessary for the owner to occupy one of the dwellings;

**UNLESS** the reason for approval by the Planning Board is that one of the dwellings is to be treated as an "Accessory Dwelling Unit" (ADU). See Zoning Ordinance, Section 7.20 at page 25, et.seq. In the case where one of the dwelling units is treated as an ADU, under the Ordinance the owner must live in either the principal dwelling or in the ADU."

***Nota bene*** – to the Select Board and the Community: Certain inquiries of a "general nature" are problematic; particularly where the party making the inquiry may not be disclosing salient facts. For the Zoning Coordinator to provide useful assistance, it is imperative that the party making the inquiry provide an appropriate amount of information or background; including factors that lead to the inquiry in the first place. Questions coming "out of the blue," or asked "in a vacuum" without facts are difficult to answer. The reason being: circumstances control almost all aspects

of interpretation of the Zoning Ordinance (or any ordinance, for that matter). Accordingly, in the future when the Zoning Coordinator receives such an inquiry, the initial response, given promptly, will be "Why are you asking?" With additional information the discussion can ensue; and information or assistance will be provided to the party.

<< March 7, 2021 >>

Whit thanked the board for authorizing the approval the generator for Robert and Donna Ruel. If that does not go through, we can advise them accordingly.

Whit will be meeting with Jay Preston (2) tomorrow morning. He has three or four zoning permit applications on record with respect to this property on Philbrick Hill road. Now he is planning on putting in a garage. Whit will sit down with him to get the file organized and make sure he is up to date on all the fees. Whit probably won't send that one to the board of selectmen for additional review and approval until we get the application for the garage. He's extended the roof a foot on each side, which makes sense because he had a water coming off the roof problem. A new permit has been filed with respect to that.

Whit visited the property on Dutchman Pond (B), he was there probably ten minutes and there was a lot of real estate activity going on. Janet stated Coldwell Banker's website is showing that this property is now contingent, as well as the one at Woodcrest.

Whit will be meeting with Ms. Vassallo this Thursday to review the old application for subdivision and whether or not there's any way to put a second residence on that 7-acre lot.

Whit will visit Mr. Hummel's property to take a look at the retaining wall needing to be rebuilt. Technically a wall is a structure, so we will see where it sits.

There is a property on Stoney Brook road that would like a garage. This involves a deed with a restricted covenant in it, which was disclosed to us, even though we don't consider deeds when we look at the zoning ordinance and permits. In this case we were made aware of the restricted covenant and we cannot ignore it. Whit spoke with Mike Chiarella to see what the general custom in usage is around the area for dealing with properties that have been deeded with a restricted covenant, which runs with the land. Until there is a change to that covenant it can exist in perpetuity. Whit will be talking to the property owner to discuss how best to approach this. The restricted covenant in this case is 50 feet rather than the 35-foot setback.

Whit brought the boards attention to the note at the end of his report, Nota bene. Whit will adjust this policy if the board of selectmen sees a need to.

Dick asked Whit about the Contoocook River email. Tamara asked if anyone was able to download the file. Dick was able to download, but never got the follow up email they referred to. Whit says it involves mapping, and someone ought to pay attention to what it is just in case there's an opportunity to enhance the information that we have. Whit is not a fan of responding to blind offerings of education and seminars. Although, there is one coming up in May for

planning and zoning that's out of the office of strategic initiatives. Whit feels given some of the turnover that's going to occur on the zoning board and planning board this might be a useful seminar. It is being done remotely via zoom. Whit's plea is that if we ever have the opportunity to improve our wetlands maps so that property boundaries are more accurately depicted, we should do it; we need this as a town.

Whit looked back through his email, he did receive a password and downloaded the file. The file includes all the towns in the region. There are eleven files for the town of Springfield, all waterflow files including a work map index for each. Whit thinks they are possibly looking for feedback on the maps. Whit will forward the Springfield information to the selectboard.

### **Minutes of February 22, 2021**

Dick made a motion to approve the minutes of February 22, 2021. The motion was seconded by Tamara. Dick and Tamara are in favor, George abstained.

### **Unfinished Business:**

Tamara asked which warrants each selectman would like to discuss on Saturday. George will discuss the truck. Tamara will discuss the sand shed and the Gove Brook culvert. Ken Jacques and Dick will discuss the budget. Janet said there may also be questions about the unreserved fund balance. Dick will address that if asked.

Janet asked George if the culvert was discussed at Thursday's meeting. George said that Ken Jacques discussed it. George said they were basically talking about the level, perch, which is already included in the plan. Cynthia Bruss was there and she did speak but didn't have much to add. Janet said Ken had reached out to her to see if there had been a plan drawn up that he could have available, but we don't have anything. He was going to get in touch with Michael Hansen so at least someone would be there Thursday night that could answer questions and be prepared should these same questions come up on Saturday. George thinks Peter can answer most of the questions. George added there really hasn't been any information added since we spoke with Hansen a while ago.

Janet said we've gotten calls about the truck warrant article. Pixie received four calls from the press last week questioning if this is a used or new truck. Pixie said the article is generic about what truck is being bought, it depends on what gets found. George said we still have the \$75,000 in that fund and we aren't touching that. Tamara reminded George that we are using that money towards the new truck. The loan will only be for \$95,000. That is what the budget committee decided because they didn't feel they could ask for a new truck and keep \$75,000 to buy another truck.

Dick and George will be at the election all day, Tamara will be there also. Dick and Tamara will also help count the ballots after the polls close.

### **Board and Department Updates:**

Dick said the library has finalized the idea of the museum pass. They will continue to pay for the VINS museum pass. The library will also set aside \$1,000 for reimbursement to people who go

to a museum. The person must bring back their receipt, you will get a refund of \$5 per person on the receipt. There will be a \$50 limit per family per year. At least one of the members looking for reimbursement needs to be a library card holder. Dick also added that there is no limit on where you can go. Dick thinks this will start after town meeting and the budget gets approved.

**Correspondence / Signatures:**

One veteran's tax credit

**Micellaneous:**

George feels Whit is having to work way to hard at what he is doing. George also gets the feeling that something is happening at these board meetings, but he is just not sure what it is. A lot of different things are happening. One of which was Ken Jacques showing up to testify at the zoning meeting. George said these meetings are becoming a lot of work and making Whit's job really hard and can't quite put his finger on what's going on, but something is. Tamara asked Whit if he felt that way. Whit said this was a surprise to him. Whit doesn't know what to expect in terms of the support that he provides to the planning board and zoning board of adjustment. The answer is that occasionally he feels there are requests that go somewhat beyond the job description. Whit asked Janet what she thought of this. Janet said that Ken was at the zoning board meeting and asked questions to try to clarify the application. Ken was recognized and allowed to speak by Susan. Janet said these meetings are very hard in the times of zoom. Sometimes you have maps that are not necessarily adequate and hard for anyone who's not here to see. Janet understands why there were questions being raised, and it's Susan's call whether Ken gets to ask a question or not in the hearing process. Whit said that is helpful.

What Whit is pushing for in all these sessions is a standardized process that can be applied as consistently as possible. One of the cases at the zoning board meeting left itself open to quite a bit of opinion and then the wheels kind of come off. Whit discussed the situation with the chair of the zoning board, after the decision had been made, and that is when the idea of the zoning and planning training in Concord came up. Whit said the biggest problem is that we are blessed to have a zoning board and a planning board who've been in place for a while, have long memories and can really fill out a lot of the facts behind decisions. However, we are also confronted with new issues and slight variations on the lay of the land or the situation being addressed, and we have not adequately worked through the set of requirements that create the basis for decisions. Whit spoke with Tanner Jacques because he floated a question out there about having an apartment above his garage. Whit said that is a great question to ask at the planning board because we want to bring them to the table to present them with these kinds of issues because they are going to become more and more common. We don't have a set of guidelines to help us apply those consistently and several members of the zoning board want everything to be quantified in objective numbers. Whit adopts the B Manning approach, that you don't always want a completely clear-cut objective definitions because that pushes common

sense out the door. You have to have some reasonable basis and be diligent in applying the rules of reason in the context of the rules of the ordinance.

Janet's take away from Tuesday's meeting is that she thinks a work session with the two boards is needed to get everybody in the same place. Tamara agrees, we have had a situation very similar to what was decided on Tuesday night and that individual had to go to planning a number of times before they were able to go to zoning. Tamara asked if Josh McGraw went to planning. Janet said yes, they suggested he calculate his lot size based on soils and slope data and whether it would support two dwelling units; he chose not to pursue that option. Tamara said the other individual was required to submit that information to planning. It was almost two identical situations that were treated two different ways. Whit doesn't agree on that, but that's a good example of the need to have a more consistent approach. Whit said the first case that went to planning, it was determined that the lot probably would not qualify in terms of size to support two structures. The lot was 3.49 acres. Mr. McGraw's lot is 3.6 acres. Tamara said that is very similar, they should've had to do the same thing. Whit said in effect they did, and rather than go to planning and have them work through whether the lot is supporting Mr. McGraw just said it's so close I will stipulate the lot does not, and that is within his right to do that. The zoning board of adjustment heard it and decided to give him the special exception. In both cases the parties proceeded on the basis that a special exception would be required for them to proceed.

George stated he was surprised when Susan Chiarella asked Whit to write the decision. Whit clarified that Sue asked if Whit could help a little bit. Mr. Hastings offered some language as well as Tanner Jacques, and Whit suggested a couple of changes in the wording which would eliminate future ambiguity. Whit doesn't feel he was asked to write the decision but was asked to contribute. Whit said there are couple of rules in terms of the zoning board of adjustment, but a properly worded zoning application for relief should contain the language that is necessary for the decision. The findings are all spelled out in the application. Why those are not more carefully considered he's never figured out. It is a work in process.

Whit wants the planning board to step up, we have got on the horizon a number of issues that we need some guidance on. How will we treat Airbnb's, when does a house become a hotel? What are things we need to be thinking about as a town that other towns think about in order for us to just be prepared. When do itinerant rentals cross the line being short term hostels or bed and breakfasts. Whit feels the town has not figured all that out so that it can be applied consistently; there is work to be done there. Whit said the second dwelling unit is different, and he has a suspicion that there are a number of them all over town. How they are being used, whether they are grandfathered, whether they are justified, those are all questions that we need to line up so that we know how to apply those. Whit thanked George for asking the question.

Wayne Smith made the board aware that there is a new road on Hogg Hill, it might be a logging road, but it's right on the corner. There are a lot of vehicles that are not able to get on to the logging road, so they are parked on the side of the road. This causes southbound traffic to move off to the left getting into the path of the northbound traffic. At the intersection is where all the

water accumulates and freezes overnight. Janet believes there is new construction proposed there, and Pete has given them the driveway permit, if it's the same area. Tamara said the board will make sure the Pete knows to watch for the ice and sand it. Wayne also asked if the people could be told to move their vehicles either farther north or farther south, so they are not right on that corner.

Wayne asked if there was a status on the current litigation in Sullivan Supreme Court. Tamara answered no.

At 4:50 p.m. Tamara made a motion to enter into non-public session to discuss personnel per RSA 91-A:3, seconded by George and unanimously approved.

The board moved back into public session at 5:11 p.m. Tamara made a motion to seal the minutes discussing personnel. The motion was seconded by Dick and unanimously approved.

Meeting adjourned at 5:11 p.m.

Jill Hastings  
Deputy Administrative Assistant