

BOARD OF SELECTMEN

September 13, 2021

MEMORIAL BUILDING

4:30 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 4:30 p.m. and began with the Pledge of Allegiance.

Selectmen present: Tamara Butcher and Dick Hendl. Amy Lewis is absent.

Others: Theresa Quinn, Whit Smith, Chief Michael Beaulieu, Alison Conlon, Sgt. Patrick Zullo, Atty. Daniel J. Corley, Al Lindquist and Art Conkey.

Scheduled Appointments:

The hearing for acceptance of LFRF Traunch 1 Payment from the state was postponed to a later meeting.

Zoning Permits:

REPORT from ZONING COORDINATOR. -- Board of Selectmen - Monday, September 13 2021.

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

Application for Permit – Acted Upon, APPROVED

1. Marlene Chamberlain, 12 Hoyt Lane, would like to expand the garage she had built a little over a year ago (permit approved May 10, 2020). There is an existing concrete pad in place and the expanded garage will fit the pad. There are no wetlands issues, no setback issues and the structure will be less than 35' tall. Zoning Coordinator did not observe any commercial or business activity and applicant has represented the same on the application. Zoning Permit APPROVED per delegation of authority.

2. Megan Baxter, 78 Hazzard Rd, would like to build/place an energy efficient modular home in a lovely spot on the lot. Also, she would like to include a modestly sized PV solar panel ground-mounted array. Permit fees for both the home and the solar panel array have been paid. Zoning Coordinator has been out the site and the locations are marked. There are no wetlands issues, no setback issues and the structure will be less than 35' tall. Zoning Coordinator did not observe any commercial or business activity and applicant has represented the same on the application. Zoning Permit APPROVED per delegation of authority.

3. Daniel & Angela MacCreighton. 99 Old Grafton Rd, filed an extension for their existing permit to build an addition on their garage. The location encroaches slightly into the 35' setback from Old Grafton Road. The owners/applicants have received the appropriate variance providing relief from the setback requirements. There are no wetlands issues, no other setback issues and the structure will be less than 35' tall. Extension of the Zoning Permit for an additional year APPROVED. The owner's have been advised that Variance relief generally has a life of two (2)

years in which time the project needs to be substantially underway or they may find they are required to seek the Variance from ZBA again in the future.

Zoning Permit Amended or Modified

4. Crosby mudroom (previously approved 4/2/2021); extend roof to allow protected entry. Do not know if fee has been paid. (Reminded property owner)

Other Matters.

A. Follow-up with property owner regarding construction of deck next to dock on Kolelemook Lake. (Spath)

B. Noted communication between Select Board member and another property owner expanding a deck near Kolelemook Lake. (Zaleskas)

C. Received/Reviewed videos from Louis Caron, PE, regarding shoulders of Sanborn Hill Road (entire length – both sides) that were filmed in November, 2013. (Lindquist)

D. Attended Select Board working session regarding short term rental facilities. Call to Tim Bray
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E. inquiry regarding permit needed for roof-mounted PV solar array. (Blay)

F. Reviewed and provided comment to Planning Board Committee working on the on DRAFT “Noise Bylaw.”

G. Inquiry from property owner regarding building another larger shed on existing concrete slab. Visited with the property owner. (Blanchette)

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Whit went over other matters very briefly. He had a conversation with the builder who is doing the deck for a property on Four Corners Road. The property owner is filing the application for the shoreland permit. Whit feels the issuance of the zoning permit is a no brainer, however they will have to pay the after-the-fact fee which is \$50. Whit doesn't feel we should be issuing zoning permits without valid shoreland permits in place.

Whit reviewed another draft of the noise ordinance that will be presumably worked on at Thursday's meeting. There are two sections that still need work, which are the sections dealing with the table of the objective noise standards and the fines and enforcements section; the rest of it is well underway. Whit feels there will be quite a bit of interest if this gets any traction. He has

gotten feedback from others around town, and there are a lot of mixed feelings about this; taking the temperature of the town at some point on where they stand with respect to things like noise ordinances is probably a good idea. This does not need to be another survey, but maybe a public forum of some kind.

Whit heard from Ryan Peterson again. Whit encouraged him to canvas his neighbors. Ryan was upset about noise coming from Kennebec over the weekend. Ryan called Whit to tell him this morning things were pretty quiet and comfortable; then whit received a subsequent text this afternoon saying the equipment that was apparently down and/or being serviced is back up again and the noise continues.

Alison Conlon asked Whit how long DES permits are good for. Whit stated the permit is good forever unless there are intervening circumstances. The DES permit is not good unless you act upon it within reasonable period of time. You get the permit by notification and if you do the actions that are described in the notification, as long as there is continuous use of that land that's been approved by the permit by notification you can use indefinitely. The permit transfers from owner to owner. If you change the use then you are outside the scope of the permit, if you interrupt the use for a period of at least one year, maybe even two, you have also interrupted the scope of the permit. Whit said this is probably the most violated regulation in the state, not just locally.

Dick asked Whit when the noise ordinance will be available for review outside of the planning board. Whit does not know as this is a very early draft.

Minutes of August 23, 2021:

Dick made a motion to accept the minutes of August 23rd as written. The motion was seconded by Tamara and unanimously approved.

Work Session Minutes of August 31, 2021:

Dick made a motion to accept the minutes of August 31st as written. The motion was seconded by Tamara and unanimously approved.

Court Status:

There is no change in the court status at all.

Board and Department Updates:

Tamara will be attending the Fire Department meeting on Tuesday in Amy's absence. Tamara believes they will probably bring the rafts in after their regular meeting.

Tamara talked to Pete, who has changed out all the lightbulbs in the building and it is very bright in there now.

On the loader Pete replaced something in the piston, which took quite a bit of time and it had to be brought over to Chuck Fay for the repairs.

All the mowing has been done.

Dick shared that the library is allowing patrons to come in and browse to select books. Curbside service will continue to be available for any patron who prefers that method to borrow a book.

Correspondence:

There was a letter received from the manager of Woods Without Gile, LLC which was reviewed by the Board.

Chief Beaulieu received a right to know letter requesting information. The letter was shared with the Board of Selectmen and they both felt the letter was generic and possibly a scam. They recommended to Chief Beaulieu to file the letter for now and see if any further correspondence arrives.

Alison Conlon stated the KLPA has gotten three requests so far of them maintaining the dam on Kolelemook lake. Tamara informed Alison that Tim Julian takes care of the dam because it is on his landlord's property. Alison Conlon said that Tim hadn't done it this year so there was a feeling it wasn't being done anymore. Tamara stated Tim is still maintaining the dam and receives messages regularly as to the level and how many boards are in it. Alison will refer these concerns back to Tim as he is still maintaining it. Theresa Quinn asked if the dam was actually on private property. Tamara believes so, and the dam is under the control of the Board of Selectmen. Dick believes there is probably an easement for the dam.

New Business:

Dick informed Tamara that the town has received an offer from Primex as an insurance settlement for the damage to the skateboard park. Primex is offering \$2452.64. Dick made a motion to accept the offer from Primex. The motion was seconded by Tamara and unanimously approved.

The flagpole dedication is tomorrow, Tuesday, at 3:30 p.m.

The RFP for the sand shed is being modified. Dick will check with Dan Saulnier to see how he is coming along with that so that we can get that out for bids. Dick will also see about getting someone to work with Pete as the clerk of the works.

Scheduled Appointments:

The Board introduced themselves to Al Lindquist and his attorney Dan Corley. Tamara started off by saying the Board has very little to give. Amy, who is out this week, is dealing with the engineer that we have been in contact with; he has been given the information for what the road condition was prior to the trucking beginning in 2014. Lou Carons report started November 2013. Tamara is unaware if our engineer has been out to look at the condition of the road after seeing the footage.

Attorney Corley stated one of the concerns they have is, yes this was a 2014 project that should've been done in 2016, but the key was that Al Lindquist was supposed to maintain the road in the condition that it existed at that time. One of the issues that has popped up here reading Lou Caron's report from back then is that it was his understanding that the logging trucks were only using that road during the winter because the road was frozen. Atty. Corley stated that is not the case and Al

Lindquist should not be hit with the full cost for repairing the road. The other thing they would like to do is possibly have Al's engineer and the town's engineer do a view of the road together; the intent being to correct going forward but not to be held accountable for other landowners and logging trucks that are there because his client is the only one who did the due diligence of putting up a bond of \$135,000.

Art Conkey stated he had been to two Planning Board meetings and now three Selectmen meetings. Art stated at the last Planning Board meeting they told him he would have two more years to complete the work. Then three days later at the Selectmen's meeting they said there would be no more hauling on the road. Tamara was not aware the Planning board said Art could have two more years of trucking, and they wanted him to concentrate on the asphalt. Atty. Corley asked Art, other than the logging trucks, were there a lot of other people using the road. Art said Corey has done a bunch of work up there, coming in with his dump trucks. Mitchell has done a bit on the other side; he took out that tree island that used to be in the middle, Rick Kimball was doing all the trucking for him. At the bottom of the hill there was a big clear cut. There has also been some logging done across from Corey Swenson. Art said if you wanted to see anything as far as the condition of the road to go past where they are; you can see the condition of the road where Art isn't driving. Tamara explained what Art was talking about is a turnaround and believes that is all dirt.

Al Lindquist asked the letter he received, requesting the release of the \$135,000 bond, be suspended until he and the town come to a resolution on the matter. This will be considered.

Whit feels it would be appropriate to ask his questions through the Selectboard given the nature of the forum. Whit asked if what was being requested of the Board was some sort of negotiation to go forward and see if this can work out. Tamara and Atty. Corley agree that they are trying to come to an agreement, as to how much and how we are going to fix the road, between the two parties involved. Attorney Corley stated his client understands this should have been completed in 2016 but things have gotten this far, and he doesn't believe all the damage was caused by these folks. Attorney Corley's client would like to create another plan to get this done and over with.

Whit stated that attorney Corley indicated there was a bond, which he has never seen. Tamara stated what the Board has is that Al Lindquist has \$135,000 sitting in a bank account, that is not a bond. Whit said to short-circuit this Mr. Lindquist, through his attorney who represented him at the hearings in December and January of 2013 and 2014, agree to the terms of the Planning Boards requirements to provide a bond; if Al or his attorney can provide the board with a copy of the bond the board can review and examine it. Whit stated for the benefit of the attorney representing Mr. Lindquist, one of the concerns the town has is we don't have any leverage over the conduct of the parties going forward; the only leverage we had was for the Selectboard to end the hauling and come in to see if we can work this out. Whit said it seems to him there probably was some responsibility for follow up on part of the town and we are just now getting to that now. There is really no effective means for oversight and being fair to your client and Mr. Conkey.

Whit stated we are well aware that the obligation is to restore the road to the condition it was in at the time, we are also well aware there has been other traffic on that road that could create damage.

The town's position is that traffic, while significant, pales in comparison to the traffic that has been the result of removing the material. Whit feels we might find that road has not been paved since before 2013 because it was the opinion of the road agent to hold off on paving it until all this activity was finished. Whit said the intention was to have the project finished in two years, and the best evidence of that, is that Art negotiated a three-year window to do it and the Planning Board came to the conclusion that two years would be the amount of time allotted. Whit said without hanging ourselves or Mr. Lindquist, we want to just reset the meter and get started again; we also want to make sure that \$135,000 doesn't disappear, which can and does happen. Not in this case, but those things do happen. Attorney Corley stated they will look into the bond but wants everyone to be fair here and doesn't want his client to be held accountable if the roadway is in the condition that it was in back in 2014. Whit stated his documents are all discoverable, and you will see position reflects that position, so that is a good starting point.

Attorney Corley would like to have their engineer coordinate with the town's engineer. Tamara said as soon as she gets the report from our engineer, she will forward that to Al Lindquist and attorney Corley and then we can try to coordinate a meeting of some sort between the two engineers. Dick feels the only way to get some agreement here is if the two engineers walk the road and agree to the condition of the road right there. Whit shared that we now have recovered the video tapes of the road that were taken in 2013 and they are of good quality and converted to whatever format works in modern computers. Tamara will provide a copy of those videos to attorney Corley; she will mail them to his office.

Art says it doesn't make sense for one person to have a bond if there are other people using the road. Tamara stated that was not this boards doing so she can't speak to that. It is Art's opinion that the road is in very good condition, from the start up to the top. He feels the road has done very good. Tamara stated to be clear, there will be no trucking on that road until we get this figured out. As of right now, she is not aware of any trucking, by anyone, happening on that road. Whit stated there has been no repair of any sort done to Sanborn Hill Road since 2014. Al said he would want to look at the evaluation of the condition of the road at that point.

Al said this whole situation started by him lending out some money to help a guy out, that was Joe Abbodanza. Al had no intention of dealing with a property like this, but he was left with no choice when he took over the deed to the property. This is not Al's field and has tried to find different people who would be able to help him find the right direction to take. Al is not trying to do a real estate investment; he is just trying to recover a debt that is almost ten years old.

The board agrees with Al that they want to get this taken care of easily and quickly as he does. Tamara will mail the video files to Attorney Corley tomorrow. Tamara will reach out to Amy and get the contact information for our engineer, Jon Warzocha. Attorney Corley and Al Lindquist thanked the board for their time before leaving.

Whit stated Mr. Lindquist is in violation of the planning board's site plan because they have been hauling that material out of there for profit, making it a commercial undertaking; that was specifically prohibited by the Planning Board. Whit agrees that both engineers should walk that

road together. If our engineer and their engineer agree than the argument will devolve in to two things; the degree of change over that period of time and a comparison of the hauling traffic from Mr. Conkey to what the lumber people did and even Corey Swenson. It would probably be clear that the substantial amount of tonnage is the result of Conkey's activities to remove the material. Whit feels these are subtle facts that they will gloss over if they see the opportunity to reach an agreement quickly. Whit stated Al Lindquist can't hide behind the fact that he didn't have any experience and was naïve when he went into this. Whit stated we will have to get Christine Fillmore on board so she can take the lead interfacing with Attorney Corley.

The Board is waiting on an email from Christine Fillmore with some examples of short-term rentals. Whit has done more research; the authority of the Selectboard to require a business license is a good way of regulating the activity. In passing Whit saw a comment "if we require a business license for this are we getting into the realm of requiring business licenses other activities". The answer is that is a possibility, but not necessarily. The business license concept provides an avenue to get our arms around it.

Miscellaneous Business:

At 5:45 p.m. Tamara made a motion to enter into non-public session to discuss personnel per RSA 91-A:3. The motion was seconded by Dick. By roll-call vote this was unanimous. The board moved back into public session at 6:04 p.m. Tamara made a motion to seal the minutes discussing personnel. The motion was seconded by Dick. Dick, Tamara voted in favor of the motion.

The meeting was adjourned at 6:04 p.m.

Jill Hastings Deputy
Administrative Assistant