

**BOARD OF SELECTMEN**

**September 9, 2019**

**MEMORIAL BUILDING**

**4:00 P.M.**

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

Selectmen present: Dick Hendl, Chairman; Tamara Butcher and George McCusker

Others: Leigh Callaway, Keith Cutting, Susan Cutting, Michael Lawlor, Whit Smith and Brooks Weathers.

The meeting started with the pledge of allegiance.

**Scheduled Appointments:**

Leigh started off by stating he had no business for the 250<sup>th</sup>. Leigh has a request for the board to accept a donation of ten dollars brought in by the Meetinghouse rededication. Tamara moved to accept the donation, seconded by George and unanimously approved. Dick shared on behalf of the board his congratulations for the great event on Saturday. Dick thanked everyone for their efforts in the event, Jim, Don and Leigh as well Emily who sang America at the event. Dick also wanted to recognize the person behind the scenes, Poul Heilman for the tremendous job he has done on the flyers and the placards. He does a lot of work he is not on the front line for, so we need to acknowledge that.

**Zoning Permits Report:**

REPORT from ZONING COORDINATOR. -- Board of Selectmen - Monday, September 9, 2019.

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

Application for Permit – Acted Upon, APPROVED

None.

Applications Received, But NOT Acted Upon.

1. Francine Rainone, Kings Highway (house number applied for); Still waiting for drawing showing location of proposed deck to allow amendment to Zoning Permit Application.

2. William St. Cyr, 2334 Main Street; Application (after the fact) to place a shed on property. Per direction from the Board of Selectmen, Zoning Coordinator visited with Mr. St. Cyr to discuss possible solutions because Mr. St. Cyr has a variance to build a new garage/addition on the property. In conversation with the Zoning Coordinator, Mr. St. Cyr advised of his decision to NOT proceed with the plan for the garage/addition (for which a variance was granted) because engineering and economics make the plan unrealistic. Mr. St. Cyr has decided to approach the

Zoning Board of Adjustment with an application for a variance based on the current location of the shed already in place.

3. Kara Zaleska, 164 Four Corners Road; No change in status on this matter. Application to add a deck (696 sq. ft.) to residential structure. At the closest point, corner of the proposed deck will be 65 feet from the reference line of Lake KOLELEMOOK. Shoreland Protection approval is required. Permit Application being held pending resolution of the Shoreland Protection Approval or Exemption.

4. Nancy Edgar-Howard and Mike Howard, 153 Carter Brook Rd; Application to build single family residence. Visited with Mr. Howard to view location and discuss plan. Application is currently incomplete for lack of proper plan view drawing and distances to property boundaries. Mr. Howard is preparing a drawing to complete the application.

#### Other Matters.

A. Per direction from the Board of Selectmen, Zoning Coordinator visited the site of Mullins' build – residential dwelling on Woodcrest. Met with builder/contractor. Measured all dimensions of concrete foundation that has been poured. Accurately placed as per the drawings presented to the ZBA and supporting the Special Exception to build on non-conforming lot.

B. Kurt Conlon, Lamson Lane. The Conlon's requested a continuance of their hearing before the Zoning Board of Adjustment as they are re-designing the renovation of and landscape around their lake cottage. The resulting may or may not require a Special Exception.

C. Conversations with the owner of a yurt on Old Boston Road regarding some building going on there. Visited the location (with permission from owner). Turns out the activity is the reconstruction of a front porch area that had fallen into disrepair. Same size, better design. No further action on this matter is required.

D. Met with owner of property on Four Corners Road to discuss proposed location of shed(s). Offered to help in the preparation of Application for Zoning Permit.

E. At the Zoning Board of Adjustment meeting/hearing there was lengthy discussion as to what constitutes "Commercial Activity," notwithstanding several references to "business, commercial or industrial use" and the role of the Planning Board to determine if a use is "business, commercial or industrial." See second paragraph of Zoning Ordinance Sec. 5.20 Home Business. Zoning Coordinator forwarded prior explanation to town officials along with additional explanation to clarify the matter. This in response to a property owner's comment that the Zoning Coordinator has given an explanation that sounds good, but "didn't actually tell us anything."

Whit Smith is looking for clarification from the selectboard. The new fee schedule became effective on July 1<sup>st</sup> of 2019. The first application Whit received was for two structures on one lot. In the past the town has not been consistent with how they have handled that situation. For example, in the case of Jeff Rosen, he built his house in Eastman and his garage was separate, he was charged one fee. However, in other situations where there have been two different structures, a house and garage, where two fees have been charged. We now have another application in this situation, and he would like to settle this at the direction of the board of selectmen once and for all as to how we interpret this. Tamara feels that if there are two structures, not touching each other, they are separate which would result in two fees. The board agrees that separate structures on a single application will result in separate fees being charged. Whit asked if everyone got his memo on the yurt, going forward we need to proceed with more careful due diligence when we receive a notice like this. Dick shared that he has written a personal note to Mr. Demarest apologizing for his lack of complete investigation. George stated when you build something after the fact, and you tear something down there is nothing for you to substantiate whether someone is building. Whit differs with this. There are photographs attached to the tax card for the yurt and it is very clear that the replacement porch is the same size. Mr. Demarest was delightful and very helpful in resolving the issue. Whit added the replacement porch is a much better build than it once was. Dick thanked Whit for doing this. Dick asked Whit if Kara Zaleska has been notified that she might need a shoreline permit. Yes, she has, and she has replied to Whit pleading her case. Whit will respond to that stating she does not need plead her case with him. She needs to establish that she has the DES approval. The deck she would like to build on the house makes sense, but there is no evidence that it was a preexisting instrumentality, structure. She needs to file a shoreline permit application. Holding off on a zoning permit for lack of a shoreline permit application raises a question in Whit's mind. Whit is not the one to double check this. Whit will be asking Kara to check on this. Whit added that Nick Cote will be in on the October series of meetings.

#### Minutes:

Dick has one correction, on the behest of Leigh Callaway, in paragraph four of the first page. Strike "Leigh as Chairman" from the minutes and just leaving it as a steering committee has been created. George made a motion to accept the minutes with the correction, seconded by Dick and approved by George and Dick. Tamara abstained as she was not present at the meeting of August 26<sup>th</sup>.

#### Old Business:

Tamara shared that we are in the process of trying to work with several residents to get them caught up on their past due taxes. These sessions are with the property owners only. Dick spoke on the sand shed, George has agreed to follow up with Lou Caron and Jeff Evans to see where we stand with the amendment to the wetlands permit. George has also volunteered to follow up on the notice of violation letters that have been sent out but not acted upon. Dick shared that Mr. Pratt was notified by the DES with a lengthy list of things that he must do to restore the property to its former condition. Tamara added that it does look like he has been doing some work. Next Wednesday, September 18<sup>th</sup>, at 4pm there will be a statement of purpose meeting with town counsel to act on what Leigh Callaway brought up on what the statement of purpose has to do with the 250<sup>th</sup> committee trust they have established for the lift or some other purpose. There is a

difference of opinion as to what needs to be done after the 31<sup>st</sup> of December to document all of that. Dick acknowledged Brooks knowing he is there to hear about what the town is doing on the matter of the Kennebec plant, while Dick can't go in to detail now he shared that the board is working with the town attorney to see what the town can and can't do. Dick is aware of a comment that was made that we have agreed with Nick Cote before he had a hearing and site plan and a hearing on hours of operation. The board was able to do that because he is a brand-new entity. The mill has been here before zoning, so there are complications that need to be figured out and the town attorney is going to steer us through that. Dick expressed that the last thing he wants is for Brooks and the others to go away thinking the town is not doing anything and that the town doesn't care. The town does care but is limited as to what we can do. Brooks stated that he is not here to pressure anyone. The board does sympathize and is trying for a solution. Brooks just wants to make sure they don't think they are off the hook. Brooks feels the board has made that clear and thanked them for that.

Dick addressed Keith mentioning two issues that were brought up at the last meeting that he has now had time to research. One was the agricultural committee; it was suggested that it might be a good idea to have this committee to advise other boards and committees on agricultural matters. According to RSA 673:4-b these are appointed, not elected, positions. There can be between three and seven members with up to five alternates and one of the members can be a member of another board. Dick suggested this is done by warrant article, by petition, as an indication of the sense of the town on whether we ought to have this. It takes a minimum of eighteen signatories to get a warrant article on by petition. Keith has no issue with this recommendation. Whit asked if this were a committee or a commission, Keith shared that it is an agricultural commission. Whit has offered to assist Keith in drafting the petition. Keith provided the board with documents on agriculture he felt might be helpful. Keith cited a different RSA which was RSA 674:44-e. The second issue has to do with Perley Town Road. Dick invited Keith and Susan Cutting to the table to view a map he borrowed from the historical society. Dick has asked Keith and Susan to clarify what the map is showing and what the cuttings are looking to have happen. According to the Cuttings' there is no access to a piece of land they own. The only access is trail/walking access. Dick wants to know what exactly is being asked of the Board. Keith wants to know if Perley Town Road is a Class 6 road. Keith has been denied access through the gate, which is controlled by Ken Jacques. Keith states if the board says this is not a class 6 road, not open to Keith or anyone else to travel on then he has one means of recourse, which is suing the town. If it is a class 6 road Keith asks the board to tell Mr. Jacques to allow Keith access in some way. Tamara asks the Cuttings why they want to travel the longest distance when there is a shorter route available? Keith's point of view is that from the end of the maintenance that the water company has done has the least amount of erosion because it is flat. Keith is unsure whether the taxation value of the property is accurate depending upon access to the property. Keith is asking the town if Perley Town Road is a class 6 road, if it is then he legally has access to the property regardless of who is maintaining it. Keith is also dealing with the state to get access through their locked gate on another road which the state maintains. George asked Keith to refresh his memory as to why Ken Jacques does not want to give him a key to the gate. Keith told him he would have to ask Ken. Tamara shared that Ken doesn't give many people a key to that gate because that road is not taken care of when people get that key. Keith summed up his position as follows, is Perley Town Road a class 6 road? If the answer is yes, his next request will be to ask our town's law enforcement to approach the water precinct and unlock the gate so that it is accessible. Tamara wants to understand why Ken

thinks there is no road up there. Dick summarized Keith by stating that he would like access to Perley Town Road and would be satisfied if given a key. Dick will speak with Ken Jacques regarding this matter.

Keith gave an update on the Local Emergency Operations Department. Keith received some documents that need to be reviewed by the board and signed off on with the grant application. Janet is familiar with these forms. In addition to that, if it is the board's decision to use the Upper Valley Lake Sunapee Regional Planning Commission to assist in the development of this, we need to get an estimate from them.

Mike Lawlor asked what was happening with the "ice shack" because it's still there. Dick informed him that this is one of the notice of violations that the board is following up on. The next step is legal action. Tamara added that they had until the 5<sup>th</sup> of September to remove it.

#### New Business:

George talked about the open position at the highway department. George has been contacting people, and thanked Curt who is helping Peter as much as he can. Curt has made it clear that he will not be back next year, he wants his summers free. Pete has had several offers from local people who have offered to help with the mowing. That is something Pete is considering. George did not see the ad in the shopper yet but noticed that other towns are also hiring for similar positions. We had two or three interested people but have backed out. George is looking down the road that we might need another person, like Ed, to help plow this winter. George feels the dollar per hour is going to have to go up substantially. The cemetery is all set for mowing. Tamara said we just keep it out there. George feels we do have the option to hire someone that does not have a CDL because we do have a truck they could drive. Dick stated this is not good news, but we just keep looking.

#### Board & Department Updates:

Fire Department: Tamara shared the fire department has their meeting tomorrow night, which she can't attend. But there are no issues she is aware of.

Conservation Commission: George said the conservation commission has a workshop scheduled for the 21<sup>st</sup> and he has informed them not to expect any help from the highway department. They received a copy of the Pratt letter from Dick.

Zoning: George said there was one case with Ryan Peterson which developed into an uncomfortable situation in the middle of his hearing. Zoning had a problem with Ryan going to them first. Approving a special exception before they knew any details. After the discussion they are coming before the planning board to get further clarification. The bottom line being you can go to either board first but the zoning board was concerned with things Ryan might want to do outside the purview of things. Which doesn't apply, because why Ryan is coming is that he would like a special exception so if a year down the road he wants add an employee, buy a mini excavator or dump truck to dig water lines and they are concerned he might do other business. According to George that is the purview of the planning board not zoning. Zoning granted the special exception and a lengthy hearing pursued after that. Zoning will be going to the Planning Board to ask for more clarification on home business, commercial business and whether someone should come to them first. There are several cases and consultations coming up.

Whit wanted to clarify one thing George said. Some members of the zoning board are on the agenda for the planning board meeting for five minutes to see if they can agree on a mutually acceptable time for a workshop or discussion. In the meantime, Whit has done some research. Whit stated that the town's ordinance is very clear in terms of the process and steps to be taken. And Ryan Peterson followed those steps. Whit feels nothing would've shorted the conversation occurring at the zoning board meeting. Whit wasn't prepared at that meeting to engage in that conversation as it took him by surprise. As much as we can, we need to make it convenient for the property owners and business operators in town. The system seems to have suggested a procedure that the applicant would appear before the planning board either through consultation or formal application. The applicant would then be instructed as to whether a special exception is required by the planning board. If the planning board decides a special exception is required, then the applicant must then go through the zoning board of adjustment. If the zoning board doesn't grant the special exception there is nothing more for the planning board to consider. If it is granted the planning board will hear the case on whether there is an approvable site plan. Whit offered to document this in writing if necessary. Whit shared there is very important distinction. The zoning board's responsibility is to decide whether the use or activity in a rural residential zoned district can be excepted from the prohibitions of the rural residential district. It is then the responsibility of the planning board to work out with the applicant how that use will be implemented. Tamara feels it seems very cut and dry. Whit has summarized this in a note to the chair of the zoning board and is taking the direction of that summary right from our town's ordinance as well as learnings that have been offered by commentators within the state. Whit feels there is plenty here to work on and said to the zoning board they should pick one or two items and work on those. Slowing chipping away at the making the ordinance and the processes around the ordinance more easily understood and easier to implement.

Correspondence:

There was no correspondence to review.

Signatures:

The Board reviewed and signed one timber cut sheet.

Miscellaneous Business:

There was no miscellaneous business to discuss.

Tamara made a motion to adjourn the meeting, seconded by George and unanimously approved.

Meeting adjourned at 5:27pm

Jill Hastings

Deputy Administrative Assistant