

TOWN OF LOUDON  
LOUDON, NEW HAMPSHIRE  
PLANNING BOARD MINUTES  
MARCH 21, 2013

**Meeting called to order at 7:00 p.m. by Chairman Tom Dow.**

**Attendance:**

George Saunderson, Henry Huntington, Tom Moore, Chairman Tom Dow, Vice Chairman Stan Prescott, Bob Cole, Alternate Bob Ordway, Ex-Officio Dustin Bowles Julie Robinson and Dan Geiger represented the Conservation Commission. John Reese represented the Fire Department.

Chairman Dow congratulated George Saunderson on his election and welcomed him to the Planning Board.

**Acceptance of Minutes:**

February 21, 2013 Regular Meeting – **Bob Cole moved to accept the minutes as written; seconded by Stan Prescott. All were in favor.**

February 21, 2013 Meeting with CNHRPC – **Bob Cole made a motion to approve the minutes; seconded by Dustin Bowles. All were in favor.**

March 14, 2013 Site Visit – **Dustin Bowles made a motion to approve the minutes; seconded by George Saunderson. All were in favor.**

Chairman Dow explained the procedures of the meeting, asking everyone to direct their questions through him.

**Old Business:**

Application #13-02, Claudette Burke – Minor Subdivision on Greenview Drive in the RR District, Map 59, Lot 48. Attorney Bruce Marshall was present on behalf of the applicant. Abutter Al Brock was present. Jeff Green represented the applicant.

Mr. Green presented revised plans, pointing out the addition of Note 10 with regard to underground utilities. He reviewed the location of the wetlands and existing road, noting that at the last meeting he had proposed the building site at the front of the lot as opposed to the back. Mr. Green stated that he has .6 acres of buildable area at the front, with a total of 2.27 acres of buildable area on the lot. Tom Dow reviewed the process to date: Planning Board hearing, site visit, Zoning Board hearing, and return to ZBA on March 28<sup>th</sup>. He said it might be best to wait and see the outcome of the ZBA hearing. Dustin Bowles asked what is being sought from the ZBA. Mr. Green explained that they have applied for a special exception for crossing the wetland buffer. He said there is an existing, non-conforming use and they have the right to use the road but were told that a special exception is needed. Bob Cole asked about the width of the road/trail.

Mr. Green said the gravel area is 10'-12' wide, there is 16'-18' between wet flags, and a 20' culvert in place at this time. Mr. Cole said he was looking at it as if delivering gravel. He asked how it would be rebuilt to receive oil trucks, fire trucks, etc. Mr. Green said the owner has the right to bring it up to the width needed as long as they are not touching the wetland. Dan Geiger stated that he was on the site visit and he does not see how they could put in a regulation driveway without impacting the wetland system based on the width of the wetland and crossing an old beaver dam. He said the material on top of the dam was probably put there about thirteen years ago. Mr. Geiger said he is not sure the right permit was applied for with the State; he feels it should be a standard dredge and fill permit.

Tom Dow said it was brought up at the site visit that the upper water source could affect the fire pond/hydrant. John Reese explained that if something is done that affects it then it would have to be re-engineered to ensure that it meets the minimum requirements. Jeff Green stated that the fire pond was not designed based on the beaver pond; it was based on the seasonal high water. He said they are not lowering the level of the pond; they are bringing it back to the level of the last forty years. Mr. Green said you cannot base a fire pond on a beaver dam that could go away at any time. He said he has engineered plans showing that. The chairman said he wanted to bring it up as it could be a safety concern. Bob Ordway asked if Mr. Green was saying that the fire pond was designed as if the beaver pond was not there. Mr. Green said that was correct, explaining the levels and seasonal high water.

Julie Robinson spoke about the wetland permit application that has been made to DES, stating that she disagrees with the answer to #2 on the application. Jeff Green said they are asking for a maintenance permit to replace a culvert in-kind. Mrs. Robinson asked if it would be big enough to handle the driveway impact. Mr. Green stated that it would.

Stan Prescott asked about the total buildable area, how much is outside the 75' buffer and how much is outside the 25' buffer. Mr. Green asked why this was being asked as he has area big enough for a house. Mr. Prescott asked about the back area. Mr. Green stated that he has 1 ½ acres of buildable area there. Dustin Bowles asked where they are proposing to put the house. Mr. Green pointed out two areas, front and back, pending the Zoning decision. He said they still meet all of the State requirements.

Julie Robinson noted that there are no setbacks on the road and that it goes right up to the wetland. She said that really changes the functionality of the wetland. Tom Dow asked if the 50' width for the contiguous buildable area is the reason they are before the ZBA. Mr. Green explained that they have the required 1.5 acres of contiguous buildable area no less than 50' in width on the lot at the back therefore the lot meets the requirements. He said he has, as a non-conforming, pre-existing condition, an access to get to that land. The Board reviewed the definition of contiguous buildable area. Stan Prescott said he would agree that they have the 1 ½ acres in the back but they have a wetland issue and need access so would have to go to the ZBA for a crossing. He said if the house is put in the front then they do not meet the 1 ½ acres. Mr. Green said he does meet the requirements since he has the contiguous 1 ½ acres. He stated that the regulations do not say that the house has to be put there. Tom Dow said he recalled the change that was done in the Zoning Ordinance in 2006, referring to a case on Lovejoy Road.

Julie Robinson asked Mr. Green for a file number for the wetlands application as she would like to contact DES with some concerns. Mr. Green said that permit is not impacting this application and that the permit is to replace an existing culvert. Mrs. Robinson asked if it would be considered a road even though it is only 18' wide. Chairman Dow explained that the road has been there for a while and that Mr. Green has aerial photos. The chairman asked if it does not make sense to be able to replace the culvert. Dan Geiger spoke about the culvert being plugged, having to dig it out to some degree, and finding it hard to believe they can put a driveway through there. He talked about lowering the water levels which would change the character of the wetland and impact existing wildlife. He said he is asking that they go through the proper channels and be sure the proper application has been applied for. Mr. Geiger said the buffer is equally important, noting that the functions and values will be impacted. He said repairing the culvert does not clearly address the situation. Peter Schauer, wetland scientist on this project, spoke about a case in Bow. He said he disagrees with Mr. Geiger. Jeff Green read from RSA 210:9, Protection of Beaver. He said he went to DES to replace the culvert, noting that some of the wet area is saturation caused by beavers.

Bob Cole spoke about the calculation of the road going over the dam, noting that if the culvert was cleaned out the water level would go down just as it would if replaced. Mr. Green said that was correct but the easiest way is to maintain it properly and put in a new culvert. Dustin Bowles asked what it would take to make a compromise on this matter. He said he would like to see the house in the front and be assured that the fire pond stays intact. Mr. Green said that would be asking his client to allow the property to remain saturated or get worse, making the road unusable and preventing his client from getting to the back land. Mr. Bowles said the Board's job is planning and looking out for the safety of the area, not allowing property to be misused. He spoke about not disturbing the area, not have a full fledged road/driveway, having to disturb with underground power, and asked if they could come to some sort of agreement. Mr. Green said he has proposed the house at the front of the lot but cannot say they will not replace the culvert. He pointed out that they have lost usable and accessible land since 2006. George Saunderson asked about bringing the culvert up some. Mr. Green said that might be possible.

Bruce Marshall, an attorney and engineer, said the reason to maintain the culvert is because branches plugged it and the bottom is rotted out. He said this could be a problem in a big storm. Mr. Marshall said the State recommends maintaining culverts to protect property downstream and it is important to take care of culverts. He said if the culvert was raised the area would be gaining water and there would be higher levels than normal, creating a dam which would then require a dam permit. Mr. Marshall said it would be best from a safety standpoint to replace the culvert in-kind. He spoke about statutes addressing beavers and beaver dams. Marilyn Dubuc stated that the State goes in on Young's Hill Road to take beavers out because of problems with washout. Dustin Bowles said if the home was put at the front and the least amount of disturbance was done it would be better for all. He said the situation would not be ideal but it would allow the owner to use the land.

Chairman Dow closed the hearing to the public and opened it to the Board only.

Bob Cole noted that the culvert needs to be replaced no matter where the house goes. Jeff Green agreed. He said building at the front reduces the impact, without

restriction other than building the house maybe. Dustin Bowles asked how the matter of the 1 ½ acres would be addressed, wondering if the applicant should go to the ZBA to build outside of the 1 ½ acres or if the Board did not feel that was the intent. Tom Dow said he felt the intent was to have the house in the contiguous buildable area. Stan Prescott stated that he agreed and that it was changed to address similar situations when the Board saw the Lovejoy Road case. He said he feels this would not be in the spirit of the Ordinance. Bob Cole asked if that would require a variance from the ZBA. Henry Huntington asked what the variance would be for as he is not sure the Zoning Ordinance says it has to be built in that area. Stan Prescott said he feels the buildable area is where someone would build. Discussion continued on how to handle the situation and the various options.

George Saunderson asked Mr. Green what kind of timeline he was looking at and if another month would be acceptable. Mr. Green said he was not sure what they would go to the ZBA for and that the Board would have to tell him what he is not meeting so he knows what to apply for. Stan Prescott said it would be to address the contiguous buildable area. On behalf of the applicant, Bruce Marshall asked to clarify that they are saying a person cannot build a home on less than the buildable area. He asked where this is stated in the Zoning Ordinance. Stan Prescott said it is addressed in the Table of Dimensions. Mr. Marshall said that it does not say that someone has to build on that area so he would need the section that says that. He said he has seen other lots where it was too costly to access the bigger area, noting that he has found no regulation that says where to build as long as it meets all setbacks and septic approval. He noted that this lot meets the requirements. Bob Ordway asked if there was any assurance that the house would be built in the front. Jeff Green said they could limit the back to accessory use so the owner would still have the use of the area. He said the septic, well, underground utilities, and house would be at the front, that way there would be no disturbance. Mr. Green said the limitation could be put on the plan and in the deed.

**Bob Cole made a motion to approve the subdivision with the conditions that the house is to be placed at the front of the lot, using the road as accessory use only, no utilities installed to the back of the lot without review and approval by the Planning Board and Conservation Commission, and these notes to be added to the plan accordingly; seconded by Stan Prescott.**

Tom Moore asked about discussion at the last meeting with regard to needing the signature of the landowner for maintenance of the road (Greenview) or some sort of road agreement. Mr. Green explained that there is no association and no maintenance agreements at this time. He said they could put something in the deed that says the landowner will join an association at the time it is created. **All were in favor.**

### **New Business:**

Application #13-04, TTD, LLC – Major Subdivision on Route 129 & Pittsfield Road in the RR District, Map 25, Lot 5. Jeff Green represented the applicant. Abutters Bob Whitten, Marilyn Whitten, Geoffrey Smith, Earl Tuson, Alice Tuson, and Marilyn Dubuc were present. Applicant Raymond Dumont and Attorney Daniel Luker of PretiFlaherty were present.

Mr. Luker stated that this subdivision plan has been conservatively engineered and meets all Zoning Ordinance requirements. He said the State driveway permits are pending, the State subdivision approval is pending, there is a cistern proposed, and this is a fully compliant subdivision. **Stan Prescott moved to accept the application as complete and move to public hearing; seconded by Henry Huntington. All were in favor.**

Jeff Green explained the location and proposed layout of the subdivision. He stated that he has done the topographic work to show ledge, wet, and steep slopes. He gave the frontage, acreage, and building areas for each of the six lots and went over the calculations for each lot. Mr. Green stated that he has a verbal approval on three driveways from the State, has two permits on Pittsfield Road, and a temporary access for logging for the third lot on Pittsfield Road. He pointed out that for safety reasons the State would like to move the existing Lot 5 and proposed Lot 5-1 driveways, as well as have a joint driveway where Lot 5-2 access would go across Lot 5-1. John Reese asked why that would have to be a joint driveway. Mr. Green explained the slope of the road and sight distance at that point, saying it is a safety issue. Bob Cole asked if the blue flags seen on Route 129 mark the proposed driveway locations as he looked at the area and would be concerned about a school bus stopped there. Earl Tuson stated that he spoke with Mike Kimball at DOT earlier today and was told that they are still reviewing the driveway application.

Bob Cole asked how far it was down to ledge when the test pits were done. Mr. Green gave the depths for all of the test pits, noting that they meet all the State requirements. Stan Prescott asked if perc tests have been done and what the results were if so. Mr. Green said they were all about eight minutes per inch, saying that it is pretty much all the same type of soil until closer to the pond. Julie Robinson asked how someone would get to the proposed well site on Lot 5-3 since there is a wetland buffer. Mr. Green said they would be able to drive to it. Marilyn Whitten asked how much blasting would need to be done for basements based on the ledge being so close to the surface. Ray Dumont said he would not blast if he did not have to as it is too expensive. He said he would build to suit the property.

Earl Tuson said that water adequacy has come up as a concern with neighbors. He spoke about scattered and premature development and concerns of safety at an already busy and dangerous intersection. Mr. Tuson referred to the temporary permit for logging that Mr. Green referred to earlier. He said the previous owners were admonished by DOT for not having a permit. He spoke about other issues with the existing driveways and would ask that the Board allow the State to complete its review before making any decisions.

Geoff Smith handed out copies of his points of concern. He spoke about visibility, overflow of ditches with the increased number of driveways and disruption of the forest floor, wetlands, concerns of damaging the pond, wind protection, wildlife, ledge and septic systems, and aquifer failure. He said he refused permission to the owner for a dry hydrant at the pond on two occasions.

John Reese asked about the elevation change to the top of the road from the proposed cistern location. Mr. Green showed the proposed area, noting it is where the State would prefer it to be, out of the wetland setback. He said there would be about 68' of elevation change. Earl Tuson noted that neighboring drives, structures, and wells are

not shown on the plan as required by the land development regulations. Geoff Smith said his well is close to the property line of Lot 5-2 and should be considered and shown. He said runoff from Lots 5-1 and 5-2 comes to his foundation and he is concerned about the possible malfunction of the septic systems on those lots. Jeff Green explained that he would need permission from the landowners to cross their properties to locate the wells and driveways. Geoffrey Smith and Earl Tuson gave their verbal permission.

Marilyn Whitten asked how steep the driveways on Route 129 would be. Earl Tuson spoke to that and about State specs. He said the Planning Board can request grading and erosion control plans and suggested that they should have a stormwater management plan as well. Mr. Tuson said the abutters and neighbors would appreciate a site walk. Marilyn Dubuc said she cannot see how driveways could be put on Route 129 and she cannot see that number of septic systems without destroying the nearby pond. Mrs. Whitten pointed out that all six driveways will face conservation land, never to be developed, and she does not feel this is the right spot for six houses. Earl Tuson spoke about the conservation area and noted that the Board can request a traffic study.

Sandy Hillsgrove explained that she lives on Pittsfield Road and her well has been affected over time as development has occurred. She said she has safety concerns of traffic and sight distance, concerns of additional drainage and erosion problems along the road, and worries about septic systems and the pond. There was brief discussion on how the cistern would be filled and if the fire department could pump up at that elevation. John Reese stated that he could not speak to the issue without department review.

Several abutters and area residents spoke about their concerns for their wells, safety with regard to the driveways, busses, and the intersection, road erosion/runoff, and the proposed subdivision not fitting the character of the area. Sandy Hillsgrove asked who is responsible for damage to homes, wells, and animals caused by blasting. Attorney Luker said it would be the blaster and by extension the owner of the property. Mr. Dumont spoke about wells and how they can be hit or miss based on his experience of building houses. Earl Tuson spoke about the property value of conservation land. He said the value of the land is based on the ability of farming the land. He said this proposal clashes suburban with agriculture. Mr. Tuson explained that the value goes down if he cannot work the land, and he has to work when he can, speaking about the hours he has to keep, the season limitations, etc. He said six houses on two acre lots may not appreciate that. Bob Cole said he understood what Mr. Tuson was saying and felt it is important to have Mr. Tuson's operation on record.

Jeff Green stated that he presented a conceptual plan at the last meeting and this new plan addresses some of the concerns voiced at that meeting. He said he is working with the State on the driveways, he has 4000 sf areas for septic systems done per standards, the wetland buffers are shown, the State has control of the driveways and is aware of the steep slopes, they will be put in as required, and he pointed out another subdivision of small lots on Young's Hill Road not too far from this proposed subdivision. Mr. Green said there is an active application for a driveway permit on file by a neighbor on Pittsfield Road. He explained that the State looks back to 1971 when reviewing the driveway applications and they have measured for the required 400' sight distance. He noted that the minimum sight distance on any of these proposed lots is 450' per the State. Mr. Green said he has permits for three new driveways on Route 129 and two existing driveways on Pittsfield Road, noting that it is not an incomplete as said

earlier by Earl Tuson. He said no culverts are allowed on Pittsfield Road and they cannot put any water onto the road. Mr. Green pointed out that this proposal is in a residential zone where two acre lots are allowed.

Bob Cole said the Board has heard concerns for wells which seems to be a problem. He asked if there might be any way to make the neighbors more comfortable other than a hydro-geologic study. Attorney Luker stated that, with regard to the Zoning Ordinance and regulations, the plan complies in every respect. He said the owner cannot address aquifer issues. Mr. Luker said that 80% of what has been heard was driveways, speed, and drainage which are all State issues. He said they will comply with the State's mandates. With regard to the cistern, Mr. Luker said they will work with and comply with the Fire Department. He said the speed on Route 129 is police enforcement; the owner is not making this essentially worse when adding five homes and it is not something he can control. Mr. Luker said the septic systems will meet State regulations. He pointed out that it is two acre zoning on almost 14 acres, saying the owner has the right to develop and will meet the regulations, addressing the concerns as best as they can. Bob Whitten spoke to Mr. Luker's statement about the property owner having the right to develop. He said if that was the case they would not need the Planning Board. He said the Planning Board is there to protect the town; he feels a lot is being asked of the neighbors and he would ask the Board to use judgment. Marilyn Dubuc noted that the lawyer said everything is regulated but she feels six septic systems can affect the pond.

The Board scheduled a site walk for Saturday, April 13<sup>th</sup> at 8:00 a.m. Chairman Dow closed the hearing to the public and opened it to the Board only.

Stan Prescott said he wants to be sure that they can get a fire truck off the road at the cistern and that the cistern easement should be shown on the plan. Henry Huntington suggested that they look at other options for the cistern. Jeff Green explained that he is working with the State on the pull-off area and then will work with the Fire Department. Stan Prescott asked about the distance from the cistern to the furthest lot. Mr. Green said it was 1400' at most. Mr. Prescott listed items that need to be addressed as follows: scale on the plan reads 1" = 60', regulations call for 1" = 50'; clarify buffers/edge of wetland; contours need to be labeled; locate structures/driveways of abutters; note the zoning district across the road.

**Henry Huntington made a motion to continue the application to the site visit and then to the meeting of April 18<sup>th</sup>; seconded by George Saunderson. All were in favor.** The site visit is April 13<sup>th</sup> at 8:00 a.m.; the meeting is April 18<sup>th</sup> at 7:00 p.m. at the Community Building. There will be no further notification.

#### **Election of Officers:**

**Stan Prescott made a motion to elect Tom Dow as Chairman; seconded by Dustin Bowles. All were in favor.** Mr. Dow accepted the position.

**Bob Cole made a motion to continue Stan Prescott as Vice Chairman; seconded by George Saunderson. All were in favor.** Mr. Prescott accepted the position.

#### **Appointment of Alternate:**

Bob Ordway agreed to continue as an Alternate for another year. **Dustin Bowles made a motion to appoint Bob Ordway as an Alternate for one year; seconded by Bob Cole. All were in favor.** It was noted that the Board can appoint up to five alternates. The chairman asked members to give some thought to others in town who may be interested in being an alternate.

**Board Discussion:**

The Board discussed the traffic count done by CNHRPC and reviewed the list of prior years' counts. Donna will review the suggested locations submitted by Dave Rice, Dick Wright, and Bob Fiske and then compile a list to send to CNHRPC based on those locations that have not been done in recent years.

The Board was reminded of a broadband forum that is scheduled for March 26<sup>th</sup>.

The Master Plan transportation chapter sub-committee will meet on March 27<sup>th</sup> at 6:00 p.m. as long as Ruairi O'Mahony of CNHRPC is available. Donna will confirm with Ruairi and check the room availability.

Dustin Bowles told the Board that he has had a discussion with George Saunderson and that George is interested in being an alternate on the ZBA. Dustin said this would give the boards a link and it is permitted. All were in agreement.

**Report of the ZBA:**

There is an application for special exception to cross a wetland buffer and an application for special exception for a reduced setback on the agenda.

**Report of the Board of Permit:**

Stan Prescott reported that the only item on the agenda was an inquiry about being able to build a new home in place of an existing trailer on the corner of Routes 129 and 106. It was noted that the lot is in the Commercial/Industrial zone and the residential use was discontinued more than eighteen months ago (section 602.4 of the Zoning Ordinance) therefore it could no longer be used for residential purposes.

**Adjournment:**

Dustin Bowles made a motion to adjourn at 10:40 p.m.; seconded by Henry Huntington. All were in favor.

Submitted by,

Donna White  
Administrative Assistant