

TOWN OF LOUDON  
LOUDON, NEW HAMPSHIRE  
PLANNING BOARD MINUTES  
JULY 16, 2015

**Meeting called to order at 7:00 p.m. by Vice Chairman Stanley Prescott.**

**Attendance:**

Tom Moore, Henry Huntington, Stan Prescott, Bob Cole, Ex-Officio Dustin Bowles, and Alternate Alice Tuson  
Alice Tuson was appointed to be a voting member in the absence of George Saunderson.

**Acceptance of Minutes:**

June 18, 2015 Regular Meeting – **Henry Huntington made a motion to accept the minutes as written; seconded by Bob Cole. All were in favor.**

**Old Business:**

Application #15-03, Debra Rattee – Minor Subdivision, Map 46, Lot 35, RR District. Abutters Paula, Kevin, & Warren Wells and Scott Newton were present. Jeff Green represented the applicant.

Mr. Green distributed revised plans, noting that he has included the buildable areas, added the north arrow, noted driveways for Lots 16 and 18, adjusted acreage as a result of last month's lot line adjustment, corrected note numbering, and added lot configuration boxes. He will add note #9 for the septic approval. Stan Prescott said the Board wanted the VanWormer septic system shown as it is located very close to the property line. He also said that Mr. Green stated at a previous meeting that there was no definition for the driveways of Lots 16 and 18 but he went to the registry and found the Hillger deed which clearly gives definition. Mr. Prescott said this needs to be straightened out. He pointed out that note #8 says 33' ROW; it should be 50' down to 33' at a specific location. Mr. Green stated that it is a 33' ROW for people to use. He said he could clarify that it is within a 50' strip from School Street to the beginning of the Wells property.

The Vice Chairman asked if there any abutters wishing to speak in favor of or against the application. Warren Wells said he is against the application. He asked if the plan is to build just one house. Mr. Green said that is correct. Mr. Wells asked how this subdivision will be getting services. He said the VanWormer property is being fed from Sunset Drive by secondaries. He asked how this lot would be served with a 33' ROW. Mr. Green said the applicant has three options: 1) she could grant herself an easement across lot; 2) come in off Rainbow but there would be a wetland impact; 3) come in off School Street by way of the 33' ROW by VanWormer.

Tom Moore said the notes on the plan referring to an association that does not exist are a concern. Mr. Green said they cannot make residents join an association; they are simply trying to give them a tool to start that. He said the maintenance agreement says if the Hummels or these two lots access Rainbow Drive they would have to join whatever was in place at the time. Mr. Green said the residents on the road have an informal agreement right now. He said a fair share would be determined by the association when developed. Warren Wells said he is trying to get something together. He said there is a lot of wording being passed around; it is simple but would cover everything. Mr. Wells said it is difficult to get the wording determined when dealing with a large number of people. Stan Prescott stated that it is part of the planning regulations that an association be established. He said the town's attorney reviewed the draft agreement and his comments need to be addressed. Mr. Green was given a copy of the attorney's comments as well as a letter with questions/comments that was submitted by abutter Joe Eggleston. Mr. Green addressed Mr. Eggleston's first point about the lot

being a corner lot. He said the lot's frontage is on a private road, Rainbow Drive, not on School Street. He addressed Mr. Eggleston's second point about the driveway to Lot 35-1 crossing a side setback. Mr. Green said the driveway already existed; the access off School Street has been in place since 1988.

Stan Prescott stated that the town attorney says the applicant needs to get an association established. Mr. Green said they cannot do that as they cannot make anyone create or join an association. He said they can only state that the lots will belong to an association at such time as one is established. Referring to Section 23.3 of the regulations, Dustin Bowles said because the applicant is creating a subdivision on a private road, she could create a road maintenance agreement for these two lots out to School Street. Bob Cole said he also understands it that way. Tom Moore asked if the road is part of the lot and if it is taxed as one lot. It was agreed that was correct. Stan Prescott said it would appear that she will sell Lot 35 and own Lot 35-1 and the road. Warren Wells said this is a minor subdivision with access off School Street. He said it was stated in previous meetings that there would be no access on Rainbow Drive; he feels there are some blurred lines when it comes to accessing Rainbow Drive/joining an association. Jeff Green said the applicant has access to Lot 35-1 through a strip of land that she owns; that would become a shared driveway with the VanWormer property. He said notes #6 and #7 could be combined, stating that both lots would be subject to join if an association is established. He again stated that the applicant cannot establish something but this agreement would be a tool that these two lots cannot refuse participating at the time something is created. Alice Tuson said she thought it would be good to get something in writing. Tom Moore asked Mr. Wells how other residents on the road feel about an association. Mr. Wells said he is telling people it would be in their best interest to do this, that way they would have some sort of agreement if selling their property, etc. He said there is some resistance. Dustin Bowles said he feels he would be satisfied if there was an agreement from the end of the subdivision out to School Street in place. Stan Prescott stated that Mr. Green is to address the attorney's comments.

The Vice Chairman closed the hearing to the public and opened it to Board members only.

Alice Tuson referred to Article 4 of the Land Development Regulations with regard to points #1 and #2 of Mr. Eggleston's letter. She noted that the fire department does not like shared driveways and asked if the Board should get their input. Point #1: Dustin Bowles said Rainbow Drive is a private way and he does not agree with Mr. Eggleston's statement about it being a corner lot. He said the access was created long ago. Jeff Green said they met with the VanWormers about the driveway, taking care of it, logging, etc. He said they are looking at several options for the access area. Tom Moore said he agreed the lot is not the intent of the definition of a corner lot. Board members agreed. Point #2: Tom Moore stated this lot is old and there were no other intentions at the time except as an access to this land. He said he does not have a problem with it; he sees it as a grandfathered situation, leading to the only dry spot on the lot. Others agreed. Point #3: The lot number would stay with the existing house; the new lot number would go with the balance of the parcel.

There was lengthy discussion about creating an association, maintenance agreement, and the attorney's responses. Mr. Prescott again said that Mr. Green needs to answer the attorney's questions. Notes 6 and 7 will be combined, adding Lot 35-1 to note 6, deleting note 7. The ROW width in note 8 needs to be clarified as 50' to 33' at the Wells property. It was agreed that clarification on the agreement is needed before deciding the note wording. The VanWormer septic system is to be shown. Dustin Bowles said the Board is asking the applicant to do something that cannot be done. Henry Huntington said this is a unique situation and he would suggest going back to the attorney to be more specific as he feels the response is rather vague. He said now is the time to get it right, once and for all. Stan Prescott said this is why he asked Mr. Green to write explanations to the attorney's questions. He said the Board could then iron it out with the attorney. Mr. Prescott said he would gladly take Mr. Green's info to the attorney for clarification.

Tom Moore asked if the applicant is planning to make the road its own lot at some point. Mr. Green said she would love to be able to do that. He said there are now established bounds but it would have to have an owner. He said it could be deeded to an association. Warren Wells said he would gladly take it if Ms. Rattee wanted to separate it. It was left that Mr. Green should respond to the town attorney's comments and have his client talk with Mr. Wells about his offer.

**Dustin Bowles made a motion to continue the hearing to the meeting of August 20, 2015; seconded by Tom Moore. All were in favor.** The meeting will be at 7:00 p.m. in the Community Building; there will be no further notification.

#### **Discussion:**

Miles Smith Farm – Theresa Downey and Bruce Dawson were present as Carol Soule was unable to attend. Ms. Downey stated that she works for Bruce and Carol at the farm. She explained that they received a letter from Code Enforcement asking them to meet with the Planning Board about events being held at the farm. Stan Prescott explained that this matter was discussed at a recent Board of Permit meeting and there were concerns that the events might be becoming more than those approved only with a letter of intent. Ms. Downey explained that they have typically done one large event in the fall and have had to shuttle people in from a parking area across Route 106, etc. She said they decided to hold three smaller events in an effort to spread attendance over several months. They are doing more advertising for the May and July events and less advertising for the October event. They are also parking cars on the farm's property, no longer on Route 106 and shuttling. Ms. Downey explained that the vendors shown on the event map are people giving out samples of their own products that can be purchased in the farm's store. Vendors are not selling anything from their booths. There was discussion about the layout of the area, parking, safety, etc. It was agreed that if these events get any bigger they would have to look at other options.

#### **Old Business:**

Application #15-04, New England Flower Farms – Major Site Development, Map 50, Lot 6, CI/RR Districts. Henry Huntington and Bob Cole recused themselves from this case. There were no abutters present. Tim Bernier represented the applicant.

Mr. Bernier distributed revised plans. He said there was one substantive change, which being a CO2 tank on sheet 5. He said it was realized that this tank will be needed after the initial applications were filed so they will be going to the ZBA for a special exception. Mr. Bernier pointed out several clarification notes. He spoke with DOT about the driveway permit and learned that the last inspection was done today. Traffic and sight distance were considered. Mr. Bernier said they received approval for expedited review from DES, which means the wetlands and Alteration of Terrain applications can be taken out of order. The public water supply application has been filed. The shoreland application was approved for expedited review as well. Mr. Bernier said they will go to the ZBA next week to finalize the four variance applications. He said they would like to have this Board consider a conditional approval pending those and the tank application.

Mr. Bernier said the CO2 tank will be 30' x 7'6", fenced-in next to the loading dock. He said CO2 is not a fire hazard but is poisonous. It would collect in a low area if a leak occurred. Dustin Bowles asked if the tank is required to be in containment. Mr. Bernier said it is not; the requirements are more to protect it from being hit. He said the tank will be installed per NFPA standards plus the installing company's own stringent regulations. He said they will be submitting the application for the tank for the August ZBA meeting and will get a full plan to the fire department for review. There was discussion on the tank. Henry Huntington explained that it would probably be used mainly from October to March; they do a lot of venting during warmer months so it would not make sense to pump CO2 in only to vent it back out. He said they can also extract CO2 off the exhaust of the boilers when those are running.

Mr. Bernier explained that the public water supply needs to be protected. Sheet 6 shows a 100' well radius. He said they will not be putting anything in that radius even though some uses are permitted; it will be left natural. He said the main concern is controlling the source and delivery system. Mr. Bernier said the conservation easement has been adjusted. The acreage remains the same; they just moved the line to keep the portion of recovered gravel pit in the easement area at a minimum. He said they were also asked to keep the fill extension of the building out of the easement.

Vice Chairman Prescott read a request for a waiver of item #26 (lighting plan) on the checklist. He also read a request for a waiver of item #28 (utility plan). **Dustin Bowles moved to grant the waivers; seconded by Alice Tuson. All were in favor.** It was stated that signage has not yet been determined.

**Dustin Bowles made a motion to approve the application conditional upon all ZBA approvals; seconded by Tom Moore. All were in favor.**

Bob Cole and Henry Huntington returned to the table.

### **Board Discussion:**

Master Plan questions – Joanne Cassulo called the office today to let the Board know that they have signed an agreement with Carol Ogilvie to do the Excavation Chapter. She would like to know if the Board wants Carol to attend the August meeting. It was agreed that Carol should come in on August 20<sup>th</sup>. Joanne also asked if Board members had a chance to look over the Land Use matrix that Mike Tardiff handed out in May. Several members had questions on the matrix; Donna will follow up with Joanne for clarification. Tom Moore will work with Donna on the Utilities Chapter.

### **Report of the ZBA:**

There are four variance applications for New England Flower Farms, a special exception for a shared driveway to cross side setbacks, and a special exception for online auction/vehicle storage on this month's agenda.

### **Report of the Board of Permit:**

Stan Prescott reported that there were three junkyard license renewals on the agenda; Eastman was signed, Green and Lane were not signed due to DES issues, Code Enforcement will follow up. There was a question about a residential property on Route 106 being able to do retail sales as a home occupation.

### **Adjournment:**

Dustin Bowles made a motion to adjourn at 9:45 p.m.; seconded by Alice Tuson. All were in favor.

Submitted by,

Donna White  
Administrative Assistant