

**TOWN OF TUFTONBORO
PLANNING BOARD
March 3, 2016
MINUTES**

Members Present: Chris Sawyer, Chairman, Jack Parsons, Vice-Chairman, Tony Triolo, Matt Young, John Lapolla, John Cameron, Members.

Members Absent: Dan Duffy, Selectmen's Representative, Fenton Varney, Member.

Staff Present: Lee Ann Keathley, Secretary.

Chairman Sawyer opened the meeting at 7:00 PM.

I. Consideration of Minutes

February 2, 2016

Correction:

Page 4, 10th paragraph; change "confirmed" to "inquired"

It was moved by Tony Triolo and seconded by John Cameron to approve the February 2, 2016 minutes as amended. Chris Sawyer, Tony Triolo, John Cameron, Matt Young, John Lapolla voted in favor. Jack Parsons abstained. The motion passed.

II. Discussion Items

a. Jean P. Whitten Trust; Status Report

Chris Sawyer stated the Board received NH DOT approval regarding the 400' sight distance has been approved; noting the letter has been placed in the file. She stated the Board has received paperwork that the smooth transition has been accomplished. She stated Norway Plains submitted a letter, dated 2/15/16, regarding such. She confirmed with Jill Kennard that such has been done.

Jill Kennard stated Mr. Ambrose did come but didn't put in a culvert like it's supposed to be put in and it's already washed out pretty good. She stated some of it was put in but, some of the smooth transition needs to be put in where the wall was built. She stated there is 15-16' of the wall where the smooth transition is supposed to go.

Chris Sawyer asked if the smooth transition occurred.

Jill Kennard replied some of it, yes.

Jack Parsons noted that Norway Plains' letter did state that it may need to be regraded and contracted when the ground is not frozen.

Chris Sawyer stated the Board received plans prepared by Fernstone Associates submitted by Gerry Holmberg. She asked Mr. Holmberg if the plans were submitted on behalf of Jill Kennard.

Gerry Holmberg replied no and stated he owns the property on the other side. He stated a letter was submitted by NorthPoint Engineering and noted concern regarding the State's approval. He stated he will be filing a petition to reconsider.

Chris Sawyer confirmed Mr. Holmberg is referring to the NH DOT letter and filing the petition with the State.

Jack Parsons asked if the Board received plans from the engineer.

Chris Sawyer replied no.

The Board reviewed the As-Built plan submitted by White Mountain Survey Co., Inc.; noting the plan depicts the location of the drywell and retaining wall.

Gerry Holmberg stated he and Jill Kennard have a problem with the wall that was built that is blocking the original driveway.

Chris Sawyer stated the smooth transition doesn't have to be in the exact same place.

Jim Rines read his letter, dated February 18, 2016, see attached. He submitted revised plans that reflect the correction of the error of the vertical scale.

Gerry Holmberg asked if the Board has read the NH DOT letter that was addressed to the BOS. He stated the DOT office received notification from White Mountain Survey stating that with the improvements to the slope and ditch line along Route 109 the required 400' sight distance has been achieved. He stated DOT is basing their approval on their certification and he disagrees.

Chris Sawyer stated the DOT letter was after the fact and the approval was already done.

Jim Rines stated Mr. Holmberg is not correct. He stated that he did provide a certification however, DOT came out twice; noting the first time he came out was during a snow storm and decided they wouldn't check the sight distance. He stated DOT then came out a second time and looked the whole thing over and asked him to provide the certification.

Gerry Holmberg stated he doesn't have a problem with Jim Rines' certification however, he wants for the Town's benefit to have in that certification that it's a 400' safe sight distance for all seasons. He stated if Mr. Rines is willing to certify to that, then it will be fine.

Chris Sawyer stated the Board has the certification.

Gerry Holmberg disagreed because it is not an all seasons safe sight distance.

Referencing the smooth transition, Jill Kennard stated there is no culvert and its washing out and asked if she has to take out the wall and redo it herself in order to make it smooth the way it was.

Chris Sawyer stated the smooth transition was completed and reviewed by the Town's engineer and the Board has all the certification.

Jill Kennard asked if it would come back on her if the wall gets washed out.

Chris Sawyer stated it has been signed off by the Town's engineer and doesn't have an answer for that.

Jill Kennard asked if she can get the rest of her smooth transition back and if the wall is there to stay.

Chris Sawyer stated the smooth transition has been done.

Ed Ambrose asked the width of the original driveway.

Gerry Holmberg replied 30'.

Ed Ambrose noted such exists.

Gerry Holmberg disagreed.

Jack Parsons stated he observed that the width is over and above any driveway. He stated the house is located on Middle Road and there has to be a release to access from a Class VI road and then the road agent can decide where it goes.

John Lapolla reviewed the previous location of the garage and the driveway.

Jack Parsons stated the garage is no longer there.

Jim Rines stated the garage was torn down and believes the structure in violation of 155 B which relates to dilapidated structures.

It was moved by Tony Triolo and seconded by John Cameron to accept the As-Built plan for Jean P. Whitten 1999 Trust. All members voted in favor. The motion passed.

Chris Sawyer noted the approval of the As-Built plan is being done because of the issues subsequent to final approval in April 2015.

Jim Rines requested something in writing for court tomorrow.

Staff stated she would write a letter of compliance.

Chris Sawyer stated Staff would provide the letter to all parties.

John Lapolla confirmed that the smooth transition would need to be regraded and compacted in the spring.

b. Planning Board Rules of Procedure

The Board tabled such.

c. Master Plan Update

Chris Sawyer stated 901 surveys have been returned; noting voluminous comments have been provided. She noted the 2005 survey resulted in just barely a 30% response rate (approximately 2,000 surveys were distributed).

Jack Parsons noted there were no duplicate surveys distributed for this survey. He stated the Board mailed the survey to land owners of improved properties.

d. Member Appointments

The BOS reappointed Fenton Varney and John Lapolla to the Planning Board.

III. Informational Items

None.

IV. Other Business

March 17, 2016 Planning Board Meeting

The Board agreed to reschedule the March 17, 2016 meeting to March 16, 2016.

LRPC Annual Dues

It was moved by Jack Parsons and seconded by Matt Young to renew the Lakes Region Planning Commission Annual Dues in the amount of \$4,165. All members voted in favor. The motion passed.

It was moved by Tony Triolo and seconded by John Cameron to adjourn the March 3, 2016 Tuftonboro Planning Board meeting. All members voted in favor.

There being no further business before the Board, the meeting adjourned at 7:47 PM.

Respectfully Submitted,
Lee Ann Keathley
Lee Ann Keathley



WHITE MOUNTAIN SURVEY & ENGINEERING, INC.

1270 ROUTE 16, POST OFFICE BOX 440

OSSIPEE, NH 03864-0440

TELEPHONE (603) 539-4118 FACSIMILE (603) 539-7912

WEB ADDRESS: www.whitemountainsurvey.com

February 18, 2016

Via email only (csawyer83771@roadrunner.com) and (lecann@metrocast.net)

Christine Sawyer, Chair
Tuftonboro Planning Board
PO Box 98
Tuftonboro, NH 03816

Re: Jean P. Whitten 1999 Trust
Site Plan Approval

Dear Chairman Sawyer and Members of the Board:

As you know, I am unable to attend tonight's planning board meeting due to a need to represent another client before the Freedom planning board.

I understand that the trustee of the Trust, James P. Stockman will be in attendance and so will Ed Ambrose, of Ambrose construction.

To bring the planning board up to date with developments which have occurred since the meeting on February 4, 2016, Ambrose Construction constructed the "smooth transition" onto the Jill Kennard lot at 1 Sandy Knoll Road. Ed Ambrose will testify as necessary to this fact and your report from the town's reviewing engineer documents this smooth transition is complete. I note that this was not to be a graveled finished driveway, since the existing driveway was composed of only native material, but simply a smooth transition that allowed access to the lot. I point out this fact because some of Scott Lawler's comments could be more applicable if this were to be a finished, graveled driveway relating to the potential need for additional work in the spring. Jill Kennard was present for a portion of the work and as a result of Jill's request, Ambrose Construction widened the smooth transition in the areas she requested. It is my understanding that Jill verbally indicated that she was satisfied with the smooth transition that Ambrose constructed, although when presented with a document to sign indicating such, she indicated that she would sign it and get it to me, but I have not yet seen the signed document. Regardless of this fact, it is our position that this issue has been resolved.

Secondly, I have been made aware that late this morning, Gerry Holmberg delivered plans to the town today relating to the improvements of Sandy Knoll Road. I gather that in my absence, Gerry will be testifying to the content of these plans. One item that I understand that Gerry discovered, and I concur with, is that the vertical scale label on our town and state approved plan entitled "Sight Distance Profile Plan of Sandy Knoll Road" was incorrect. The vertical scale was labeled 1"= 5' and it should have been labeled 1"= 4'. Delivered to the town hall this afternoon

LAND SURVEYING · PLANNING · CIVIL ENGINEERING · EXPERT TESTIMONY · SEPTIC DESIGN

Providing Professional and Courteous Service Since 1977



Christine Sawyer, Chair
Tuftonboro Planning Board
February 18, 2016
Page 2 of 3

are revised plans with the correct vertical scale labeled. Understand that graphically the plan is correct and only the scale was mis-labeled. The sight distance is achieved and that was confirmed by NHDOT staff and this office once the work was complete. I apologize for the error.

As further demonstration that the sight distance was achieved, I submit for the board's information, but not approval, the Sight Distance Worksheet, which is the original profile for the sight distance. Its scale is 1" = 20' both horizontally and vertically. Because industry standard is to exaggerate the vertical scale so that you can more readily see what is attempting to be shown, we did that on the approved plans but mis-labeled the scale.

There are three other plans that Gerry dropped off. These were prepared by Peter Cooperdock of Fernstone Associates. They are entitled "Location Comparisons of Sandy Knoll Road 2012 and 2016, Tuftonboro, NH"; "Overlay Comparisons of Sandy Knoll Road 2012 and 2016, Tuftonboro, NH"; and "Turning Radius Plan at the intersection of Sandy Knoll Road and Middle Road, Tuftonboro, NH". The first two plans are dated February 14, 2016, and the last one is dated February 13, 2016. I'm not certain what is attempting to be shown, but the Planning Board should be aware that Peter Cooperdock is not a Licensed Land Surveyor nor a Professional Engineer.

In accordance with NH RSA 310-A:53, II, "...it shall be a class B misdemeanor for any person to practice or to offer to practice land surveying in this state..." (see full text attached to this letter) RSA 310-A:54, IV defines the practice of land surveying as "... any service or work, ... including the topography alignment and grades of streets and for the preparation and perpetuation of maps..." (see full text attached to this letter).

In accordance with NH RSA 310-A:11, no person shall practice engineering in this state without a professional engineer's license (see full text attached to this letter). NH RSA 310-A:2, III, defines the practice of engineering as "...any professional service or creative work requiring education, training, experience, and the application of advanced knowledge of mathematics and physical sciences, involving the constant exercise of discretion and judgment, to such services or work as consultation, investigation, evaluation, planning, design, responsible oversight of construction, and responsible oversight of operation, in connection with any public or private utilities, structure, buildings, machines, equipment, processes, works, or projects, wherein the public welfare, or the safeguarding of life, health, or property is concerned."

Consequently, I believe that the Planning Board should disregard these plans, as they violate RSA 310-A. This type of activity not only jeopardizes the public by deceptive practices, but it costs individuals, like the Jean P. Whitten 1999 Trust, money to respond to them. By copy of this letter, I am filing a complaint with the Joint Board of Licensure and asking them to pursue



Christine Sawyer, Chair
Tuftonboro Planning Board
February 18, 2016
Page 3 of 3

Peter Cooperdock and Fernstone Associates for the illegal practice of Land Surveying and Engineering, contrary to state law.

I have also included the NH RSA's relating to Certified Wetland Scientists and Certified Soil Scientist because these are certifications, not licenses, that Peter Cooperdock does hold, to demonstrate that those certifications do not permit him to perform the work he has submitted.

Regardless of what is attempting to be shown by these plans, the reality is that this is an attempt to get the Planning Board to delay this process, because once the Planning Board agrees that all conditions have been satisfied, one of the abutting law suits will be settled leaving Gerry Holmberg as the only remaining litigant.

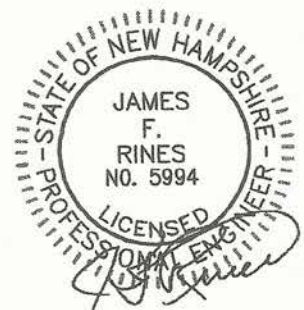
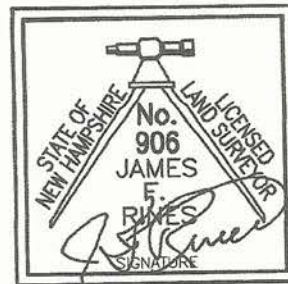
The bottom line is, this project has been constructed in accordance with the approved plans, including approved field changes, and in accordance with plans approved by NHDOT. NHDOT has performed two separate site inspections once the work was completed has indicated that they are satisfied that the improvements are in keeping with the approved plans. NHDOT sent an email stating such, which I submitted at the last meeting. As a follow-up to that email, I called NHDOT to ask whether they would provide a letter stating this fact. After discussion throughout NHDOT, they decided that doing so would be precedent setting and that they were not going to prepare such a letter. They said that this is a town road and that NHDOT is satisfied. If the town wishes for something more or different, then they town should request it.

If you have any questions or concerns regarding this matter, please feel free to contact me directly at (603) 439-4118, extension 315. With the hope that the Planning Board is now in a position to confirm all conditions have been satisfied and this project is complete, I remain

Respectfully,
White Mountain Survey & Engineering, Inc.

James F. Rines, P.E., L.L.S., C.P.E.S.C.
President

Jean P. Whitten 1999 Trust
NH Office of Professional Licensure and Certification



LAND SURVEYING • PLANNING • CIVIL ENGINEERING • EXPERT TESTIMONY • SEPTIC DESIGN
Providing Professional and Courteous Service Since 1977