



Town of Hampden
Planning Board Meeting
Tuesday May 19, 2020

Minutes

This meeting was held via remote means (Google Meet) due to the Covid-19 Pandemic, in accordance with SP0789 / LD2167, An Act To Implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency.

In Attendance:

Planning Board

Kelley Wiltbank, Chairman
Ladoiya Wells
Brent Wells
Gene Weldon
Jennifer Austin
Richard Tinsman
Jake Armstrong

Staff

Karen Cullen, Town Planner
Ryan Carey, CEO
Jessica Rickman, Recording Clerk

Public

Jim Kiser

The meeting was called to order at 7:00 pm. Chairman Wiltbank explained that this meeting is being held remotely, with himself in the Council Chambers and everyone else via Google Meet, in accordance with the guidelines for the pandemic. He took attendance by roll call; all members listed above participating with both audio and video. It was established that all board members were able to hear and speak to all the other members. All staff and public participants could likewise hear and speak to all other participants.

1. Administrative

- a. Minutes – April 14, 2020 regular meeting

Motion: by member Gene Weldon to approve the minutes of the April 14, 2020 regular meeting with the correction of the date of the minutes to read Tuesday April 14, 2020 instead of Wednesday April 14, 2020, seconded by Richard Tinsman; motion carried 7/0/0 by roll call vote.

2. New Business

- a. Philip Libby – Minor Subdivision for a 2 lot subdivision at 177 Western Ave, parcel 30-0-033-A, in the Residential B district, to create one new lot for a single family home.

Karen Cullen, Town Planner addressed the board and said that the Philip Libby application does not need Planning Board approval. She said after receiving an inquiry about a similar situation elsewhere in town, she sought the advice of the Town Attorney to

see if this constituted a subdivision and thus Planning Board approval, and the answer was no. She then went through a presentation explaining why, see attached Exhibit A.

Questions:

Richard Tinsman asked what is the action for this item? Is it a tabling? Karen Cullen, Town Planner said no, they do not actually need any approval from the Planning Board, it can just be considered a withdrawal.

Kelley Wiltbank, Chair asked if there were any more questions on this item? Gene Weldon mentioned he appreciates Karen going through the presentation. He asked for more clarification on how both lots met the 125 feet of road frontage. Karen Cullen, Town Planner explained how, with the orange highlight on the "Add a right-of-way" slide from her presentation.

- b. Michael Levesque – Minor Subdivision for a 4-lot subdivision on vacant land on Western Ave, parcels 07-0-014-B and 07-0-015-A, in the Rural district, to create four new lots for single family homes.

Jim Kiser, representing the applicant, presented the proposed plan:

- This application is for a minor subdivision located on 202 in between the Sawyer Road and the Newburgh town line.
- 12.1 Acres
- Minor 4 lot subdivision
- No proposed municipal improvements within the project, just using existing road frontage to create 4 lots.
- Total property was added to by transfer from abutter property over into the primary property for the project.
- The primary lot is fully wooded, while the secondary lot is a portion of the fields on the property.
- The only wetlands noted on the plans on the property are on the back wooded area of the property.
- Provided test pits for each lot, showing that there are suitable soils available for subsurface wastewater disposal.
- Have not had any negative developmental restraints implicated by state review agencies being IF&W, Natural areas, and the Historical Preservation Commission.
- Forwarded the four entrance permits from DOT to Karen Cullen, Town Planner, for the driveways to each of the lots.
- One minor change on the plan, increased one of the lot sizes because it was just under 2 acres in size.

Jim Kiser mentioned that the plan will be delivered to have the board sign, with final approval of this minor subdivision.

Questions:

Gene Weldon had a question on the remaining lot. He asked if that is essentially the same owner? Jim Kiser said the gentleman has one LLC transferring that property to this 4-lot subdivision. Gene asked if the remaining land will be a lot on its own as well? Jim said correct, that was the difference we had, it was just under 2 acres in size and the surveyor

picked it up that we were a couple thousand square feet shy. We adjusted the lot line, so that it makes it a fully conforming lot under the zoning ordinance. Gene Weldon then asked if there will be two different owners essentially? Or companies? Jim Kiser said right now it was easier to put it in two lots to avoid confusion on the size and whether you create a 4-lot subdivision or potentially a 6 lot subdivision on that. We chose to do it that way to try and keep it simpler. It was originally in two deeds before this owner bought it. It was just an oversight when they bought it that they did not keep it in two separate deeds. They had the attorney put it in two separate deeds, one under Hemi & one under Michael Levesque, so that we could then proceed and try to avoid some confusion on that.

Karen Cullen, Town Planner noted that she did receive the DOT permits, and she sent them onto the Planning Board.

Karen Cullen mentioned that this is not particularly pertaining to this application, but in her research of subdivisions where an applicant stated the term single family in their application, the Board actually included that in their vote, essentially restricting that property to the lots to single family as opposed to single family, duplex or multi-family or anything else that's permitted in the district. She asked if Mike's intention was that it be limited to single-family, or if he intends it just be open to any uses that are allowed in the district. Jim Kiser said from the applicant's perspective it is just a subdivision, he just referenced single-family because that is the traditional use out there. It is not necessarily the applicant's intent to do any type of attached multi-family out there right now, they are just looking at building homes on it. If the Board wants to include "single family" in the approval, then we wouldn't mind it as long as we can come back and ask for a multi-family if something changed in the market to prevent the sale of single-family homes out there.

Motion: After the public meeting duly noticed and held, the Planning Board finds that the applicable requirements of article 3.42 of the Hampden Subdivision Ordinance have been met based on this, its moved by Richard Tinsman that the Hampden Planning Board approve the subdivision request by Michael Levesque for 4 lots to accommodate single-family residences, seconded by Ladoiya Wells; the board voted by roll call and the motion carried 7/0/0.

- c. Nattapong Kongsuryia – Sketch plan for a 10-unit multi-family project on vacant land on Emerson Mill Road, parcel 08-0-056, in the Rural district.

Jim Kiser, representing the applicant, presented the proposed plan:

- Sketch plan for a property located on Emerson Mill Road
- 5-acre parcel
- Seeking to put in a multi-family development
- Proposed project is two 4-unit buildings on the lower side of lot towards camp Pierce Webber and a duplex towards the top, which would be closer to abutting a single-family residence.
- Site is fully wooded and will not have much visibility from any abutting properties.
- 3 access points onto Emerson Mill Road
- There is a sight distance question and we are going to have to work with the Public Works Director, Sean Currier on that and probably do some tree clearing within the property to get the appropriate sight distance for the three entrances.

- There is a portion of Emerson Mill Road that encroaches on the property, which is not uncommon with the way it was described way back when. They did not use curves in the descriptions, so you can see on the plan the roadway dips into a corner of the property. We identified that on there, and do not expect to do anything with it. Except for a little bit of driveway access in that area, so that in the future if it was deemed that they need to define that right-of-way, we can accommodate that fairly easily.

Questions:

Kelley Wiltbank asked Karen Cullen, Town Planner to give the board some input and guidance.

Karen Cullen, Town Planner said the only thing the Planning Board must do at this point is classify the subdivision. With 10 units, it is a major subdivision. A major site plan application will also be submitted, as well as a final major subdivision application for the construction of the multi-family units. Fire suppression will have to be dealt with in some fashion; Jim Kiser will have to work with the Fire Department on that issue. With the Souadabscook Stream down the street, it is probably not going to be a big deal, although there may be a need to put in a dry hydrant. The Fire Department is working on that issue right now throughout the rural area. The biggest concern that Sean Currier, Director of Public Works has is the proposal for three driveways into the single property. Given the topography, it might make sense to have one driveway from the road, then to have a driveway paralleling Emerson Mill Road to access the three buildings. Which would end up being fairly steep and could be an issue in regard to both erosion and stormwater management. So, that is something Jim Kiser will have to work out with Sean Currier, Director of Public Works in thinking about not just the number of entrances, but also the locations of the entrances, and the sight distance from the top of the hill, but also in terms of the benefits of this as opposed to the alternative, in regards to stormwater management.

Kelley Wiltbank said it says that this is beside the YMCA Camp. Jim Kiser said yes, it is adjacent to Camp Pierce Webber on two sides. Kelley Wiltbank asked if it would have an impact on the camp and the children? Jim Kiser did not anticipate any. Most of the camp activities take place further down towards the stream. Karen Cullen, Town Planner said that most of the camp activities are taking place away from where the development would go. They own the land behind the project, but it is basically all wooded area.

Motion: Gene Weldon moved that we classify this as a major subdivision, seconded by Jennifer Austin; motion carried 7/0/0 by roll call vote.

3. Old Business –

Karen Cullen, Town Planner asked the Planning Board if they had any questions or comments on the pre-application for the solar project on the Meadow Road. The applicant is preparing their final plans, so she wanted to make sure she passed on any questions or comments if they had any. The Planning Board did not have any questions or comments. She mentioned the project is going to require DEP approvals including SLODA.

4. Planning Board Comment

Karen Cullen, Town Planner, and the board discussed how they are going to handle Planning Board meetings going forward. It was agreed that they will continue the remote meeting format for as long as possible and allow members, staff, and the public to attend in person or remotely. Karen also mentioned she would send out a more detailed letter to abutters and read any comments received from them into the minutes during any public hearings.

5. Adjournment

Motion: Gene Weldon moved to adjourn the meeting at 8:14 pm, seconded by Richard Tinsman; motion carried by roll call vote 7/0/0.

*Respectfully submitted by Jessica Rickman,
CED Administrative Asst.*

LOT SPLITS & PRIVATE ROADS

MAY 19, 2020

THE SET-UP

- Someone has a parcel they want to divide into two, but it only has enough frontage for one lot.

Frontage requirement = 150'

THE SITUATION

- Doesn't meet the definition of subdivision in statute
- No Planning Board approval required
- But lots must meet frontage as defined in our zoning ordinance to be eligible for a building permit
- So **lot B would not be buildable**
- However, the split could include a right-of-way for a private road
- Definition of *frontage* refers to definition of *road or street* which includes a private road that has been built to the standards in the subdivision ordinance (not just a right-of-way)

ADD A RIGHT-OF-WAY

- Lot A has frontage on existing road
- Lot B would have frontage on private road, but only if the road is constructed.

Frontage requirement = 150'

NOTE...

- Any lot that doesn't meet the definition of *frontage* is not eligible for a building permit, thus a lot fronting on a private road ROW where no road meeting the standards exists, is considered to have no frontage
- This is a self-created hardship and is not eligible for a variance
- Any lot within a subdivision previously approved by the PB must **ALWAYS** be approved by the PB, regardless of what the change is (lot line adjustment, new lot created)

CURRENT REGS

- If a private road is built, and is both
 - Certified by a professional engineer licensed in Maine as meeting the requirements for a private road in the subdivision ordinance, AND
 - Has been inspected and deemed consistent with those standards by the DPW Director,
- THEN** the boundary of the lot along the private road ROW would meet the definition of *frontage* in the zoning ordinance and the lot would be eligible for a building permit.

PROBLEM?

- Potential for dozens of tiny private roads serving only one house.
- A private road built to the standards of our subdivision ordinance is much more than a driveway, and much more expensive
- This could encourage property owners to do a major subdivision instead

SOLUTION

- Hampden's E911 Ordinance kicks in at 3 structures (homes) served by a single way
- That should be the threshold of what constitutes a private road which should meet the standards of the subdivision ordinance
- Modify the definition of *road or street* in the zoning ordinance to allow frontage for a maximum of two lots in a lot split division provided the plan (in addition to the deeds) is recorded at the Registry of Deeds and there is legal access to both lots, noted in the deeds and on the plan.

NOTE

- Multiple lot splits that don't meet the definition of *subdivision*, and therefore are not controlled by the subdivision ordinance, should also fall under this for the third house
- So the third lot would not be eligible for a building permit until the private road was built to the standards in the subdivision ordinance.
- Applicants we talk to are encouraged to think ahead to what their ultimate goals are for their property, so they don't inadvertently create a problem for future development.