

TOWN OF ALTON PLANNING BOARD
PUBLIC HEARING
Minutes
December 16, 2014
Approved as presented January 20, 2015

Members Present: Dave Collier, Chairman
Tom Hoopes, Vice Chair
Roger Sample, Clerk
Bill Curtin, Member
Scott Williams, Member
Marc DeCoff Selectmen's Representative

Others Present: Ken McWilliams, Town Planner
Randy Sanborn, Secretary
Members of the Public

I. CALL TO ORDER

D. Collier called the meeting to order at 6:00 p.m.

II. APPROVAL OF AGENDA

There is one change to the agenda. Case P14-25, Linda V. Lucht Rev. Trust and Second Frog Realty Trust have requested a continuance to the January 20, 2015 Planning Board meeting. It will give them time to go to the Zoning Board for a Variance they need.

S. Williams motioned to accept the Agenda as amended.

M. DeCoff seconded the motion with all in favor.

III. COMPLETENESS REVIEW OF APPLICATIONS AND PUBLIC HEARING IF THE APPLICATIONS ARE ACCEPTED AS COMPLETE

Case #P14-26 W&W Ralph Trust	Map 8 Lots 3 & 2	Lot Line Adjustment Plan Ingalls Terrace & Route 140
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On behalf of W&W Ralph Trust, Paul F. Zuzgo, LLS is proposing a lot line adjustment between two lots. The proposal is to transfer a portion of Lot 3 to Lot 2. This property is located in the Rural (RU) Zone.

S. Williams recused himself from this application as he is the owner.

K. McWilliams gave an overview of the application. He recommended the Planning Board accept the application as complete.

T. Hoopes motion to accept the application as complete.

B. Curtin seconded the motion with all in favor.

Paul Zuzgo spoke on behalf of this application. He stated that they are increasing Lot 2, a non-conforming lot 110 X 100 and .25 acres and increasing it to 1.81 acres. They are proposing to move the driveway off of 140 and moving it onto Ingalls Terrace for Lot 2. They are decreasing Lot 3 down to 2.76 acres.

D. Collier opened it up to the public. There was none at this time.

T. Hoopes motioned after due hearing, the Alton Planning Board hereby approves the above cited application for a Lot Line Adjustment with the following conditions:

Conditions Precedent: The following conditions must be satisfied prior to signing the plans.

- 1. The following note shall be added to the plat prior to plan signing: This Boundary Line Adjustment Plan is subject to the Conditions of Approval itemized in the December 16, 2014 Notice of Decision on file at the Belknap County Registry of Deeds and the Town of Alton Planning Department.**
- 2. The applicants need to submit signed deeds to record with the Lot Line Adjustment Plan within 60 days of approval of the lot line adjustment by the Planning Board. The deeds would be for:**
 - a. transferring 67,922 sq. ft. or 1.56 acres from Lot 3 to Lot 2 for a resulting parcel size of 78,937 sq ft. or 1.81 acres; and**
 - b. reducing Lot 3 by 67,922 sq. ft. or 1.56 acres for a resulting lot size of 120,202 sq. ft. or 2.76.**

Subsequent Conditions:

- 1. The applicant shall comply with all of the Town of Alton's Subdivision Regulations.**
- 2. The approval is based upon the plans, specifications and testimony submitted to the Planning Board. Any alterations, additions or changes to the plans are not authorized and require additional planning board approval.**
- 3. A lot line adjustment which has been approved, conditionally or otherwise, may be revoked, in whole or in part, by the Planning Board when an applicant or successor in interest to the applicant has performed work, erected a structure or structures, or established a use of land, which fails to conform to the statements, plans, or specifications upon which the approval was based, or has materially violated any requirements or conditions of such approval.**

Provided all listed precedent conditions are satisfied, this approval will remain valid for implementation 365 days from date of original approval, unless extended by the authority of the Planning Board after petition by the applicant.

B. Curtin seconded the motion with all in favor.

Case P14-27 Jacqueline D. Gough & Alan J. Baumann Jr. 2013 Trust	Map 4/Lots 4 & 7 Map 7 Lot 2	Lot Line Adjustment Plan Halls Hill Road
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S. Williams asked the Board if he should recuse himself because he is an abutter. They stated that it would be best.

D. Hussey came before the Board and requested that they move Case P14-28 forward because Mr. Steele is an emergency room doctor.

D. Collier polled the Board and they decided that after this application they would listen to Case P14-28.

On behalf of Jacqueline D. Gough and Alan J. Baumann Jr. 2013 Trust, Paul F. Zuzgo is proposing a 3-lot Lot Line Adjustment. Two are owned by Alan J. Baumann Jr. Rev. Trust and the other by Jacqueline D. Gough. All the lots are currently well over 100 acres. Two lots have road frontage on a class 5 road and the other has a right of way to a class 5 road. This property is located in the rural (RU) Zone.

K. McWilliams gave an overview of the application. He stated that the applicant has requested a waiver from providing the survey for Map 7 Lot 2 since it is such a large parcel. He recommends the Planning Board approve the waiver.

M. DeCoff motion to approve the waiver from doing the survey for Map 7 Lot 2.

B. Curtin seconded the motion with all in favor.

B. Curtin motion to accept the application as complete.

M. DeCoff seconded the motion with all in favor.

Paul Zuzgo spoke on behalf of this application. He is representing A.J. Baumann. Mr. Baumann is acquiring 30 acres from his neighbor, Jacqueline Gough and adding it to his Map 7 Lot 2. He is reducing the size of the land around his farm down to 27

acres and putting the majority of his land together for agricultural use. Map 7 Lot 2 doesn't have road frontage but it does have a right-of-way out to Halls Hill Road. That will not change.

D. Collier opened it to the public. There was none at this time.

B. Curtin motion after due hearing, the Alton Planning Board hereby approves the above cited application for a Lot Line Adjustment with the following conditions:

Conditions Precedent: The following conditions must be satisfied prior to signing the plans.

1. The following note shall be added to the plat prior to plan signing: This Boundary Line Adjustment Plan is subject to the Conditions of Approval itemized in the December 16, 2014 Notice of Decision on file at the Belknap County Registry of Deeds and the Town of Alton Planning Department.
2. The applicants need to submit signed deeds to record with the Lot Line Adjustment Plan within 60 days of approval of the lot line adjustment by the Planning Board. The deeds would be for:
 - a. a new deed for Map 7 Lot 2 that includes:
 - i. annexing Parcel B containing 30 acres from Jacqueline D. Gough (Tax Map 4 Lot 7) to Alan J. Baumann, Jr., 2013 Trust (Tax Map 7 Lot 2);
 - ii. annexing parcel A containing 340 acres from Alan J. Baumann, Jr., 2013 Trust (Tax Map 4 Lot 4) to Alan J. Baumann, Jr., 2013 Trust (Tax Map 7 Lot 2).
 - b. a new deed for Map 4 Lot 7 that reduces the lot by the 30 acres in Parcel B transferred to Map 7 Lot 2;
 - c. a new deed for Map 4 Lot 4 that reduces the lot by the 340 acres in Parcel A transferred to Map 7 Lot 2.

Subsequent Conditions:

1. The applicant shall comply with all of the Town of Alton's Subdivision Regulations.
2. The approval is based upon the plans, specifications and testimony submitted to the Planning Board. Any alterations, additions or changes to the plans are not authorized and require additional planning Board approval.
3. A lot line adjustment which has been approved, conditionally or otherwise, may be revoked, in whole or in part, by the Planning Board when an applicant or successor in interest to the applicant has performed work, erected a structure or structures, or established a use of land, which fails to conform to the statements, plans, or specifications upon which the approval was based, or has materially violated any requirements or conditions of such approval.

Provided all listed precedent conditions are satisfied, this approval will remain valid for implementation 365 days from date of original approval, unless extended by the authority of the Planning Board after petition by the applicant.

M. DeCoff seconded the motion with all in favor.

S. Williams rejoined the Board.

IV. PUBLIC HEARING FOR PLANNING BOARD INTERPRETATION OF EARTH EXCAVATION REGULATIONS

Case P14-28 Daniel P. Steele	Map 5 Lot 72-8	Interpretation of Earth Excavation Regs 376 Suncook Valley Road (Route 28)
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Daniel P. Steele has requested a public hearing for the Planning Board, as the regulator, to make an interpretation of the applicability of the Earth Excavation Regulations to Mr. Steele's digging operation on his property located in the Rural (RU) Zone.

K. McWilliams gave an overview of the application. Earlier this year Mr. Steele retained Dave Morse to excavate an estimated 3,000 yards of gravel on his property without any permits. At the request of the Town, Mr. Steele met with Tom Sargent, John Dever and me on November 26, 2014 to discuss what his intended use was for the excavated gravel. Mr. Steele indicated about 1/3 (1,000 yards) would be used to level out a low area and address a drainage issue. He indicated he did not have any use for the remaining 2,000 yards on his property so it would likely be transported off the property and used elsewhere.

Since the remaining 2,000 yards would likely be transported off the property and used elsewhere, the staff indicated he would be considered an earth excavation under RSA 155-E and the Town's Earth Excavation Regulations. The guidance he was given at that meeting was that he would need to seek approval for:

1. A Special Exception from the Zoning Board of Adjustment for an Earth Excavation in the Rural Zone; and
2. An Earth Excavation Permit from the Planning Board.

Mr. Steele does not think he should be required to obtain those permits and has requested to meet with the Planning Board for an interpretation of the Earth Excavation Regulations and whether or not he is subject to them.

D. Steele spoke on behalf of this application. His intent is to put in a pasture area in the back of his property. Where the berm is set up is an obstacle to the pasture and presents a safety problem. It is also causing a drainage problem. He does not feel that the RSA 155-E does not apply to his project. It is not going to be an ongoing project. He just does not need or want the extra material.

M. DeCoff asked if he was making any money off the gravel.

D. Steele said no. He stated that if he has a commercial gravel operation he would not be able to get a loan from FSA. He stated that he has no other place to put it on his land because he has a lot of wetlands. He stated that the entirety of the project will be about 3000 sq. yds. Of what he has had crushed he has about 2200 sq. yds. He will be using about half of that on the property.

D. Collier asked if this is the only amount he will be excavating.

D. Steele stated yes. He stated that if he sold it, it would be only about \$5,000 worth of gravel and it is costing him \$15,000.

D. Collier opened it up to the public.

David Hussey spoke regarding a letter from Mary Pinkham to the Town Selectmen. He read part of the letter into the record.

“CONCLUSION AND RECOMMENDATION:

The tax document – Notice of Intent to Excavate has been filed and signed. There is nothing that the Department can do to stop the removal of the earth since the intent has been filed.

Many things should have been done by the property owner, and the excavator, prior to the excavation of the earth. If the Town of Alton had clear excavation regulations (such as the example that I have provided), there would have been a source of information pertaining to the “incidental” excavation of earth and what needed to be done.

At this point in time, it is water over the dam. The earth has been excavated and crushed. It is a done deal. My suggestion is to allow the taxpayer to have the gravel removed from the site with notification to the taxpayer that no additional excavation is to occur without either obtaining a permit or an exception from a permit. The excavation activity on the current use land has disqualified that area. The taxpayer has the right to appeal any LUCT issued by the municipality.”

D. Hussey gave the letter to the Planner.

D. Collier closed the public hearing.

S. Williams motioned on Case P14-28, Daniel P. Steele Map 5 Lot 72-8 Interpretation of Earth Excavation Regulations to approve this project without prejudice stating that no further excavation and gravel removal will be allowed on the property unless the proper filings for 155-E will be met.

M. DeCoff seconded the motion with all in favor.

V. COMPLETENESS REVIEW OF APPLICATIONS AND PUBLIC HEARING IF THE APPLICATIONS ARE ACCEPTED AS COMPLETE CONTINUED:

Case P14-24 Fernhill Corporation	Map 2 Lots 26-1 & 26-4	Major Subdivision Design Review Hollywood Beach Road
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Fernhill Corporation is proposing to merge the two subject parcels and then submit the resultant 7.45 acre lot to the condominium form of ownership, in accordance with NH RSA Chapter 356-B. There is no intent to any change or increase in use of the property, but simply the creation of four condominium units, each consisting of a small area of land surrounding and including one of the four existing cottages. This property is located in the Rural (RU) Zone.

K. McWilliams gave an overview of the application. The four existing cottages are used seasonally and the proposal is to continue the seasonal use of the four existing cottages. A septic system design has been approved by NH DES in October 2013 allowing 2 bedrooms in each of the four cottages. A State Shoreland Permit was also approved by NHDES in October 2013. Water supply for the four cottages is from a well located on the abutting Half Moon Cottage Colony land.

He recommended the Planning Board accept the application as complete.

S. Williams motioned to accept the application as complete.

B. Curtin seconded the motion with all in favor.

Jim Rhines from White Mountain Survey & Engineering, Inc. spoke on behalf of the application. The project includes two parcels. Tax Map 26 Lot 1 is 3.46 acres in size with 244.48 ft of road frontage and 263 ft of water frontage on Half Moon Lake and that lot is vacant and is substantially all jurisdictional wetland. The other parcel Tax Map 26 Lot 4 is 3.99 acres in size, has 286.78 ft of road frontage and 329 ft of water frontage on Half Moon Lake and this lot has the four existing seasonal cottages. The combined lots will be 3.45 acres in size with 531.26 ft of road frontage and 592 ft of water frontage by the shore and is zoned Rural and is subject to the Shoreland Protection Overlay District. He showed a map of the properties to the Board. Rather than the condominium units being a structure, they are showing them as polygons on the ground so that an as-built isn't necessary. If one is destroyed by fire or they come to the Planning Board in the future and want to make a minor change, as long as they do it within the boundaries within their unit, they don't need to come back for a condominium approval, they would need to go through any other Town and State approvals as far as non-conformity etc. The water supply comes from the Half Moon Cottage Colony where the well is. There are existing systems that predate State approvals that are servicing them though they have obtained approval for a new system and a shoreland permit to be able to install them. They have applied for State subdivision approval and that is underway. They have a request for more information asking for clarification on where the septic systems are going, etc. There will be no changes. They are seasonal now and will continue to be seasonal. They are here simply to change the form of ownership.

Roger Murray is an attorney in Wolfeboro who drafted the condominium documents and he came forward to answer any questions on the condominium documents. They are being reviewed by Town Attorney. He explained to the Board that they did not want to have any limited common area, so they have not designated parking areas because that would be limited common area.

After discussion, the Board agreed that the parking areas should be designated per unit and shown on the plans and in the condominium documentation.

D. Collier opened it up to the public.

Jacqueline Bowling, an abutter 33 Water Road, spoke about concerns of the water supply. She asked if they would be able to drill their own wells.

M. DeCoff stated that it is shown on the map for the state that if they need a well they can put it in.

J. Bowling asked about the wetland if the new well would deplete the wetlands.

S. Williams explained how the well would work and it would not deplete the wetlands.

J. Bowling also asked about the cottages becoming year round.

J. Rhines stated that the State septic approval was contingent on the cottages being seasonal and the Planning Board can put it on as a condition that they remain seasonal.

K. McWilliams stated that if they decided to go year round they would have to go before the Zoning Board of Adjustment because they are nonconforming lots.

Robin Maxfield, an abutter, spoke of her concerns about if this was allowed, then other structures could come before the Board and open the door for condominiums.

The Board stated that they cannot prevent someone from converting their ownership if they meet the regulations.

D. Collier closed public input.

The Board agreed they should do a site walk.

B. Curtin made a motion to do a Site Walk on January 10, 2015 at 10:00 a.m. with a snow date of January 17, 2015 at 10:00.

S. Williams seconded the motion with all in favor.

M. DeCoff motioned to continue Case P14-24 to January 20, 2015 at 6:00 p.m.

B. Curtin seconded the motion with all in favor.

VI. OTHER BUSINESS

1. Old Business – K. McWilliams reminded the Board of the Public Hearing tomorrow at 6:00 p.m. on the Zoning Amendments. There will be a quorum until 6:30 p.m. The meeting might have to be continued. The Board agreed on Monday, December 22, 2014 if it needs to be continued.
2. New Business – T. Hoopes stated that he would not be available after January 1, 2015 until April 1, 2015.
3. Approval of Minutes:
 - a) November 18, 2014 Planning Board Meeting:

B. Curtin motioned to approve the Minutes of November 18, 2014 as presented.

M. DeCoff seconded the motion with all in favor.
 - b) November 25, 2014 Aroma Joe's Site Walk

B. Curtin motioned to approve the Minutes of November 25, 2014 as presented.

S. Williams seconded the motion with five (5) in favor and one (1) abstained (DC)
4. Correspondence - None
5. Any other Business that may come before the Board – S. Williams mentioned a questionnaire from Belmont to send out to applicants of the planning process.

VII. PUBLIC INPUT ON NON-CASE SPECIFIC LOCAL PLANNING ISSUES

None at this time.

VIII. Adjournment

M. DeCoff made a motion to adjourn. The motion was seconded by S. Williams and passed without opposition.

The Public Hearing adjourned at 7:41 p.m.

Respectfully submitted,

Randy Sanborn, Recorder, Public Minutes-