

**TOWN OF TUFTONBORO
PLANNING BOARD
February 4, 2016
MINUTES**

Members Present: Chris Sawyer, Chairman, Tony Triolo, Fenton Varney, John Lapolla, John Cameron, Members.

Members Absent: Jack Parsons, Vice-Chairman, Dan Duffy, Selectmen's Representative, Matt Young, Member.

Staff Present: Lee Ann Keathley, Secretary.

Chairman Sawyer opened the meeting at 7:01 PM.

**I. Consideration of Minutes
January 21, 2016**

It was moved by Tony Triolo and seconded by Fenton Varney to approve the January 21, 2016 minutes as submitted. All members voted in favor. The motion passed.

II. Discussion Items

a. Jean P. Whitten Trust; Status Report

Chris Sawyer read a letter the Board received from Attorney Greg Wirth, dated 2/1/16, see attached. She stated that upon receipt of the letter, she forwarded such to Roger Murray III, Planning Board Town Counsel for his review. She read Attorney Murray's email, dated 2/4/16, see attached. She asked who owns 1 Sandy Knoll Road.

Jill Kennard replied I do.

Chris Sawyer asked Ms. Kennard if she solely owns the property.

Jill Kennard replied yes.

Chris Sawyer stated it is her understanding from the Board's last meeting that it was requested by the owner that the driveway access not be constructed.

Jill Kennard stated that is a lie because not one person has approached her about the driveway.

Jim Rines, White Mountain Survey Co., stated he asked Ed Ambrose (contractor) to attend this meeting. He stated it is his understanding that when Ed Ambrose was at the site and getting ready to provide the access, that Gerry (Holmberg) asked him not to do it. He stated on 9/30/15 Mr. Ambrose was working and was approached by Jill (Kennard) who was upset because she couldn't turn her bus around and couldn't gain access. He stated Mr. Ambrose informed her that Gerry (Holmberg) had instructed him not to but, would put a culvert in if she showed him where she wanted the access. He stated Mr. Ambrose was willing to do such on that day.

Ed Ambrose stated that when he put the access in, the road was 4' higher and then when the grade was dropped down you couldn't drive off the existing road into her property. He stated when the

grade was dropped there was a ditch and bank and showed Ms. Kennard such. He stated Ms. Kennard commented that she wouldn't be able to get in and turn the bus around so he offered to put in a culvert and grade it off into her property so that she could access the property at no extra cost to her. He stated Ms. Kennard's responded that she'd talk to Gerry (Holmberg). He stated it was that day or the next day that Gerry instructed him not to do anything.

Chris Sawyer asked Mr. Ambrose whether Ms. Kennard has been instrumental throughout the process with regard to conversing and going over things with him.

Ed Ambrose replied it's been much more Gerry; noting he has interacted with Gerry 95% of the time. He stated they were very cognizant to stay within the 33' right-of-way and painted the lines. He stated he was there 90% of the time with one or two other guys and told everyone not to go outside of the right-of-way.

Chris Sawyer stated she has seen the lines and could verify that Mr. Ambrose's statements regarding that such is true. She stated the information came to the Planning Board and has been verified that Ms. Kennard did not want a driveway access.

Jill Kennard stated she recalls asking Ed Ambrose how she would get on her property and was told that she had to put the culvert in.

Chris Sawyer confirmed the conversation occurred on 9/30/15.

Jim Rines stated that when the issue arose he asked Jim Stockman to document the date and time and send it to the Whitten Trust's attorney because he had a concern that if it ever came back subsequent that they had documentation of the discussion.

Jim Stockman stated after meeting with Ed Ambrose that he immediately emailed his attorney, see attached.

Chris Sawyer stated the information just came to the Board in January 2016. She asked Ms. Kennard why she didn't come before the Planning Board if there were issues.

Jill Kennard stated she doesn't know anything about Town politics and assumed she would get a driveway because it is on the plans.

Chris Sawyer stated the Board made a motion to request the applicant submit an As-Built plan that reflects the relocation of the catch basin and that the owner requested there not be a drive access.

Jill Kennard stated she never requested that.

Gerry Holmberg stated he told Ed Ambrose not to do anymore that what has to be done according to the plan.

Chris Sawyer stated the information was communicated by Jack Parsons at the last Planning Board meeting; noting that Mr. Holmberg was present and did not deny the information that was provided. She stated the Board was discussing the issue because the Board received a final report from Scott Lawler. She stated Jack Parsons noted outstanding issues, including the relocation of the catch basin, the retaining wall and driveway access.

Gerry Holmberg disagreed and stated he wasn't at that meeting. He stated he asked Mr. Ambrose to put in a smooth entrance onto the road from the driveway. He stated he didn't discuss putting in a culvert.

Chris Sawyer stated that according to the Board's attorney, it is not necessary for the Board to hold a public hearing because it is an administrative issue and was not a modification of the plan.

Gerry Holmberg asked if the stonewall is an administrative issue too and asked if the Board is going to leave the wall there.

Chris Sawyer stated the issues brought up in Attorney Wirth's letter do not require a hearing or abutters to be noticed because it is administrative.

Staff clarified that the information provided to the Board was provided by Staff following her conversation with Jim Rines regarding Jack Parsons' comments.

Jill Kennard asked if she gets a driveway and asked if she needs to put it in herself.

Jim Rines stated he brought the As-Built plan however, noted an outstanding issue regarding the stone wall (that was previously noted in the minutes as having been removed and not rebuilt). He stated Ed Ambrose could testify about anything that pertains to the wall.

Chris Sawyer stated the minutes (1/21/16) reflect that Jack Parsons stated he went to the site to determine if any stone or retaining wall had been removed and not rebuilt however, due to snow cover he was unable to determine such.

Ed Ambrose stated no wall existed where the drywell/catch basin existed.

Jim Rines stated he is not aware of any stonewall being removed and doesn't know where the wall was located.

Gerry Holmberg stated he only recalls telling Jack (Parsons) that Jill Kennard complained that the stone wall behind the catch basin is gone. He stated he doesn't recollect anything other than that and doesn't remember the wall.

Jill Kennard stated there was a rock wall.

Chris Sawyer asked Ed Ambrose if there was a wall behind the catch basin.

Ed Ambrose replied "not that he ever saw." He stated he placed grade stakes every 50' to show the limits of the right-of-way so that they would stay within the 33' right-of-way because he knew it was a sensitive situation.

Referencing the As-Built plan, Jim Rines stated the Board asked for the plan to reflect the relocation of the catch basin; noting it was designed at Station 5+0 and located where the catch basin was installed on the plan. He stated he located the Stop sign, the edges of pavement and the Allen Block retaining wall. He stated that as the signing engineer, an As-Built is what's out there; noting he did not put the note requested by the Board on the plan because there is no driveway so one was not shown.

Gerry Holmberg stated there is a parking area.

Jim Rines stated the parking area is shown but, there is no driveway connection.

Gerry Holmberg stated he didn't say not to put a driveway in.

Jim Rines provided a full size plan and reduced copies of the As-Built plan to the Board.

Chris Sawyer reviewed the conditions of the Site Plan approval and asked if there is anything relative to the conditions that involve the driveway access.

Jim Rines replied “the plans as approved” and noted the plan reflects a smooth transition.

Referencing the drive access, Chris Sawyer asked what it would take to make a smooth transition.

Ed Ambrose replied one hour with a truck and an 8” culvert. He stated a smooth transition cannot be made without a culvert because of the ditch that exists and noted that is what he offered to do.

Jim Stockman stated they offered to do it back then when the cost would have been irrelevant and now Ambrose has to go back, haul equipment and do the work which costs money and doesn’t think it’s right.

Chris Sawyer recommended tabling the issue until Roger Murray addresses the letter to Attorney Wirth and speaks to Attorney Murray regarding what is going on. She stated she would speak to Scott Lawler regarding the stone wall.

Ed Ambrose asked the Board to request the attorney to define “smooth”. He stated he isn’t going to do it until someone defines smooth and is told how to put in a smooth transition otherwise he’ll be in court.

Jim Stockman stated the property was bought to have access onto a Town road for a simple right-of-way and have spent \$250,000 and they don’t even know if the property will sell.

Chris Sawyer stated the issue would discussed further at the 2/18/16 meeting.

John Cameron inquired there is nothing written that Ms. Kennard waived her rights.

Jim Rines stated only the email that Jim Stockman sent to his attorney that documented the conversation. He stated he is unable to attend the 2/18/16 meeting.

Chris Sawyer asked Ms. Kennard if she wants a smooth transition for driveway access.

Jill Kennard replied yes.

Chris Sawyer clarified it would be a driveway access and not a driveway.

Jim Rines stated there are no select materials on the property so if there is a smooth transition of existing materials.

Referencing the As-Built plan, Gerry Holmberg located the retaining wall and stated the wall has to be removed because the original plans reflect the access being in location of the wall.

Referencing the photographs taken by Scott Lawler, Jim Rines showed the Board the location of the access to the property; noting that it is in a different location of the design plans because Ms. Kennard did not own the property at that time. Jim Rines submitted an email from William Rollins, NH DOT, signing off on all the improvements. He stated it is his understanding that based on the court hearing today between Meehan and Whitten Trust that as long as NH DOT was all set that the issue will be settled. He stated NH DOT’s permit is finalized; noting he provided a certified letter stating the sight distance was met and NH DOT inspected such themselves. He provided a copy of NH DOT’s email, see attached.

b. Master Plan Update

Chris Sawyer stated the survey would be mailed tomorrow.

III. Informational Items

None.

IV. Other Business

None.

It was moved by John Cameron and seconded by Tony Triolo to adjourn the February 4, 2016 Tuftonboro Planning Board meeting. All members voted in favor.

There being no further business before the Board, the meeting adjourned at 8:02 PM.

Respectfully Submitted,

Lee Ann Keathley

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