

**Draft Subject to Review, Correction, and Approval at Following Meeting**

1. **Call to Order**

The Chair called the meeting to order at 7:01 p.m.

Planning Board members present:

Don Hammond – Chair  
Melissa Walker  
Mike Bonanno  
Lynn Wheeler  
Tom Friel  
Tara Krause

Planning Board members excused: Mike Fenn

Planning Board members absent: Todd Bigelow

Also present: Ed Ballam, Clerk

Members of the public present: Harry Burgess, Brenda and Craig Jewett, George Fournier, Kay O'Malley, Barbara Warren, Frank O'Malley, Natalie Martel, Jim Martel, Gary Martel, Dale Riley.

2. **Designation of Alternates**

Tom Friel and Tara Krause

3. **Agenda Approval**

A motion to approve agenda was made by Tom F. and seconded by Mike B. the vote was unanimous

4. **Approve Minutes of Previous Meeting**

A motion to approve the minutes of the previous meeting was made by Lynn W. seconded by Mike B. The vote was unanimous.

5. **Scheduled Public Appearances**

Don H. declared open the public hearing for a lot line adjustment at 7:05 for Roger and Barbara Warren, Kathryn and Frank O'Malley, 193 Westview Drive, Tax Map Number 203 Lots 47,48,49.

Clerk Ed B. distributed the plans and reported that the meeting had been warned by registered letter, posted and advertised and everything was in order for the public hearing. He also said the proposal seems straight forward.

Don H. said it appears the applicants have a lot between their properties and are splitting it in half. The applicant said that's exactly what they were doing. Don H. asked if there were any abutters to the property or members of the public who would like to speak.

Lynn W. asked who owns the lot between the properties that was to be split and annex to the adjacent lots. The applicants said all four own the property jointly.

Hearing no further comments from the public, Don H. closed the public hearing at 7:07 p.m.

Discussion of the board followed. Member Tom F. said the lot line adjustment proposed seemed to be “a no brainer” and Don H. agreed. Tom F. made a motion to approve the lot line adjustment which was seconded by Mike B. Don H. called for a vote which was unanimous.

Don H. opened the public hearing at 7:09 p.m. on a lot line adjustment for Natalie Martel, Alfred Dolan, Craig and Brenda Jewett, James B. and Marcia Newcomb for property at 335 Brushwood Road. Tax Map Number 414, Lots 109-1, 117-1, 118.

Clerk Ed B. said the registered letters to the abutters were sent, notices posted and the meeting advertised in the paper. He distributed the plans that were submitted. He said the proposal looked straight forward.

Lynn W. asked about a lot merger that had been approved in October affecting a lot at Tax Map 414 Lot 117 and 117.1. The plan does not reflect that merger. Surveyor Harry Burgess step forward with new plans that reflect the merger. The new plans, dated Nov. 2010, were submitted for review and consideration.

Harry B. explained how the merger worked and how it reflects on the plan and how affects the proposal before the board.

Don H. asked a question about a right-of-way that appears on the plat. The applicants explained the right-of-way existed before the proposed lot line adjustment.

Applicant Natalie Martel said the right of way accesses a subdivision known as Benedicts Way. She added that Jeff Elliot is expected to buy the entire subdivision and he will have the right of way.

Harry B. said lot 109-10 always had a right of way to Brushwood Road and that will remain. Don. H. asked for comments from the public and the abutters. Hearing none, he declared the public hearing closed at 7:14.

Tom F. said that he would offer the same comment as he did on the previously considered lot line merger and said it was a “no brainer.”

Don H. asked for further comments from the board and hearing none, he asked for a motion on the lot line adjustment. Tom F. made a motion to approve the lot line adjustment which was seconded by Mike B. Lynn W. wanted to make sure that the record reflected that we were approving the plan with the revised date of Nov. 2010. The vote was unanimous for the motion.

6. **Correspondence/Communications**

Clerk Ed B. distributed questions from Dick Guy about a proposed subdivision of his property off Abbey Road and Hastings Road in Woodsville. A copy of the questions and a rough drawing of what he wants to do is attached as part of these minutes. Ed

B. said Dick Guy was unable to attend because of a conflicting meeting but Mr. Guy was willing to let the board discuss his questions without his presences.

Lynn W. said she thought the questions might go beyond what the board could answer.

One of the questions that was presented by Dick G. concerned who would be reviewing and accepting the road plans for his subdivision. Woodsville has its own highway department, which works completely separate from Haverhill's road agent and highway department.

Tom F. said he didn't think it was an issue based on what the Haverhill regulations state. Reading from the regulations, Tom F. said the he thought it would be the town's road agent. Lynn W. said roads have to be accepted at town meeting. Therefore, the town's road agent would need to approve the road plan. Ed B. questioned whether the town would vote to accept a road in Woodsville Precinct that would be maintained by Woodsville. Lynn W. said Woodsville doesn't have a planning board to review.

Lynn W. said there are other issues too that require some thought and research, particularly about grandfathering and road widths. She said she thought we needed to be very cautious about decisions and comments. She said she thought the planning board might need some outside help with answering the questions. She said she didn't want to get into a legal battle, but the planning board might need some legal advice. She said there could be a problem with the town's attorney also being the precinct's attorney which she said was a conflict that she did not know how to resolve.

Tom F. said that the planning board was considering a driveway not a road. Ed B. said that it is actually a subdivision which would require a road and Tom F. said that if the access was serving more than one lot, it is a road and has to meet town specifications. Tom F. also said that the regulations also indicate that the road could be inspected and approved by a delegate of the planning board. It does not need to be the town's road agent. Ed B. said based on Tom F.'s interpretation of the regulations, Woodsville's road agent could be the inspector of the road.

Don H. said that the existing driveway was done long before any of the current board was involved. The current board did not have anything to say about roads or anything to with the subdivision. Looking at the regulations, Don H. said, now that Dick Guy has brought the road in for further development, the whole road comes under our scrutiny.

Tom F. said the same thing happened on Oliverian Heights in East Haverhill. Don H. said the same thing happened in Haverhill Corner when an applicant on Court Street Extension came in for a subdivision for a driveway to serve two lots. The original subdivision did not come before the board, but when another applicant came in to purchase a larger portion of the subdivision, and needed access. One of the lots originally had access to Court Street Ext. but when the driveway became access to two lots in the rear, the planning board required the access become a road built to town specifications. Don H. said that he felt that if Dick Guy wants to access his lots he would have to make the access a road built to town specifications from Hastings

Road to the proposed subdivided lots on his property. Lynn W. said she thought Don H.'s comments and thoughts were exactly right.

Don H. said the whole issue of access comes into play again because Dick Guy wants to subdivide his land. And, because of that, the entire access to his property comes into play and must be built to town specifications. Don H. said the work on the road might be expensive because of the grade and the width of the current access.

Lynn W. said there are some areas that are very narrow and it might be challenging to get a town specification road built. Tom F. said that is an engineering problem, not a planning board problem.

Don H. said that the Woodsville precinct might consider whether or not it wants to upgrade the road to where his will tie in. That's not something board could decide, he said.

Don H. said that when Dick Guy subdivides his property, the access driveway to his property becomes a road and must be built to town specifications. Because it's more than one house on the road, it's requires a road. Lynn W. pointed out that there were precedence set already in town, Oliverian Heights and Court Street Ext. with Mike Gherardi. Don H. said that there are other lots up in the area too and by Dick dividing his property into two, a road is required.

Ed B. asked for clarification of what the board was going to require of Dick Guy.

Don H. said the access from Hastings Road to Dick Guy's proposed subdivision will require a 50 foot right of way and a road built to town specifications. Lynn W. asked if Hastings Road should be included. Tom F. said that Hastings Road is an existing road and the planning board could have no say in any improvements it might need. Tom F. said the planning board can only decide on the portion from a public road to the subdivided property.

Don H. said any upgrades to Hastings Road would be up to Woodsville Precinct.

Lynn W. said the rough drawing and pencil sketching with no concrete plan was a little difficult to base any decisions upon.

Don H. said that Dick Guy also asked him personally about gaining access to the property off Tree Top Acres Road. Lynn W. said there are issues with that too.

Tom F. reminded the board that the board could only answer the questions in general and the board can only speak in generalities.

Ed B. said he was hearing a consensus that the board wanted access to be a road built to town specifications from Hastings Road to the proposed lots. Lynn W. said that any letter should include references to the town regulations, particularly 4.1.12, page 18. Ed B. asked if he should put that in writing and send it to Dick Guy. Don H. said yes that was the general feeling of the board. Lynn W. said the board should also caution Dick Guy that they were speaking in generalities because a specific plan had not been generated. Don H. directed the clerk to write to Dick Guy that if he wanted to access his property from Hastings Road, the access would have to be a road built to town specifications.

Lynn W. said the board should be very cautious about comments of accessing it from another way, Tree Top Estates. Without seeing a plan that had had access to Tree Top Estates, the board shouldn't discuss it, Lynn W. said.

Ed B. asked for clarification about Dick Guy's question about who will inspect the road for it to appear in a letter. Ed B. said Sam Clough, the town's road agent and Steve Tegu is Woodsville's road agent, they share equal job titles.

Lynn W. said the piece that is missing is how, exactly, would the takeover happen if the road were to become accepted. It still has to go to the town meeting, according to Lynn. She said that's the process for publically accepting a road. She said she doesn't know the mechanics of how a road accepted by the town becomes a road maintained by the precinct of Woodsville. Lynn W. suggested the clerk check with town manager Glenn English, and maybe with LGC for an opinion. She said Haverhill and Woodsville are unique in the layering of government. Lynn W. said she thought it was a brand new issue that we haven't encountered before that will need some advice.

Ed B. said he would put in the letter that the planning board is taking his question about who will inspect the road under advisement looking for some legal help.

Under other correspondence, Mike B. asked if Clerk Ed B. had received an invitation to attend the next planning board meeting in Mountain Lakes. Dec. 9 at 6 p.m. with the purpose of meeting each other and "getting on the same track." Mike B said the Mountain Lakes Planning Board is working on a few things that will require teamwork between the town and Mountain Lakes precinct. Mike B. said he serves as an alternate member of the Mountain Lakes board. Ed B. asked the Haverhill Planning Board if they had any issues with him attending the meeting. None were expressed.

Don H. asked if the Planning Board had received a letter requesting permission to come into the planning board in December to talk about the flood plain mapping. Ed B. said he had not received a letter. Bill Harris said the Dec. 21 at 7:30. Don H. said they have just finished the maps and they want the board's input.

7. **Reports of Committees**

None

8. **Pending Business**

Ed B. asks Don H. to sign the notice of decision for the Clifford lot line adjustment approved at the October meeting.

Ed B. also asked Don H. to sign the Mylar for Jeff Elliot's Fieldstone Estates subdivision on Route 116. Don H. said he didn't want to sign it until he was sure all the applications and permits were in place. Including driveway, alteration of terrain, wetlands permits. Don H. .

9. **New Business (Applications)**

none

10. **Other New Business**

None

11. **Public Appearances (Not Previously Scheduled)**

none

12. **Comments of the Clerk**

Ed B. commented that he had a meeting with Mary-Pinkham Langer, gravel tax appraiser. Affectionately known as the “Dirt Queen” Ed B. said he spent two hours with her in the office going over the gravel pit regulations.

He also mentioned about a proposed communication antenna on Castle Road, near the Indian Corn Mill that will be coming before the planning board. He said there’s training being offered in Errol in December by the North Country Council.

13. **Comments of the Planning Board**

Don H. said he want talk about information he learned at the training conference he attended on Nov. 13. Don H. said he learned it’s highly recommended that meeting begin with the pledge of allegiance . Tara K. said she objected to saying the pledge at the meeting, particularly the ‘under god’ portion. Lynn W. said it is an issue that has gone back and forth. She said it popular for a while, then it was not popular now it’s become popular again. Don H. said the federal court upheld New Hampshire’s right to require the pledge of allegiance. Tom F. said it also says people can opt out too and not say the pledge. Tom F. made a motion to say the pledge of allegiance at the beginning of every meeting and respect the rights of those who choose not to. It was seconded by Mike B. The vote was unanimous.

Don H. said he also learned that there are no statutory requirements that the master plan be updated on any particular schedule. He said the RSA 674-3.2 recommends the plan be updated every 5 to 10 years. He said the law says advises, it does not require. Lynn W. said she interpreted that to mean don’t get all worked up about doing it on a special time frame, but it was to the town’s advantage to do them routinely.

Don H. also mentioned information he learned about conflict of interest with attorneys. He said according to the training. The town attorney cannot represent the town or the board and an applicant. Don H. said the town needs to tell its town attorney that he can’t represent other people, or he cannot represent the town.

Lynn W. said for the record that she has spoken to the issue and she has been ignored.

Don H. recommended that she call the ethics committee in Concord and they will send the offending attorney a letter saying he can no longer practice law. Don H. said that is what he said a lawyer at the training session told him. Don H. said he told the instructor that the town attorney represents people who come before the board. Don H. said the attorney said that was absolutely not permitted. Don H. said the lawyer said the town attorney cannot represent any body that comes before the any town board. Lynn W. said she agreed. Don H. said he told the North Haverhill Precinct commissioners the same thing. He told them to get a different lawyer because when push comes to shove everything he represents is going to be thrown out.

Lynn W. said she would appreciate Don H. tell the chairman of the selectboard the same thing. She asked that Don H. give him a copy of the hand out. She said the conflict has been an ongoing issue.

Ed B. said the planning board can decide it does not want to have the town’s attorney representing it. Ed B. said the planning board has a budget and the authority to hire someone different than the town’s attorney. He said he would have to research it, but

he was pretty certain that was the permissible. Tom F. said he wanted the issue researched. He wanted a definitive answer.

Don H. also talked about pre-application options, preliminary plans consultations and similar actions, and another option called design review. The time does not start on either action, Don H. said. Design review requires an abutters notice to be sent. It requires a second abutters' notice when the application comes before the board. Ed B. asked for clarification and questioned if someone wanted to come in just to ask a question or to get some clarification about a regulation if that needed to be noticed. Don H. said no because a preliminary and conceptual application doesn't require notice. But a design review is a little more formal and requires abutters' notice but no public hearing. Public can come, but you don't have to listen to them, Don H. said. Don H. said the conceptual is non-binding as well.

Don H. also offered some advice about conflict of interest and right to know law. He said if any more the three planning board members get together and starts talking about planning board business, it could be considered a meeting.

14. **Other**  
None

15. **Adjournment/Next Regular Meeting**

8:08 the meeting adjourned. The next meeting is

**Respectfully submitted,**

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Ed Ballam, Planning Board Clerk