

Haverhill Planning Board Minutes June 25, 2013
Draft Subject to Review, Correction, and Approval at Following Meeting

1. **Call to Order**

Vice Chairman Mike Bonanno called the meeting to order at 7:03 p.m.

Planning Board members present:

Mike Bonanno
Bill Daley
Tom Friel
Mike Simpson

Members Don Hammond and Tara Krause were absent from the meeting. Mike B. declared there was a quorum. Clerk Ed Ballam was also absent, out of town on a business trip.

Members of the public: Betty Hysong, Harry Burgess, David Martella and Nellie DeBloise

2. Designation of Alternates

No alternates to designate

3. Agenda Approval

Tom F. made a motion to accept the agenda as presented, seconded by Mike S. The vote was unanimous.

4. Approve Minutes of Previous Meeting

Tom F. made a motion to accept the May 24 minutes. Bill D. seconded the motion. Mike B. The vote passed. Mike S. abstained because he was not present for the meeting.

5. Scheduled Public Appearances

Mike B. said there were no public appearance scheduled. Mike B. asked if Harry Burgess had business with the board. Harry B. said he attended the meeting to give an update on his client, Elizabeth “Betty” Hysong’s, minor subdivision. He had a survey to present. He said Mrs. Hysong owns a five-acre lot behind Oak Ridge Trailer Park. He said she would like to subdivide the lot. It has an existing house and existing septic system on it. Harry B. added there was also once a mobile home and another septic system lower on the property both lots would be served by town water.

Mike S. asked were the right way was. Harry B. said that was a question that was asked in May when he appeared before the board for a preliminary discussion of the subdivision. Harry B. said there are two rights of way for the lot. One, he said goes straight out toward Route 10 and a second goes around the back into Oak Ridge Park and back to the main road.

Bill D. asked if there was an approved road to the lot, or if it was strictly served by the railroad bed. He asked how many house are on the right of way. Harry B. said there were at least four on the right of way to Hysong's lot. Betty H. said there were two. [There was unintelligible conversation with many people talking at this point].

Bill D. said he still has the same concern he had which is the regulation limits the number of houses a driveway can accept to two. He said he understood there were some properties out there that were grandfathered before the regulations took place. However, now that there are regulations in place, Bill D. said. He said adding more lots to a driveway that already handles more than two is not allowable. He said you can't have three, you can't have five, and you can't have seven. Betty H. responded with an unintelligible comment.

Bill D. said unless there was some way alleviate that requirement, he said he did not see how it was a possible subdivision. He said the regulations say only two houses on a driveway, no more than two.

Harry B. asked if that meant the road would have to be brought up to town specs up to the driveway. Tom F. said it might have to be brought up to town specs.

Betty H. asked if the road was brought up to town specs would the town maintain it. Tom F. said the town may take it, but the town doesn't have to take it over.

Bill D. said it has to do with the fire department and the ambulances getting in to provide services. He said emergency equipment can drive across fields, but the regulations are clear that they are not supposed to.

Betty H. asked to what is required to bring a road to town specs. She asked if it could be gravel. Harry B. said it might be a good idea for Betty H. to improve the road. He asked who would approve the road. Tom F. said the road agent would be the person to approve the road.

Bill D. said if Betty H. and Harry B. thought it was appropriate, the board could do a site visit.

Betty H. made unintelligible comments about selling her existing house. There was a lot of conversation with many people talking at once.

Harry B. said the existing house would have a right of way. Betty H. said she maintains the road down to the last double wide. She said she was presently maintaining the road.

Bill D. said the survey Harry B. has doesn't show enough to make any decisions on. He said it shows lots in Oak Ridge Park, but it doesn't show owners. Harry indicated on the map wooded areas surrounding the Hysong lot. Betty H. said Oak Ridge Park is an association. Betty H. asked if there was a question about whether she would be granted a right of way into the park.

Bill D. said it is not a right of way. He said a right-of-way is a legal definition on a deed. Bill D. said he didn't know if Betty H. had a legal right to do what she was proposing to do. He said a town road would have to be 50 wide. He said he didn't know whether Betty H. had permission from people on both side of the right of way to make a 50 foot wide road. He said making a town road up to her property would alleviate the not more than two lots on a driveway.

Betty H. said she thought the road that wasn't maintained would work for a new right of way. She asked what is the problem with being granted subdivision approval.

Bill D. said improvements to the access of the property would be required so that there are not more than two lots on a driveway. She asked if she would be required to build a road to do her subdivision. Tom F. said that is correct.

Harry B. said the next step would be to get the road agent to look at the road and the access and determine what was needed to improve the access to the property.

Harry B. said the road agent might say only 6 inches of gravel 18 feet wide is necessary.

Bill D. said there are two issues. The first is whether there's a 50-foot wide legal right of way in order to develop the road and the second is what the road agent wants in that 50 foot right of way to bring it up to town specs. Bill D. said there are two issues.

Harry B. said Bill D.'s first concern might be an issue. Betty H. pointed out on a map where she enters the park and her lot line. Bill D. said he assumes that after that lot line, there's a right of way that Betty H. crosses to access her property. She said the problem is a little speck of land on the map. Tom F. said no, the problem was the access between his two thumbs [no further reference was given]. Bill D. said that portion of the access had to be 50 feet wide and brought to town specs.

Betty H. asked why the park association didn't have to do that work. Bill D. said rules and regulations change over the years. He said he didn't know when the park was created. Tom F. said the subdivision regulations in force now were adopted in 2008.

Betty H. said the McDanolds use the right of way also. Bill D. pointed to a spot on the map and said the access would have to be brought up to town specs to that point. Bill D. said before Betty H. went further, he would recommend she explore legal access to the property by purchasing or trading and then listen to what the road agent says she would have to do to have the town road approval. Then, Bill D. said Betty H. could ask the town to take the road over as the third step.

Betty H. said that's what she would do because she said she already pays a plow operator to remove snow from her home all the way to an unspecified point on the map.

Mike B. said the project might not even get to the third step depending on what the town road agent wants. Betty H. said that would be very upsetting. She said she can't understand why the access is such an insurmountable obstacle. She asked who would ask the road agent to check the road. Mike B. said Harry B. should ask the road agent.

Bill D. asked if there was a 50-foot right of way to the property. Harry B. said he's not sure. Betty H. said if she had to pay someone to fix the road, she would rather do that rather than not be able to live there. She said she's already invested money in the project and the property.

Harry B. said he would check the right-of-way width. Bill D. said Harry B. will have to check with the owners of the land upon which the right of way is located and with the road agent. Bill D. said they're the same issues he brought up at the last meeting.

Betty H. said she was curious about who owned the right of way and all the undeveloped land. Mike B. said that's public information and should be available.

Bill D. said map and lot numbers are public records and public knowledge.

Mike B. suggested Betty H. get the answers to the board's questions and get back to the planning board clerk.

Harry B. said he would look into the 50-foot right of way. Bill D. said maybe it could be obtained somehow.

At the conclusion of the discussion about the Hysong property, Mike B. asked that board members identify themselves when they speak so the clerk can have the record clear of who said what when.

Mike B. then called on Dave Martella who attended the meeting.

Dave M. said he had a lot merger for the board to consider. Bill D. asked if it was a preliminary discussion. Dave M. said it was not, it was the final plan and he was asking for approval. Bill D. asked when the application was made. It was notarized on June 21.

[There was a lot of background conversation that made it difficult to understand.]

Bill D. asked if he was looking to get it approved at the meeting. Dave M. said yes. There was some discussion about the need for public notice and an ad in the paper. Bill D. said we always do that. Mike S. agreed.

Dave M. said there's never been any public notice for volunteer lot mergers before.

Dave M. said it's not a lot line adjustment. He said it was a merger of three lots.

Tom F. said there needs to be a public hearing notice and he was drawing a blank why there wasn't any. Dave M. said again it was not a subdivision or a lot line adjustment, it was a merger.

Tom F. said he understood now and agreed that there doesn't need to be any public hearing. Dave M. he's just trying to make one lot out of three he owns.

Bill D. said in the regulation it shows that a notice must be given to the planning board. He said that would indicate to him that there's a process that has to be followed. He read from the regulations.

Dave M. said the application is \$13 that's it. Bill D. said that it would be more than that to notify the abutters. Dave M. said when he merged four lots previously, there was no notification of abutters. Bill D. asked why that was. Dave M. pointed out the four lots that had previously been merged. Mike S. asked when he merged

those four lots. Tom F. said it was a mess if he recalled correctly. Dave M. said the issue was with the road, not with the lot merger. Tom F. said he remembers. Dave M. said the Planning Board wouldn't approve the merger because of the road and the selectmen wouldn't approve the discontinuing of the road without the merger. It was a Catch 22, Dave M. said.

Bill D. asked for the location of the merger. Dave M. said it was Hanover and Dartmouth Drive in Mountain Lakes.

Mike B. read from the subdivision regulations on mergers. Bill D. asked if the notice means that it just has to be noticed in the office. Mike S. asked if that means it needs to be in the paper. Dave M. said he has never had to do a notice in the newspaper before.

[there were several cross conversations going making for unintelligible remarks].

Dave M. proceeded to tell some board members of the previous merger involving the discontinuance of the road while Tom F. and Mike B. researched the subdivision regulations. Bill D. said the subdivision regulations refer to a notice. Mike B. said he thought it was something the board could consider and approve. Bill D. asked if it required a public hearing. Mike S. asked if it required a notice in the paper. Mike B. said it didn't require either.

Mike B. said it was a voluntary merger, and, according to the subdivision regulations, the board can do it.

Mike B. said he would recommend that the board, if it decided to approve the merger to make it conditional on review of the clerk to make it official.

Tom F. said he thinks the board should just approve it with no conditions. Mike B. asked for a motion on Dave M. voluntary lot mergers. Bill D. made a motion to approve the voluntary merger as proposed by David R. Martella of Map 204 lot 217, Map 204 Lot 218 and Map 204 lot 219 to be approved tonight. Tom F. seconded. Unanimous.

Mike B. said Dave M. had a second set of plans to be merged. He said this is across the street from the first merger just approved. Mike B. asked if the lot to be created from the merger of the three lots was going to be 1.21 acres. Dave M. confirmed that was accurate.

Mike S. made a motion to approve the voluntary merger for Map 204 Lot 202, 203, 204 submitted by David Martella. Tom F. seconded the motion. The vote was unanimous. Mike B. declared that both voluntary mergers had been approved. The board received \$26 from Dave M. for the merger fee.

Mike B. said for the record that Dave M. should join the board. Dave M. said no and made an inaudible comment about the board clerk.

Nellie DeBloise asked to speak to the board. First, she wanted to say the minutes were wrong from the May meeting. She attended the meeting with her brother, not her husband as the minutes said.

She asked about Barber Road subdivision. She asked what it would take to widen the road. Bill D. said he would like to answer that question. He said first he has not

been out there, but if the board need to take a site walk, the board would definitely do it. Bill B. said he understand that there was a subdivision out on the road a bunch of years ago. Bill D. said there has been no change in the ownership of the property.

Nellie D. said there have been subdivisions of property on Barber Road. Bill D. asked if any of them came before the planning board. Bill D. said the subdivision exist as it is for 30 years with no changes to the land ownership and no changes to the deeds.

Nellie D. said there has been. Bill D. asked to let him finish. He said if someone owned a lot of land and built a lot of buildings on the property and rented them out, the town's regulations allow that. Bill D. said until land is sold and changed hands, there's nothing the town can do. Bill D. said he's looked at the town regulation specifically for that issue. He said that's the way the town wants the regulations. Nellie D. said the owner of the land is widening the road and doing upgrading. Bill D. said if he owns the land, there shouldn't be any problem. He said it was no different than what he did at his home, adding gravel to a logging road.

Bill D. said the owner of the land can do whatever he wants to the land.

Nellie D. said the widening of the road is not following town specifications for drainage and erosion. Bill D. asked why the owner of the land should have to follow regulations that don't apply. Bill D. said there may be violations of wetlands, but that is a different issue. Bill D. said if he wanted to make his driveway wider in Haverhill Corner, there's no issue, he can do that.

Nellie D. said she has no problem with the owner of the land doing whatever he wanted with the land. She does, however, have an issue with the affect his actions has on her property. She said he can build a 150 houses on his land, but she doesn't want it to affect her land.

Bill D. said if there's wetland's violation then there are other boards and other avenues for her to pursue.

Nellie D. asked what other board she should seek relief from. Bill D. suggested she speak with the conservation commission.

Nellie D. asked about the aquifer protection board and who is on it. Tom F. asked if she was referring to the Zoning Board of Adjustment. Nellie D. said no, she was asking about the aquifer protection board which is on the town's web site, but it doesn't say who is on it.

Bill D. said that Nellie D. should call the state department of environmental services. She said she knows that. She said she wants to work with the town before going to the state. She wanted to know who was on the wetlands and aquifer protection board for the town of Haverhill. Bill D. said the planning board doesn't know.

Nellie D. said someone should know. She asked who the site administrator was. The board said they didn't know. Nellie D. said she went to the web site to see when the planning board was meeting and she said it still says the third Tuesday.

Tom F. said the selectboard is working with the issues surround the web site and it needs to be fixed and upgraded and taken care of because it is outdated and not updated.

Nellie D. said regardless, there's still a wetlands and aquifer protection board on listed on the web site and she demanded to know who those people are on it.

Bill D. said he didn't know but Town Manager Glenn English would.

Mike B. suggested she call the town manager.

Tom F. said he believed that she would be redirected to the State DES.

Nellie D. said she wasn't trying to cause problems but wanted answers. She said she was going to talk to Glenn English.

Bill D. suggested Nellie D. go on the internet and look up state RSA regarding wetlands issues.

Nellie D. said she doesn't want to have to go back and forth between the town and the state. She said, number one, she wanted to know who is on that Wetlands and aquifer protection board for the town. She said she was frustrated that the planning board didn't know who was on the board and then told her to call the state.

Bill D. said this board is the planning board, not the wetlands board.

Mike B. said to talk to the town manager who would be able to tell her who maintains the web site and maybe that would be a start to figure out who is on the wetland's board for the town.

Nellie D. said all she wants is information or a link or someone to talk to.

Bill D. said there's nothing the town can do. Owners can do what they want with the land they own those are the regulations which were adopted by the town in which she lives in.

Nellie D. said she just doesn't want his water draining on her land. Bill D. said if it was his property, he would have a problem with it too. Bill D. said that's a civil matter, Nellie D. against the property owner.

Nellie D. said she realizes that and she was already talking to an attorney.

Mike B. said he looked at the minutes and it doesn't say anything about her husband being her brother.

Nellie D. said that's correct, but the man she was with was not her husband, but her brother.

Mike B. said the minutes say Nellie D. said her husband has a heart condition and she just wanted to make sure an ambulance can make it up the private road.

Nellie D. said that's correct, but her husband was not at the meeting. She said the man sitting with her at the meeting was her brother. She said the minutes say she was with her husband at the meeting and that wasn't true.

Mike B. said the web site might say that, but the minutes don't. Nellie D. said the minute from the May planning board meeting say she was with her husband at the meeting.

Tom F. said it will be corrected.

Mike B. said Nellie D. should talk to Glenn English. Mike B. said the Planning Board cannot get into the issue.

Nellie D. said she knows that, but she didn't know who to ask questions to about the issue. She said she is being ping ponged from one place to another. Nellie D. said she'll talk to Glenn English and she predicted that he would send her back to the planning board because it's a road issue.

Mike B. said the planning board can't get into the middle of the issue.

Bill D. said after speaking to Glenn English, the next place to go would be to the selectboard meeting. Bill D. said people should be able to know who is on a town board.

Nellie D. asked if the Selectboard would know who is on the wetlands and aquifer protection board for the town. She asked when they were meeting. She was told next Monday night. (July 1.) Mike B. said he would start with Glenn English and ask him who the town web site administrator is and who is on that aquifer protection board.

Tom F. said he believes that it might be the Zoning Board of Adjustment who oversee the aquifer protection ordinance.

6. Correspondence/Communications

None

7. Reports of Committees

None

8. Pending Business

None

10. Other New Business

None

11. Public Appearances (Not Previously Scheduled)

See above

12. Comments of the Clerk

Clerk was not present

13. Comments of the Planning Board

Bill D. praised Mike B. for a well-run meeting.

Mike S. asked about Tom F. representing a client and how unusual is it for something like that to happen. Tom F. said it's extremely rare occurrence. Tom F. said he's friends with Frank and Carol Hofmann, who subdivided their land recently. Tom F. said he knows the applicant well, and he knows the land fairly well and they discussed the subdivision with him as a land real estate broker. The Hofmanns attended a regular meeting for a preliminary discussion with the board and went over all the issues. Tom F. said the Hofmanns were going to be away for the next planning board meeting. He said the board had reviewed everything at a prior meeting and there were no changes to the plan. Tom F. said that because he

had to recuse himself anyway because of his relationship with the Hofmanns, he decided it would be OK to represent the applicant. Tom F. said it was a simple subdivision.

Mike S. said he was just concerned how it might look to the public having a member of the board represent an applicant before the same board on which he sits.

Tom F. said it has happened before with Peter Conrad when he actively was selling real estate and sitting on the board. Peter C. would have to recuse himself.

Bill D. said that's a different matter. He said having board members represent applicants should be avoided to protect the planning board's image.

Tom F. said he had selectboard member Robert Roudebush take his place on the planning board as he recused himself from the meeting to represent the Hofmanns.

14. **Other**

15. **Adjournment/Next Regular Meeting**

Bill D. made a motion to adjourn. Mike S. seconded it. The vote to adjourn was unanimous. The meeting ended at 7:55. The next meeting will be on July 23.

Respectfully submitted, based solely on a magnetic cassette tape recording of the proceedings,

Ed Ballam, Planning Board Clerk