

# Haverhill Planning Board Minutes

Sept. 23, 2014

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

### 1. Call to Order

The Chair called the meeting to order at 7:00 p.m.

Planning Board members present:

Don Hammond – Chair

Mike Bonanno

Bill Daley

Tom Friel

Mike Simpson

Also present: Ed Ballam, Clerk

Members absent, Tara Krause who was excused.

Members of the public: Robin Roystan

### 2. Designation of Alternates

No alternates to designate

### 3. Agenda Approval

Bill D. made a motion to approve the agenda as amended. The motion was seconded by Mike B. The vote was unanimous.

### 4. Approve Minutes of Previous Meeting

Mike S. made a motion to approve the minutes of the Aug. 26 meeting. Tom F. seconded the motion. The vote was unanimous.

Don H. asked that item 10, other new business, the consideration of a building permit on a private road, be moved to the top of the agenda. Mike S. made a motion to move Item 10 to be considered next, Tom F. seconded the motion.

Agenda item number 10 was considered next. Ed B. said the planning board had been asked to review and comment on a building permit application for construction of a self-storage facility on a Class VI or private road in accordance with the town's rules. He distributed copies of the application submitted by Robin Roystan for property on French Pond Circle, further identified as Tax Map 414, Lot 51. Copies of the tax map with the location identified were also distributed to the members. Ed B. said the Planning Board's role in the matter was to comment on the road.

Mike S. asked about why the signature on the application was dated 9/28/14 in the future. Robin R. said it was an error and he had September in mind when he signed it in August.

There was some general discussion about the property location and where the previously approved gravel pit was located. Robin R. pointed out features on the tax map.

Don H. said lot 51 had been previously approved for use as a gravel pit.

Bill D. said he thought the planning board should discuss and comment on whether or not a commercial enterprise should go on a private or class VI road.

Robin R. said the portion of lot 51 approved for a gravel pit was approximately 14 acres and it is located in the back of the property.

Don H. said he thought some sort of public hearing ought to be held so all the abutters on the road knew what was going on so there were no surprises. Don H. said it was going to put more traffic on the road than the abutters may have expected and what is going on now. He said there are only two houses on the road now and he thought the storage units would significantly increase the amount of traffic on the road.

Bill D. said additionally, those people who rent the storage units could come and go as whenever they desired. He said it's not a judgment of the property owner, it's a matter of envisioning what might happen in 10 to 15 years after when the property has changed ownership. Bill D. said he is concerned that one owner might be using more of the road than others, yet everyone would be sharing in the maintenance equally. Bill D. said future abutters might come into the town years later with big concerns about who pays for what on the road. He said it's a similar issue that happened in Mountain Lakes.

Don added he still believes a public hearing is needed for the abutters to have a say about what goes on in their neighborhood. He said Robin R. may only want to put in 10 units currently, but he may want to put many more on the property in the future.

Bill D. said that perhaps the board should consider whether to recommend whether any commercial enterprise be approved on a private or Class VI road. He said what would happen if the proposal was a repair garage or a restaurant. Bill D. said once the door is open to commercial enterprise on private or Class VI roads, the next applicant can ask the same thing and have an issue if they're not approved.

Tom F. said the only issue he has with the proposal is that it is located on in the aquifer protection district and it should go to the ZBA for a hearing.

Don H. said it would have to because it was on the aquifer. Ed B. said the ZBA issue has already been considered. Ed B. said he thought it needed to go before the ZBA as did the ZBA chairman Dick Guy. Ed B. said, however, any issue like that has to be referred to the ZBA and Town Manager Glenn English determined that the ordinance as written didn't require a hearing.

Tom F. said the Planning Board has an obligation to make a recommendation that the ZBA be consulted about this permit for a hearing.

Don H. said he didn't have any issue with the proposal, only that the abutters should have the ability to object and have a chance to voice their opinion.

Ed B. said because the town has no zoning, there was really no venue for a public hearing to be held before the planning board. Ed B. said Planning Board should be looking at the condition of the road, the width of the road, perhaps traffic count, and emergency access. He said if the board doesn't think the road can support the proposed use, say so and that will be the recommendation. Ed B. said if the Planning Board doesn't have any issue with the road, it should say so and make that a recommendation, telling the selectboard that the board sees no issue with the permit. That's the limit of the board's response.

Ed B. said that Tom F.'s point about the ZBA is also a consideration and if the board felt the ZBA should review the plan, it could make a recommendation to that effect, but it would not be a requirement. Ed B. said he was just offering some suggestions.

Tom F. said regarding the road, he said part of the town specifications for road considers the average daily traffic count. The board could look for a traffic count, but he did not think a traffic count was necessary. He said it's not a gas station. Robin R. said the road is 20 feet wide with two foot shoulders. Tom F. said he was concerned about traffic and the ZBA.

Ed B. said the board needs to focus on making a recommendation to the selectboard because it was the agent that was going to approve the permit. So, whatever the board decides, it should be in the form of a motion that can be presented to the selectboard.

Ed B. said the selectboard had this permit on its agenda Monday night, but it deferred action pending the recommendation of the planning board. Tom F. said he was surprised the permit was on the selectboard agenda before the planning board meeting.

Bill D. said he wanted to go back to the issue of planning for the future. He said whether there's an extra 10, 20 or 30 cars per day on the road, the merits of the permit can't be judged simply by the feeling that the use is not going to have that much impact on the use of the road. Bill D. said all the abutters are shareholders in the maintenance of the road that will be dealing with increased maintenance because of the commercial traffic on it, whether its storage units, or a restaurant or a garage or an airport, whether it is. Bill D. said the town will likely find that itself in the future having to be the mediator in a dispute about the use of the road.

Tom F. said he did not think that it would happen and it will be a civil dispute rather than involving the town. Bill D. said the property owners will still come to the town for some sort of relief. Tom F. said the town would just argue that it's a civil matter and the town has no ordinances or authority to get involved.

Don H. said he believed there was a road agreement developed for the original subdivision. Robin R. said there was an agreement written then. Tom F. said whatever the agreement says is a civil matter, not a town matter.

Ed B. looked in the planning board's laptop for any road agreement connected with the 2007 subdivision, but there was no road agreement or conditions. As a matter of information, Ed B. said the gravel pit approval on the property was reviewed by the ZBA for an aquifer protection exception.

Tom F. said the selectboard has the final approval over the permit and the planning board just needs to make a recommendation. He said he thought the recommendation is the traffic count matches the condition of the road. Tom F. said that based on his experiences with storage units as a customer that increased traffic on the road would not be an issue because he only accessed his two or three times a year. He said a new traffic count might be necessary, but he didn't think it was going to change much.

Don H. said he had no issues with the road. He said it was put in to handle truck traffic for the gravel pit, so there are no issues with the road and a few extra cars is not going to make a big difference. Don H. said

his big qualm about the project is making sure the abutters know about it and the town is aware of who is responsible for what when it comes to maintenance on the road.

Tom F. said the town has nothing to maintaining the road. He said all the issues would come out at a ZBA hearing because the abutters have to be notified of the hearing. Tom F. said the only two issues he has is the traffic count and the ZBA issue. Tom F. said he believes a ZBA hearing is required.

Ed B. said the planning board's role outlined on the permit. He asked the planning board members to follow on the permit and read it aloud.

Tom F. said he was prepared to formalize what the board had discussed. Ed B. asked Tom F. to say exactly what he thought should be on the letter to the selectboard.

Don H. said his only concern is that the storage units are built and an abutter come into the town and question why they were not notified. Don H. said he had no problem with Robin R. building the storage units on the property, but he did think it needs to go to the ZBA because it's in the aquifer.

Mike B. made the motion that the planning board refer the matter to the ZBA for a hearing to include the abutters to hold a public hearing. Mike S. seconded the motion. Voting in favor of the motion was Tom F., Mike B., Don H. and Mike S. Voting in opposition was Bill D. The motion carried by a majority vote.

Ed B. said he would send a letter to the selectboard as the majority of the planning board voted. He said he honestly did not think the board addressed the issue about the road as they were asked to do, but the board voted and that's the way it will be presented. Tom F. said the issue will come before the selectboard.

Don H. said the selectboard should know the concerns of the planning board. Ed B. said the letter will say something to the effect that the planning board has considered the matter and respectfully requests a ZBA hearing on the aquifer protection district exception. Don H. said that's a formality. Ed B. said he just wanted the board to understand exactly what they were recommending and there's nothing included in the recommendation about the road, which is what the board was asked to review. Mike S. said the traffic count should be included. Ed B. said it was not part of the motion. Tom F. said he didn't think it was an issue. Don H. said it wasn't an issue either.

#### **5. Scheduled Public Appearances previously scheduled.**

None

#### **6. Correspondence/Communications**

Ed B. mentioned a couple of training opportunities during the week at the Local Government Center. No one could attend. Don H. asked if there was any North Country Council training available this fall. Ed B. said he hadn't received any notices, but would check.

#### **7. Reports of Committees**

None

## **8. Pending Business**

Ed B. said he's working on the gravel pit reports. He also reported that he's extensively looked at the aquifer protection ordinance and cannot see anything in there prohibiting the storage of reclaimed asphalt in the aquifer protection district. He said asphalt is applied consistently in aquifer protection districts without any issues. Don H. said he heard from former North Haverhill Precinct Commissioner Shawn Bigelow that it wasn't allowed. Ed B. said maybe the commissioners have some understanding with the Blaisdell but it was not a rule of the town's.

## **9. New Business (Applications)**

None

## **10. Other New Business**

See comments above regarding construction on a Private or Class VI road.

None

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

None

## **12. Comments of the Clerk**

None

## **13. Comments of the Planning Board**

Bill D. said, for the record, he was very disappointed that the board missed an opportunity to do some real planning when it came to consideration of the Roystan permit and offer an opinion about development on private roads. He said he doesn't think the board should be in favor of commercial enterprise on private or class VI roads. Bill D. said it sets the town up for fire issues and road issues. He said those issues could be dismissed as civil issues, but it is "our town." He said the planning board tonight just bowed down and let applicants do whatever they want to do.

Mike S. commented that Tara K. said in an email that she was not in favor of commercial development on the road. Mike S. added that he voted in favor of the motion as a matter of due diligence.

## **14. Other**

None

## **15. Adjournment/Next Regular Meeting**

The meeting was adjourned at 7:40 p.m. on a motion made by Bill D. seconded by Tom F. The vote was unanimous.

The next meeting is scheduled for Oct. 28.

Respectfully submitted, Ed Ballam, Planning Board Clerk