

**Planning Board**  
**October 20, 2009**  
Approved November 17, 2009

**Members Present:** Tom Vannatta, Chair; Barbara Freeman, Vice-Chair; Bruce Healey; Bill Weiler; Travis Dezotell; Alison Kinsman, Alternate; Ken McWilliams, Advisor.

Mr. Vannatta called the meeting to order at 7:04 p.m.

**ADMINISTRATIVE BUSINESS: Minutes**

The Board reviewed the minutes of September 15, 2009 and made corrections. Mr. Weiler made a motion to approve the minutes as corrected. Ms. Freeman seconded the motion. All in favor.

Mr. Vannatta said he received a late addition to the meeting agenda for a conceptual hearing on a minor subdivision and asked if the Board would hear the applicant following the scheduled hearing. The Board agreed.

**CASE: Continuation 8/19/09: Case 2009-010: Annexation – Brad LaClair/agent:** Roger Rodewald. 927-6030. Park 10 properties. 020-055-210, 020-069-280, and 020-057-229.

Mr. Vannatta said that the Board decided at its September 15, 2009 meeting to continue the above case from its original scheduled hearing on August 18, 2009. Mr. Vannatta said the Continuance has been Noticed and all the abutters notified.

The presentation was given by Roger Rodewald, Riverside Ecological Designs, P.O. Box 497, South Sutton, NH, agent for Brad LaClair.

Mr. Vannatta asked Mr. Rodewald if he was appearing before the Board to ask for a date to continue the hearing. Mr. Rodewald said yes, he is asking for a Continuance.

Mr. Rodewald said he met informally with the Town Selectmen and the Zoning Board of Adjustment (ZBA) regarding the Park 10 properties annexation application. He said the Park 10 properties is a unique situation, much like the situation at Blodgett's Landing. However, Blodgett's Landing has its own zoning ordinance unique to the district.

He defined the Park 10 properties as a tent city that was never developed with parcels of land that were divided into in a wide range of irregular shapes. It was never properly laid out and contains rights-of-ways that have outlived their purpose. Also, he said, access was not addressed in a methodical fashion.

Mr. Rodewald advocated finding out who owns the parcels, raise the possibility of eliminating the paper roads, and make plans to install a town road that would give the property appropriate access.

Mr. Rodewald said that Mr. LaClair wants to consolidate his three lots into two lots and he is providing access.

Mr. Rodewald said there are discrepancies between the boundary lines presented in the Town Map and the boundaries indicated by the surveyor on Mr. LaClair's property. Mr. Rodewald said the best way for the boundary issue to be resolved is through a cooperative neighbor-to-neighbor approach.

Mr. Vannatta asked Mr. Rodewald if the Selectmen have responded to his questions. Mr. Rodewald said he has not had any response from the Selectmen.

Ms. Freeman suggested that Mr. Rodewald form an association with the landowners to resolve the problem.

Mr. Weiler requested a review of the past history of the application, specifically whether the applicant was sent to the ZBA for a variance and, if so, what was the variance.

Mr. Vannatta said the applicant was sent to the ZBA because the combined lots were still non-conforming and needed a variance.

Mr. Weiler asked if the new lots were less non-conforming than before they were consolidated.

Ms. Freeman said one lot was more non-conforming and that is why they needed a variance from the ZBA.

Mr. Weiler asked why the ZBA was unable to accept that as a premise for sending the applicant for a variance.

Ms. Freeman asked if Mr. Rodewald went to the ZBA.

Mr. Rodewald said no, he did not because it was suggested to him that he first go to the Selectmen.

Mr. Rodewald said if he went to the ZBA, he would be asking to build on a lot that has no road frontage.

Mr. Weiler said Mr. Rodewald would also be asking the ZBA to allow him to have a lot that is more non-conforming. No lot can be made more non-conforming.

Mr. McWilliams said his understanding is that the two lots are equal or larger in size than the original three lots and questioned how one lot could be more non-conforming.

The Board examined the plat and determined that the two lots are equal or larger in size and are, therefore, not less non-conforming.

Mr. McWilliams added that the second issue is access to the two lots and referenced RSA 674:41 II. Also, he referred to the memo he sent to the ZBA on June 19, 2009 outlining why Mr. Rodewald was appearing before the ZBA (Mr. Rodewald was copied on the memo). Mr. McWilliams said he will resend the memo to Mr. Rodewald, the Board and the ZBA.

Mr. McWilliams said that RSA 674:41 II refers to a land-locked piece of property and, in this case, the applicant needs to go to the ZBA. He said Mr. LaClair is correct in stating that there are a number of other lots in the Park 10 properties that are in the same situation of having a paper road. However, paper roads do not qualify under RSA 674:41 II as providing the necessary road frontage for that lot. Mr. McWilliams said it is the ZBA – not the Board of Selectmen – that has the authority to examine the issue and grant a variance.

Mr. Rodewald said he will apply for a variance from the ZBA and then return to the PB for a Continuance on November 17, 2009.

Mr. Weiler made a motion to continue the hearing on November 17, 2009 at 7:15 p.m. Ms Freeman seconded the motion. All in favor.

**CASE: Case 2009-005: Rheta Heller Revocable Trust – Diane Heller**/applicant: P.O. Box 216, Newbury, NH. 763-2902. Conceptual review for a minor subdivision to create a new lot on existing 75 acre property located on Rollins Road. Map/Lot 30-666-376.

The presentation was given by Diane Heller who has power of attorney for her mother, Rheta Heller. The application concerns subdividing a lot for a house on the Heller's tree farm of about 75 acres. She said they are currently logging and have cut down some of the trees for the view. Allen Wilson, ALW Surveys, has completed a survey of the property on Rollins Road. The lot is over two (2) acres, has 234.8 feet of road frontage and is a one-to-four ratio. Ms. Heller said the lot shares two pins with a lot that the Hellers subdivided several years ago. She said they are adding two pins. The terrain is desirable and will not adversely affect the lake.

Ms. Freeman asked for clarification regarding Rollins Road. Ms. Heller said the road may still be on the books as an unnamed county road.

Ms. Freeman questioned the one-to-four ratio noting the conceptual drawing looked more than four (4) in the ratio. Ms. Heller said she used the dimensions from the previous subdivision that the Board approved several years ago and roughed out the dimensions for the current lot.

Mr. Wilson's measurements are as follows: 234.8 feet for road frontage; 977.2 feet on the south side; 842.1 feet on the north side; and, 301.3 feet on the west side.

Ms. Freeman asked if the first lot has been built. Ms. Heller said no, the lot was attached to a neighbor's (Mr. Rucker) estate.

Mr. McWilliams asked if the lot included any slopes in excess of 25%. Ms. Heller said no and added that the topographical marks were taken from a previous map and were accurate.

Mr. McWilliams asked if the lot contained any wetlands. Ms. Heller said there is a stream on the previously sold lot and said there is a culvert under the road but it does not affect the proposed lot.

Ms. Freeman asked if Rollins Road requires a multiplier (for the density calculation).

Mr. McWilliams says Rollins Roads is one of the substandard roads and has a multiplier of 1.5

Ms. Freeman said instead of a two acre lot, it must be multiplied by 1.5 which results in a required minimum lot size of three acres

Mr. McWilliams added that the other factor is to check to make sure there aren't any steep slopes, flood plains, or wetlands that need to be deducted from the acreage.

Ms. Heller said the new lot is the identical terrain as the previous lot and Mr. Wilson would be certain to include any indication of steep slopes, flood plains, or wetlands in his survey.

Mr. Weiler said that when Ms. Heller subdivided the original lot, the rules concerning steep slopes, flood plains, and wetlands were not part of the requirements.

Mr. McWilliams directed Ms. Heller to the relevant zoning ordinances: Articles 5.12, Lot Size Density Requirements; Tables 5.1 and 5.2, on pages 31-34 of the Zoning Ordinance.

Ms. Heller asked if a stream requires a larger lot size.

Ms. Freeman said yes, if it is a wetland.

Ms. Heller said that even though this will be a good-sized rural lot, it will not be over five acres and, therefore, does not require a perk test.

The Board agreed. (Correction: The lot does require a perk test.)

Ms. Heller said she is designing the lot to include the stone wall, the slope, the view, the land below and she hopes it will entice a buyer who will be a good neighbor.

Ms. Heller asked the Board if more research is needed before she applies for the final minor subdivision approval.

Ms. Freeman said whoever is doing the surveying should go through the Town's subdivision regulations and respond to each one of the issues set forth for the application. Also, there is a requirement to include contours. She said that any item in the subdivision regulations that Ms. Heller believes does not apply must be addressed in a letter requesting a waiver.

Mr. McWilliams said the application requirements are listed on page 31 of the subdivision regulations under minor subdivision.

Mr. Weiler also recommended to Ms. Heller that she review sections 3, 4, and 5 of the subdivision regulations to gain background information and understand her responsibilities.

Mr. McWilliams explained that the zoning ordinance is a document that sets out the permitted uses of property (frontage, lot sizes, etc.) which are the standards. The subdivision regulations describe the process, requirements, and time frames involved when making application for a minor or major subdivision of property.

Ms. Heller asked about the possibility of having a preliminary hearing on the minor subdivision. Mr. McWilliams said that is available to her and can be useful if Mr. Wilson runs into a question that he wants to review with the Board. However, if she finds that all the standards are being met as the application is being compiled, he suggested to Ms. Heller that she come in for a final minor subdivision.

Mr. Weiler invited Ms. Heller to contact the Board members if she had any questions.

Ms. Heller asked when the regulations were revised. Mr. McWilliams said the subdivision regulations were last revised in 2005 and the zoning ordinance is revised annually.

Mr. Vannatta suggested that any questions may be directed to Mr. Weiler for clarification and thanked Mr. Weiler for his assistance.

## **ADDITIONAL BUSINESS**

### **CASE: Case 2004-006: Angel Hawk**

Mr. Vannatta summarized an email communication from the Town counsel concerning receipt of an email from the Town of Sutton Selectmen questioning whether off site improvements to Nelson Hill Road will be taken care of under the Angel Hawk agreement. Mr. Vannatta asked the Town counsel for guidance on the Planning Board's response to the Sutton Selectmen's query.

Town counsel replied that this is no longer a PB issue and the Newbury Selectmen will address the issue.

## **Wild Goose Boat Ramp**

Mr. Vannatta discussed the upcoming meeting in Newbury with the NH Department of Transportation (DOT) in connection with the public hearing scheduled for October 28, 2009, to review the state's ten-year Transportation Improvement Plan (2011-2020). The Town Selectmen, police chief, and fire chief have requested a meeting with DOT Commissioner George Campbell on October 28, 2009 to review their concerns with the safety issues surrounding the access road for the proposed Wild Goose Boat Ramp project.

Mr. Vannatta suggested that a member of the Planning Board join the Selectmen when they meet with Commissioner Campbell.

Ms. Freeman said her conversations with the Lake Sunapee Protective Association (LSPA) and the Board of Selectmen indicate that even though PB stands in opposition to the project, the LSPA and the Selectmen want to have clear access to Commissioner Campbell to present a focused line of opposition regarding the traffic safety issues.

Mr. Weiler agreed.

Mr. Vannatta said that it is a public meeting and, as such, is open for anyone to attend.

Ms. Freeman suggested that anyone may attend as an observer but suggested that any official participation be left to the Selectmen.

## **Office of Energy and Planning (OEP) Conference**

Mr. Healey reported to the Board on the OEP Annual Fall Planning and Zoning Conference on October 17, 2009 saying it was well attended and offered a great deal of useful information. However, he said there was not enough time scheduled for each presentation and most of the speakers were not able to complete their presentations. He suggested the OEP consider expanding the conference to enable a more in-depth treatment of the conference material.

Conference topics of interest included zoning board ordinance criteria changes effective January 1, 2010, workforce housing guidelines, site plan review process, roles and responsibilities of the planning board and of the zoning board of adjustment, site visit requirements, and green building guidelines.

Conference hand-out materials are available on the OEP's website [www.nh.gov/oep](http://www.nh.gov/oep).

Barbara Richmond, Zoning Board of Adjustment member, Denise Walter, Land Use Coordinator, and Meg Whittemore, Recording Secretary, also attended the conference.

## **Upcoming Conferences**

There was general discussion about upcoming meetings/conferences: Lake Sunapee Scenic & Cultural Byway presentation at Newbury Town Hall, October 21, 2009; Lake Sunapee Watershed Project at Newbury Town Hall, October 28, 2009; and the NH Local Government Center conference in Manchester, NH, November 18-20, 2009.

Ms. Freeman made a motion to adjourn. Mr. Dezotell seconded the motion. All in favor.

Meeting adjourned at 8:20 p.m.

Respectfully submitted,

Meg Whittemore  
Recording Secretary