

PLANNING BOARD  
March 9, 2016

**APPROVED as amended and clarified:**

3/23/16\_\_jrl\_\_\_\_\_

AGENDA: SCENIC ROADS CUTTING & TRIMMING HEARING (EVERSOURCE)  
PCC: ROB & ANNIE HASKELL – NO SHOW  
15SPR01, CONTINUED SITE PLAN: NEW ENGLAND FAMILY HOUSING,  
409 Lake Street, #112-037 & 224-001

ATTEND: Denice DeStefano (Chairman), Dan Paradis (Vice Chair), Paul Manganiello  
(Sel. Rep.), Bob Curtis, Clay Dingman, Steve Favorite, Elizabeth Seeler

ABSENT: -----

OTHER: Public, Leslie Dion, J. P. Morrison (Selectmen), Ray Courchaine (filming),  
Christina Goodwin (Asst. Assessor), Sandra Heaney (HDC, Conservation  
Commission), Police.

The meeting opened at 7:00 p.m. with a quorum.

**SCENIC ROADS CUTTING & TRIMMING – EVERSOURCE/BEA S. HEBERT**

Ms. Hebert explained that they wish to trim all 4 scenic roads: Smith River Road, Peaked Hill Rd., Hemphill Rd., and New Chester Mountain Rd. Ms. Hebert distributed a revised listing of cutting and stated that it would only be trimming on New Chester Mountain Road. All of the property owners have been notified. They only cut hazardous trees and will be back in four years. They will only do what the landowner allows.

Ms. Seeler stated that she owns several properties in town and asked how to know which property is involved. Ms. Hebert answered that she should write in and ask. Ms. Hebert then asked about any trees that they find to be dangerous that are not on this list. Ms. DeStefano felt that, as long as the landowners give permission, it is okay and the Board agreed. Mr. Favorite asked what happens to the wood and Ms. Hebert explained that they chip up the smaller stuff but the wood belongs to the landowner.

There was no public comment and the Board gave their approval to go ahead with the project.

PCC: ROB & ANNIE HASKELL: No show.

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15SPR02, CONTINUED SITE PLAN: NEW ENGLAND FAMILY HOUSING  
Kent Brown (Engineer), Kevin French (Surveyor), Kevin Lacasse (Developer), Attorney Robert Miller

Ms. DeStefano explained the procedure for speaking. Attorney Miller addressed the questions and answers that had been e-mailed between himself and Ms. DeStefano. He had been asked how the frontage requirement is to be met and he answered that RSA675:35 is under subdivision regulations and they are clearly not a subdivision showing the headings to the Board. He added that the lots were created in 1969, prior to the adoption of the Town's Zoning Ordinance and has always been a commercial lot. As a result it is grandfathered. Also, the two lots are to become one lot. Ms. Seeler stated that this project is for apartments and Attorney Miller stated that the trick is that it states "of the land". They are merging the lots, not subdividing.

Mr. Dingman asked if, where Atty. Miller stated that the parcels are grandfathered, doesn't that change when there is a change of use. Atty. Miller answered that it is a grandfathered commercial lot. Ms. DeStefano then read RSA674:41, purpose, the 3<sup>rd</sup> paragraph. Atty. Miller read the section and stated that it was a previous 1989 law which was amended in 1995. The Board was not convinced of this argument.

Ms. DeStefano then asked how they can get around the right-of-way issue. Mr. French stated that it is a deeded right-of-way to this property (and he showed her a copy of the deed). Mr. French added that a portion of the right-of-way cannot be widened but it is in an area that is flat. Around 2000, the State acquired the right-of-way and built it to allow proper access for proposed development. Mr. Dingman asked about the changes that were made and Mr. French answered that the entrance is 117' wide there. They have allowed for the 400' site requirement.

Ms. DeStefano asked the applicant to show what changes have been made to the plans. Mr. Brown stated that they only changed those which Mr. Ballistero and Mr. Houle had recommended. They gave their final determination on drainage in a letter dated March 1<sup>st</sup>. Ms. DeStefano asked about the flood plain depiction and Mr. French pointed out the lines. He added that everything that they are doing is above the 100 year flood plain. The insurance requires them to be above 1' of the flood plain. If they had a basement, they would be below but the buildings are planned to be on slabs. Mr. Lacasse stated that the approval of the flood plain has been approved by FEMA. Mr. Dingman asked about the Town Ordinance in regard to sections A and AE. He asked if this was in either. Mr. French stated that a portion is in AE but the development is not. Mr. Dingman asked if the Ordinance triggers having to comply and Mr. French stated that, per LOMA, FEMA has agreed that the area has been removed from AE. They will put in a new X line when the map gets changed. Ms. DeStefano mentioned that the Ordinance refers to it as "the land". Mr. Kent suggested that this be placed on the cover of the land permit for the applicants' information.

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NEW ENGLAND HOUSING continued:

Ms. DeStefano asked for public input. Sandra Heaney (Conservation Commission) asked how to get an adjusted plan. Mr. French answered that she should go to FEMA on the internet and look for LOMA approvals.

Donna Nashawaty, 210 Pleasant St., a town manager and a member of the NHMA Board, questioned the frontage issue, citing the 2012 Town & City magazine that refers to RSA674:41, which she read. She added that assessment and sales prices are not conducive to a large development. The right-of-way is only deeded to the 2.4 acre parcel and will not go with the change to merge. That one area can only remain as 20' wide. They can continue the use but the statutes are to prevent heavy impact. As to the financial aspect, Ms. Nashawaty is afraid that many will vacate Newfound Meadows to go to this lovely site on the river. It will be a \$250,000.00 issue for the school. She then asked if Atty. Miller's answers to Ms. DeStefano's questions public and was told that it is. She will be requesting a copy.

Mr. Manganiello asked about flood insurance and Mr. Lacasse stated that they are not in the flood plain. They will have regular insurance.

Atty. Miller mentioned that 1989 predates due to the case then and cited the Vachon case. He read the ZBA issue of Class VI roads which was dealt with a prior subdivision (the Vachon case). It deals with narrow, nearly impassable Class VI roads. The right-of-way here has been approved by the Fire Chief and the State for being okay for health, safety, and general welfare. Atty. Miller added that there is waiver ability for this. Ms. DeStefano disagreed and stated that she will ask the town attorney. Atty. Miller then read RSA674:41,I.b and said that this allows that they give the town a waiver to absolve the town of any liability. He added that this will not happen as the Fire Chief has already okayed the right-of-way. Both Ms. Seeler and Mr. Dingman requested that the Board seek legal opinion from the town attorney. Mr. Dingman asked if there are any other options. Atty. Miller stated that they could go to ZBA for a variance. That would be a whole other process and time consuming. What he would like from the Board is to agree that the access is safe. Ms. DeStefano stated that the Board needs legal direction and the Board agreed. They feel that they need advice.

Ms. DeStefano also mentioned that she has received several reports since last meeting. She had gotten in touch with the School District Supervisor and received an answer back in which the only possible impact on the school system would be if all of the children from the new complex were in the same grade. Mr. Lacasse stated that having all the kids in one grade would be pretty slim.

Ms. DeStefano brought up the traffic study and is concerned about having 230 at peak times. Mr. Brown stated that this is part of the DOT permit and they did not have a problem with it. Mr. French added that it was part of the DOT's reconstruction plan.

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NEW ENGLAND FAMILY continued:

Ms. DeStefano asked if the Conservation Commission had received the updated plans yet. When Mr. Brown stated that he didn't know that they needed these, Ms. Heaney explained that they look at the plan and send their recommendation to the Planning Board.

Atty. Miller asked, in the interest of time and if Atty. Waugh has a different opinion, if the Board would let the Selectmen know that there is no health, safety, or welfare problem with the right-of-way, and they can do a waiver of liability. If the Board does not feel it is safe, they can do a variance. Mr. Dingman questioned if it would be legal for the Board do give this opinion. Ms. DeStefano felt that we need a legal opinion before giving any answer.

Ms. Nashawaty mentioned the increase impact of a non-conforming lot and the Board determined that they want legal direction. Ms. DeStefano will contact Atty. Waugh and, at our March 23<sup>rd</sup> workshop, we will discuss his advice.

Mr. Lacasse asked, if the Board is unsure, what he can get for them. Mr. Lacasse asked if they should attend the workshop meeting and was told that it is a public meeting and anyone may attend. Atty. Miller asked about the possibility of having permission to have the two attorneys talk. D. Paradis made a MOTION, second by C. Dingman, to GIVE TOWN COUNSEL PERMISSION TO CONSULT WITH ATTORNEY MILLER. The motion CARRIED.

Mr. Dingman felt that we may want the Fire and Police to look at this again. The Land Use construction plans should be reviewed.

C. Dingman made a MOTION , second by S. Favorite, to CONTINUED THIS HEARING TO MARCH 23, 2016, AT 7:00PM AT THE TOWN OFFICE MEETING ROOM. The motion CARRIED.

MINUTES OF FEBRUARY 10, 2016: The following amendments were made:

Page 1, next to last paragraph, 3<sup>rd</sup> line, replace "bases" with "basins". Page 4, 3<sup>rd</sup> paragraph, last line, replace "prevue" with "prevue". Next paragraph, 1<sup>st</sup> line, replace "Sandra" with "Sondra". Page 5, Next to last paragraph, 2<sup>nd</sup> line, replace "ability" with "capacity". Next paragraph, 2<sup>nd</sup> line, replace "Math" with "Map". Page 6, 2<sup>nd</sup> paragraph, 1<sup>st</sup> line, replace "licenses" with "licensed" and 4<sup>th</sup> paragraph, 5<sup>th</sup> line, replace "invector" with "in vector".

C. Dingman made a motion, second by S. Favorite to approve the minutes as amended. The motion carried.

CORRESPONDENCE: The DOT permit for drainage and for a driveway permit for Dollar General were received.

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REPORTS:

HDC – Did not meet due to Voting day.

SELECTMEN – Mr. Manganiello had been away but they had finalized for town meeting and approved the Police Chief's contract.

CIP – Meet next Tuesday.

OTHER:

DAVIDSON CAMPGROUND: Ms. DeStefano stated that they wish to add 20 more sites and wish to know if they need a full or a minor site plan. The secretary reported that the only file she has been able to find was when they put in the swimming pool (thought there should be one for when they put in the cabins at least). It was determined that they should come in for a PCC and be asked to bring in their copy of the current site plan.

NEW ZONING ORDINANCE AMENDMENTS: It was reported that all of the Zoning amendments passed. A public hearing to incorporate the parking regulations into the Site Plan/Subdivision was set for April 27, 2016.

MIKE IZARD AND A BETTER MAP: Ms. DeStefano stated that Mike Izard told her that they have used up the total funds and to revise the map as was requested, they would need \$350.00 more. The Board gave Ms. DeStefano permission to ask the Town Administrator if we can find these funds somewhere.

NEXT MEETING: The next Planning Board meeting is March 23, 2016, 7:00pm, in the town office downstairs meeting room. We shall hold the annual elections and then discuss the legal advice we received from counsel along with any other correspondence regarding the New England Family project. Ms. DeStefano stated that she has to go away again and will be flying back that day so may be a little late.

With no other business before the Board, C. Dingman made a motion, second by E. Seeler, to adjourn at 9:00pm.

Respectfully submitted,  
Jan Laferriere, recording secretary