

**TOWN OF EPPING, NEW HAMPSHIRE
PLANNING BOARD MEETING**

TUESDAY November 16, 2010

PRESENT – Greg Tillman, Mike Morasco, Steve Colby; Selectmen’s Representative Karen Falcone; Alternates Brian Reed & Dave Reinhold; Planner Brittany Howard; Secretary Phyllis McDonough.

CALL TO ORDER: Chairman Tillman called the meeting to order at 6:00 p.m.

DISCUSSION: Angela Tessier (complaint)
Location: 15 Depot Road, **Map 27 – Lot 185**

Matt Tessier and Angela Tessier came before the Board with concerns over a large excavation on the abutting property. M. Tessier explained the excavation is in the aquifer protection district, and in order to do work in this area an engineering study should have been done. He explained the only information on file is a letter from NHDES when they went out to look at a wetland’s issue and noted they referenced a significant cut. M. Tessier explained there are wells in the area that are changing and that the water has magnesium. He stated they would like to see the Town take some action to force the owner to mitigate to bring the project back into compliance and to also help to see what can be done to make sure the water is fit to drink.

Howard explained this came to the Board as a landscape project to make the property flat, and has been going on for 3 to 4 years. She explained this was never deemed an excavation by the Planning Board. She explained Town Counsel could get involved and also fining could be done under RSA 155E.

Morasco asked Howard the Selectmen approved an intent to excavate, should the applicant have then come back before the Planning Board. Howard explained when it changed from landscape to excavation it should have come back before the Planning Board. Morasco asked about the man made pond if someone in the aquifer protection district had come before the Board and asked to put a pond on the property what would have been the next step. Howard stated they would have to go before the Zoning Board for a variance to the aquifer protection district. Morasco noted that the Tessier’s are looking for reclamation to be done or capped. Howard explained having free standing water within 8 feet of the aquifer is not allowed. Morasco asked if it would harm the aquifer. Howard stated she was not sure of that.

Howard noted that DES did not see this as a violation and explained they do not regulate man made ponds. M. Tessier concurred and stated they also received correspondence from the DES that they went out to see if there was a violation to the alteration of terrain and shoreland protection act.

Morasco questioned if they saw this was in an aquifer protection zone they didn’t feel this as impeding the aquifer. A. Tessier explained they regulate public drinking water and the aquifer is in the Town’s bylaws.

Chairman Tillman thought it would come under wetlands and didn’t think you could create wetlands without state approval. Howard explained she filed a complaint with DES and stated the answer she received from them is they are closing their file on the issue.

Chairman Tillman explained the action of the state is not something the Board can deal with, however he

suggested to speak with Ratigan to find out what the next step is. Chairman Tillman asked the Tessier's if they have any ideas of what they would want done. M. Tessier stated is a serious system needs to be in place.

Morasco stated the Board can assume but are not sure if it's a cut into the aquifer.

Chairman Tillman asked Howard if she felt the Board's procedures were violated. Howard stated this project should have come before the Board. She explained there is a whole procedure for excavation under RSA 155-E when there is more taken than expected to make the property flat. The Board agreed. Chairman Tillman directed Howard to talk with John Ratigan to see how to go forward with this.

Morasco suggested nailing down a time line, what was filed, what should have been filed, when it was filed and where this project fell through the cracks.

Selectman Falcone asked Tessier if she's been before the Selectmen during this event. She explained Grenier had been before the Selectmen to get his intent to excavate.

Chairman Tillman stated whatever action the Town takes the Board has no jurisdiction over the well issue and advised that Tessier can pursue this issue privately to the applicant.

PUBLIC HEARING: Lot Line Adjustment (Continuation)

Owner/developer: Virginia Bell & Southeast Land Trust of NH

Location: 100 Blake Road **Tax Map 020 – Lot 017 & Tax Map 20 – Lot 008**

Chairman Tillman read notice of a continued lot line adjustment and appointed Reed to sit in for Crowell. Abutters present: Mathew Jensen, Phil Primack, Eunice Miller.

Bill Doucett of Doucett Survey, representing the late Virginia Bell and Southeast Land Trust of NH came before the Board. He explained Bell purchased the land in the late 70s and her wish was that the back land be preserved and not developed. He explained there was a point in the project while working with Bell that she was disturbed that the land may have to be altered if a subdivision was to take place. Doucett explained South East Land Trust that preserves land in perpetuity and to never be developed. He explained the Trust owns the abutting property and they combine properties to create healthy habitats for wildlife. Doucett stated hunting on the land will still be an option.

Doucett explained at last meeting the plan was accepted and the approval was denied, then a poling for reasons for the denial and the explanation was there was more information needed and a continuation was voted on. He explained there was testimony from an abutter about a beaver dam that may be contributing to flooding to her property. South East Land Trust has been working with NH Fish and Game and spoke of a device that could be put in the beaver dam to help water flow.

Doucett showed a colored sketch in yellow, grey and green. He state the late Bell owned what was in grey and yellow, and what is proposed is that the grey area will be conveyed to South East Land Trust that owns the green. He explained the existing lot line is outlined in heavy blue line and if approved the outline will be where the heavy red line, so the South East Land Trust along the green and grey.

Chairman Tillman explained this is a lot line adjustment, not a site plan or subdivision.

Morasco stated the motion was withdrawn at the October 28 meeting.

Selectman Falcone explained a motion cannot be withdrawn from the losing side. She explained she was informed of this from Attorney Ratigan.

Howard stated she spoke with Attorney LaPointe and got a different response. She explained if a motion was withdrawn, even if it was voted down for more information, as long as the Board voted to continue, even those opposed, then it was okay.

Chairman Tillman questioned if anyone has a problem going forward.

Morasco questioned if Miss Bell is deceased does the applicant have the legal right to ask for the property to be disposed of. Howard explained when speaking with Attorney LaPointe they spoke about doing a conditional approval and he didn't seem to have a problem with hearing from the administrator from the probate court.

Chairman Tillman asked if Ms. Bell signed the application. Doucett stated she did sign the application.

Selectman Falcone stated when she spoke with Attorney Ratigan any approval would have to be conditional on the full approval from the probate court.

Colby asked if there were any more discussions with fish and game. Howard explained South East Land Trust was communicating with fish and game. She stated she went to the property and there is water there.

Matthew Jensen asked if there is a limit on a lot line adjustment, stating this is a transfer of 50 or more acres. Chairman Tillman explained the difference between lot line adjustment and a subdivision is that no new parcels are being created. Jensen asked in the process is there transfer tax. The Chairman stated he was not sure of that. Jensen explained it effects his income and all the citizens of Epping.

Abutter Eunice Miller reiterated her concerns she expressed at the October 28, 2010 hearing having to do with her property being inundated with water. She stated a person from fish & game is furious with statements made by South East Land Trust. Miller explained Pawtuckaway River is no longer a river, no longer flows as a stream into the Lamprey as the South East Land Trust web site shows. Miller presented photos of her land to the Board. Chairman Tillman asked Miller if she ever spoke with Virginia Bell about her concerns. Miller explained she never did get to speak with Bell. Howard explained she visited Miller's land in March or April and stated the water was up a significant amount.

Abutter Phil Primack stated he doesn't want the record to indicate that land being held in trust is not paying property taxes. He explained his land is in a trust and he pays taxes on it. He stated approximately six years ago a beaver dam took out his driveway and road, and is empathetic. He noted the South East Land Trust did not put the dam or beavers there, and questioned what the correlation is with the issue of who owns the land, or the presence of beaver dams what it all has to do with a lot line adjustment, and stated the discussion should be limited to only the lot line adjustment.

Chairman Tillman announced the public hearing is closed.

Chairman Tillman offered the Board should look at the issues of which they have jurisdiction is the lot line adjustment.

Brian Hart Executive Director of the South East Land Trust explained there is a disagreement on the impact. He shared a letter with the Board explaining communication and time line of events that which was placed in the Planning Board file. Hart explained the Land Trust will be installing a beaver pipe either before winter or early spring or summer. He stated he does not feel this will alleviate the problem but should provide some measure of reduction of the impact. Hart explained the Bell property has no impact on Miller's property because of the way the river flows.

Chairman Tillman explained this application has been accepted by the board and noted the consensus of the Board if approved to make a condition of approval from the Probate Court.

Morasco moved, Chairman Tillman seconded the motion to approve the Lot Line Adjustment contingent on Probate Court's approval. The motion carried 4 in favor 1, Selectman Falcone, against.

Chairman Tillman explained he lives on a river and has pumped many feet of water out of his basement. He also stated he would not want a continuation of beaver dams. The Chairman explained the Board does not have jurisdiction over beaver dams, and hopes that South East Land Trust will help on the situation of the beaver dams. He explained the lots are conforming, and the issue of taxes is not for the Board to discuss. He express he is heartened with the new land owners stating they will put in a beaver pipe. Chairman Tillman asked that the South East Land Trust work with the neighbors. Morasco concurred.

MINUTES OF 9/23/10 FOR APPROVAL – One of the three members that sat at this hearing was not available to approve the minutes; therefore, they will be addressed at the December meeting.

MINUTES 10/28/10 FOR APPROVAL – Morasco moved, Colby seconded the motion to approve the minutes. The motion carried 4 – to – 0 with 1 abstention from Chairman Tillman who was not in attendance at the meeting.

DISCUSSION: Zoning Amendments

The Board briefly discussed proposed zoning amendments that will appear on the March 2011 ballot. The first public hearing will be held on these amendments on December 9.

- Article 8, Floodplain Development Ordinance.
- Maximum Lot coverages in the Zoning Districts.
- Article 11, Administration.
- Article 12, Definitions.

PLANS FOR SIGNATURE – New England Dragway; LLA Timothy McNeil; Two-Lot SD Hoag, Jr. Trust. The plans were duly signed.

PLANS & MYLAR FOR SIGNATURE CASTINE SUBDIVISION – The plans & mylar were duly

signed.

ADJOURNMENT: The meeting adjourned at 8:15 PM.

Respectively Submitted,

Phyllis McDonough
Planning Board Secretary

NOTE: THE NEXT MEETING WILL BE HELD DECEMBER 9, 2010 at 6:00 p.m.

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