

Acton Planning Board Meeting Minutes
August 21, 2008

Members Present: Chip Venell (Chairman), Yoli Gallagher, Tom Cashin,
Larissa Crockett, Keith Davis

Members Absent: Jim Fiske, Randy Goodwin

Guests: Shelly Blaisdell (Minutes Secretary), Ken Paul (CEO), James Lowery
(Sebago Technics), Leo Menard, Scott Mayo, Nathan Mayo, Pat Frasier, Al Dion
Meeting was called to order at 7:00 p.m. by Chairman Chip Venell.

Larissa makes a motion to move the Best Possible Location permit to
#1 on the agenda. Yoli seconds. All in favor. Passed 3-0

1. Best Possible Location Permit:

Scott Mayo - Map 137, Lot 22 at 194 Hawk Road has a shed now that is 15' x
11' and wants to expand it to be 16' x 12' which equals a 30% increase in overall
dimension. It is now 69' from the water and 49' from the road.

Ken recommends the new shed be put 2' off the lot line at the new requested
dimensions.

Yoli make a motion to accept the Best Possible Location Permit for
Scott Mayo, Map 137, Lot 22 per Ken's recommendations. Larissa
seconds. All in favor. Approved 3-0

2. Leo Menard gives the board an update of the status of an application for a 4 lot
subdivision previously applied for in June, 2006. Mr. Menard explains that this
application is not new, but a review of a previous application and reads from a
letter from his attorney at Smith & Eliot sent to Durward Parkinson dated June,
2006 which he feels confirms this. Mr. Menard explains that the property has a
50' right of way now, and his plan is to turn that right a way on a 90 degree angle
and create the required road frontage. Chip explains that this is now considered a
new application because it was originally three lots and is now five lots. Mr.

Menard disagrees, and reads from the attorney's letter again which states that
4401A1 allows for the lot to be subdivided again without subdivision approval. Ken
explains that the town recognizes this as one lot with two personal properties (the
mobile homes) on it. Larissa asks Tom what zone this property falls in because she
feels that it is in rural. Mr. Menard said that he addressed this with Ken previously
and he felt that it was odd that the requirements were less in resource protection
than they are in shoreland zone. Larissa said that all of these lots do not fall in
shoreland zone and they are all too small. Ken said that he recommended this
applicaton come before the planning board from the beginning, and now this has
been going on for two and a half years and the town has new zoning. Larissa
agrees, and said that since it hasn't been under substantive review, they are not
grandfathered. Mr. Menard disagrees and said that he has documentation from
2006 on this project. He also pointed out that Ken issued building permits in
September, 2007 for the two existing lots which denotes that they are separate lots
and said that separate lots can be divided again. Ken disagrees and said that he
doesn't have enough road frontage to divide these lots again. Mr. Menard said
that before the zoning changed, Ken asked him to come before the planning board
to show them the road, and said that Ken wasn't debating the 3 separate lots. He
also pointed out that Ken didn't want to issue the building permits, and said that he
actually wrote on the building permits that he needed to come before the board for
review on the road before he would issue permits on the other two lots. Ken said
he needs to create the other two lots. Chip said that was a code enforcement issue

and Ken doesn't speak for the planning board. Chip said if Ken misspoke on the original issue, that doesn't affect the planning board's decision. Tom asked Mr. Menard if there were three separate recorded deeds at the registry on these lots? Mr. Menard said they don't need to be three separate deeded properties because the law allows you to create a subdivision by lease which does not require subdivision approval. Ken said that is fine on the three lots, but now he is trying to split those again on driveway frontage and there isn't enough road frontage to legally do that.

Tom said that he feels the board needs more clarification on which zone this property falls in, under the new zone, and what zone does the shore line zone fall in? Mr. Menard was told that each board member needs to be provided with copies of all maps and any other pertinent information. Chip also asked Mr. Menard to get a copy of the map with an overlay of the shoreland zone before they could proceed on this matter.

Mr. Menard explained that when he submitted the original plan, Ken told him he would not issue building permits on the other two lots unless they created a plan

with road frontage and got road approval from the planning board, so that is what he is here for tonight. Mr. Menard said that there was no question as to whether or not they had the subdivision lots, the point was that it was not an approved road. He said Ken was correct on that because it looks like a driveway. It has a road sign on it but they don't have 9-1-1 addresses off of that road, they all have Hopper Road addresses. Chip said that the ordinance talks about dimensions of subdivisions and they don't allow odd shaped lots, and said that all of his lots appear to be odd shaped, especially the lot in the back. Tom pointed out that as of June 10, 2008, unless these lots are grandfathered, the new lot requirements in this district is three acres. Mr. Menard said as far as he was concerned, these lots are grandfathered because he started this process back in 2006, and got permits in September, 2007. Chip said that was for the three lots, but when did the planning board see the map for the five lots? Mr. Menard said they saw it when he got the permits and Ken said he would not issue the permits on the other two lots until he got approval on the road design. Chip asked if Ken saw this map here in front of them tonight with the five lots on it? Mr. Menard said they did not have this map then, but they brought in a different plan with five lots on it, but he doesn't have that map with him tonight, and said he can bring that one in. Chip said it is a different map, therefore this map that they are looking at tonight is new and never reviewed by the planning board before. Mr. Menard said that the point is there was already five lots before you changed your code, and if you don't like the road design then they can redo the road design. Chip said that he doesn't agree that there are five lots. Tom asked if these lots all have deeds, and said that unless these lots are recorded at the registry, they are not lots. Mr. Menard said this gets back to the letter from the lawyer that says that it doesn't have to be recorded as a separate lot, it can be created by lease as well. Chip asks if these lots were broken up into five lots and leased to five different owners? Mr. Menard said they were leased to three different owners and two renters, and they can be subdivided again. Chip asks if these lots have five deeds right now the way they are delineated? Mr. Menard said they don't need to have deeds if they are leased, and this is what the town's attorney is telling you. Ken said that Durward wasn't looking at road frontage, he was only looking at the lots. Ken points out that if this had the proper road frontage, it would be legal, but it is on a driveway which makes it illegal.

Larissa asked when was the appropriate time to set up an escrow account? Chip explained to Mr. Menard the reason for the escrow account, and how to go about setting it up with the town's treasurer. The board set the escrow amount at \$1,000.00, and told Mr. Menard that this needs to be set up before they will proceed on this application.

3. Mr. James Lowery gave the board an update on the Pepin gravel pit. Chip read from a letter the board recently received from road commissioner Scott Mooney regarding the increased truck traffic. Mr. Lowery explained their plans for a paved access leading to stone at the entrance of the pit. Mr. Lowery told the board that \$4,000.00 per acre is the standard going rate for a reclamation account to be set up for the 10 acres totalling a \$40,000.00 bond that needs to be set up by Mr. Pepin to return the road to its previous condition in case this project falls through, with the town having complete access to that account.

Performance Standards:

1. currently in compliance of this
2. N/A
3. Copy of liability insurance requested
4. erosion control completed on current map
5. internal drainage completed on current map
6. N/A
7. N/A
8. Hours of operation year round are set at Monday through Friday 7:00 a.m. to 5:00 p.m. and Saturdays 8:00 a.m. to 12:00.

Tom makes a motion that the board set the hours of operation at Monday through Friday 7:00 a.m. to 5:00 p.m. and Saturday 8:00 a.m. to 12:00 p.m. with no operation on Sundays. Larissa seconds

Comments: Mr. Lowery asks if Mr. Pepin can have that amended if those hours don't work for him? Chip says that at the applicants request the board can revisit any issue.

All in favor. Approved 3-0

9. already completed
10. draw a design on an impervious pad to be put in for fueling on
11. A. all stumps will be processed per the note on the plans
B. internally drained
12. maximum set at 50 truck trips per day

Conditions:

1. Hours of operation are 7:00 a.m.-5:00 p.m. Monday through Friday and 8:00 a.m.-12:00 p.m. Saturdays with no operations on Sundays.
2. truck trips per day is set at 50 truck trips per day

3. rock crusher use limited to 8 weeks per year from October 1st - March 1st.

The board told Mr. Lowery that a certificate of liability insurance will need to be provided to the town on this project. The board also asked Mr. Lowery to provide them with a plan that is signed by Sebago Technics on the mat for fueling.

4. Mr. Frasier presented the board with his plans to move the property line between his property and his neighbors to accommodate a new shed. Chip said that all the board needs is a new plan for something this simple, and if they make findings that the revised plans meet all criteria then the board can approve or disapprove right away. Tom asks if he can read through the States criteria to make sure that all conditions are met? Chip agrees and Tom reads from page 115 of the

2008 Planning and Land Use Laws:

1. pollution: N/A
2. sufficient water: N/A
3. municipal water supply: N/A
4. erosion control: N/A
5. traffic: N/A
6. sewage disposal: N/A
7. municipal solid waste disposal: N/A
- 8.-19. N/A

Tom suggests that nothing from the above list is applicable and makes a motion to accept the amended change as shown on Mr. Frasier's application. Second by Yoli. All in favor. Approved 3-0

Tom makes a motion that the board finds that because of the small change in lot line requested by Mr. Frasier, a public hearing is not warranted. Second by Larissa. All in favor. Approved 3-0

The board signs the mylars provided to them by Mr. Frasier and Mr. Frasier paid his \$200.00 application fee. Chip told Mr. Frasier that all the board needs is a plan with the revisions on it as soon as possible.

5. The board reads from a letter from Blue Sky Development that states they are requesting a change to their site plan because there is no longer a need for the advanced water treatment systems. Tom questions why, if they could have done

this originally, didn't they do this when the site plan was created? After some discussion, Chip makes a recommendation that the board put this on hold until they can get the plans from Built by Adams and review them. Also, Chip directs a letter to be sent to the applicant stating that the fee for an amendment to a subdivision plan is \$200.00 due upon request.

Tom makes a motion to adjourn the meeting. Larissa seconds. All in favor. Approved 3-0.

Meeting adjourned 10:20 p.m.