

**ACTON PLANNING BOARD MEETING**  
**May 6, 2010**

A. **ROLL CALL** – 7:00

Members present were:

Chip Venell- Chairman

Thomas Cashin – Vice Chairman

Yoli Gallagher

David Jones

Jessica Donnell – 1<sup>st</sup> Alternate (Voting in place of Mr. Davis)

Arthur Kelly – 2<sup>nd</sup> Alternate

Members absent were: Keith Davis

Also present were: Kenneth Paul, Code Enforcement Officer; Nathan Weeks, Peter and Christine Aufero, Mary Scully, Kenneth Lane, Nancy Maloney and Manley Gove for Sandra Jones.

B. **MINUTES**

**April 15, 2010** - A Motion was made and seconded to approve the Minutes of the April 15, 2010 Meeting as corrected. Cashin/Gallagher – Unanimous.

C. **PUBLIC HEARING – Nathan Weeks – Timber Harvesting Near Moose Pond**

Mr. Venell explained that the applicant isn't present at this time and asked if there were any questions or comments that the Board can answer.

To Christine Aufero's question whether approval of this application will allow everyone to do the same in the Resource Protection, Mr. Venell answered in the negative and explained this is a Conditional Use Permit and approval would be exclusive to this application only. He said this type of permit allows the Board to put whatever conditions they feel are appropriate for the location and that procedure is the same for all Conditional Use Permit Applications. He mentioned the type of conditions that could be imposed are the hours of operation, the number of trucks that can leave the site for a particular period, storage of the fuel on the site, etc.. He stated every Conditional Use Application stands by itself and is not subject to the same conditions as any other and any other application for timber harvesting within 250' of a lake would be subject to the same type of review.

Mr. Weeks arrived at 7:15 PM at which time Mr. Venell explained the public hearing procedure and asked Mr. Weeks to explain the request to the public.

Mr. Weeks advised he is proposing to remove timber within the 250' setback from the pond which requires a permit from the Town. He mentioned there are some old pine trees in that area which he would like to remove. He confirmed that it will not be a clear cut. He said it is difficult to determine whether there are other trees that should be removed until some of the cutting has been done. He explained there is a 75' setback from the water that cannot be removed unless it poses a hazard. He mentioned towards Great East Lake there is a summer wetland area in which the trees are dying and should be removed. He stated he has made a voluntary "no cut" area and explained where that is on the property.

Mr. Venell advised that a property owner can remove 40% of the trees that are 4" in diameter between the 75' and 250' setback.

To Mr. Aufero's question of who would monitor the 40% removal restriction, Mr. Venell explained there is a plan that was drawn by a forester which indicates what trees will be removed.

Mr. Paul mentioned the forester will be the person who oversees the project with Mr. Venell advising there will be a record of how many truck loads are taken from the site. He stated the forester is the person who will be signing off that the project adhered to the State's and Town's regulations.

To Mr. Kelly's question whether an inventory of the trees on the site, such as the species, had been made, Mr. Weeks answered in the negative and explained he will be removing the white pine with a small amount of hardwood which he will use for cord wood.

To Marie Scully's concern about the trucks using Moose Pond Road to exit the site due to its condition, Mr. Weeks said the plan is to use the pit and load the trucks from there. He stated he is currently cutting in the pit. He mentioned that while he isn't obligated to do so, he maintains the road as it is a right-of-way.

Mr. Venell explained those are the kinds of situations the Board will look at if the application is approved and a condition of the permit could be that any damage to the road must be repaired to bring it to its original condition.

Mr. Weeks said he didn't think there will be any damage to the road considering the time of year it is. He thought the trucks would be going down Mann Road and not in Ms Scully's area.

To a question from Kenneth Lane about the cleaning of the site after the work is completed, Mr. Weeks explained it will be flattened. He mentioned that the forester felt

he had done a good job on another part of the site. He said the area is very clean at this time. He felt this was a minor logging operation without any chipping being done. Regarding the length of time it will take to complete the job, he said that is up to the

loggers and mentioned they hope to move into another area within ten days. He said if the permit is granted, they will simply continue with the work. He guessed since the work proceeds slowly, they more than likely won't be done until June. He pointed out the cutting in the "v" shaped areas will only be done within the setback area and there are approximately 18 trees there. He mentioned that the trees that were removed in the past were outside the 250' setback. He advised the cutting will be on the pond side of H Road near Moose Pond Road.

To Ms Scully's question where would people go to if there are any problems, Mr.

Venell advised that would be the Code Enforcement Officer with Mr. Weeks suggesting that they call him.

Mr. Cashin stated he hasn't ever seen an application where the land owner chose the trees to be removed. He asked if it was possible that the Town receive confirmation from the forester that the plan was followed with Mr. Paul explaining that he has requested a letter of compliance.

Mr. Venell didn't think it mattered who marked the trees, but rather who controlled the job.

To Mr. Venell's question of how many loads did he think would be taken, Mr. Weeks said probably ten.

To Mr. Cashin's question if he knew when the area to the north of Moose Pond Road would be completed since he is concerned about the school bus schedule, Mr. Weeks explained the plan is to begin work on the area outside the setback where they have constructed the landing, then move across the road and go on from there. He mentioned the sight distances are good in the area where the landing is at this time. He said he will have flagmen and cones in that area. He

explained that when leaving the site, the trucks drive toward Sanford as they are going to Lavalee Lumber.

After ascertaining that there were no further questions or comments, Mr. Venell closed the public hearing at 7:35 PM.

**D. OLD BUSINESS**

1. **Nathan Weeks – Timber Harvesting in the Shoreland Zone – Near Moose Pond Road** – At this time, the Board reviewed the Conditional Use Permit – Article 6.6.3.7 - criteria which is contained in the file. After a brief discussion, the Board took the following action:

A Motion was made and seconded to approve a Conditional Use Permit for Nathan Weeks subject to the following conditions:

1. That no oil, gasoline or the like be stored or disposed of on the site.
2. Storage of fuel will be at the landing site only.
3. After completion of the project, the forester will submit a letter indicating that it complied with all of the State and Town regulations which should include erosion control.
4. The cones will be erected at the intersection of Mann and H Roads when trucks are leaving the site.

Cashin/Gallagher – Unanimous.

2. **Nancy Maloney – Fulton Road – M118/L1 – Site Design Review for a Private Recreational Facility** – Mr. Paul stated he was unable to find this exact use in the Ordinance, but feels it is best described as a “private recreational facility” since that is the closest category to what is being proposed.

Ms Maloney submitted a plan for the Board’s review and indicated the path to the new structure which is the existing path from the house. She indicated the location of the docks in the water in two areas and stated access to the water will be restricted to the location of the new structure.

Mr. Paul mentioned that the structure(s) will have to be sprinkled.

After addressing the criteria for a Site Design Review, it was determined that everything that is required has been submitted and this application can be placed on the May 20, 2010 agenda.

3. **Sandra Jones – Minor Subdivision on 777 Milton Mills Road – Manley Gove** advised he will be representing the applicant in this matter and submitted a plan for a three-lot subdivision. He stated that the driveway cuts have been approved by MDOT as they appear on the plan. He mentioned there is an existing driveway and they will add another. He advised that the surveyor, Frances LaPierre of Post Road Surveying, will be placing the stakes on the site on Friday, May 7, 2010. He submitted a letter from the surveyor containing the waivers being requested which are as follows:

1. Hydrogeologic assessment;
2. Traffic impact analysis;
3. High intensity soil survey and
4. Elevation datum on mean sea level.

Mr. Venell suggested waiting until after the site walk to deal with the waivers and mentioned that the Board can waive what is being requested. He stated SMRPC is reviewing the project To Mr. Cashin’s comment he didn’t think sending applicants to SMRPC is a good idea as that agency should be working for the Town and not the applicant, Mr. Venell mentioned doing so saves the Board’s time. He stated SMRPC is being paid by the applicant and not the Town since establishing an escrow account for the funds to pay SMRPC involves more work. He said he

will speak with the Town Treasurer to see how to set up an escrow account [for payment to SMRPC for reviews requested by the Board].

To Mr. Venell's question regarding the amount of property located in the wetlands, Mr. Gove advised they have been broken down by lot on the plan. He suggested that the Board contact the surveyor as the applicant is in the hospital and he will be out of the country shortly.

Mr. Venell advised that everything has been submitted for the preliminary plan review so scheduling a public hearing would be in order at this time if the Board wishes to do so.

A public hearing was scheduled for Thursday, June 3, 2010, at 7:00 PM.

Mr. Gove stated he would like to expedite the process because a closing has been scheduled and the buyers will lose their Federal money. He asked that the Board act on the waivers now.

At this time, the Board reviewed the required submissions for the final plan.

Regarding Note #11 on the plan which deals with a dry hydrant, Mr. Venell explained the Board generally requires sprinklers. He acknowledged that is a problem for the existing dwelling.

Mr. Paul advised he has no problem with the waivers being requested, but Note #11 on the plan is a problem. He said the new dwellings have to be sprinkled, but not the existing dwelling.

A Motion was made and seconded to grant the waivers requested above for Sandra Jones' minor subdivision at 777 Milton Mills Road contingent to notification from a well driller that there is adequate water for the two new lots.

Cashin/Jones – Unanimous.

It was noted that Note #11 on the plan must be modified to indicate that the two new dwellings require sprinklers for fire protection.

At this time, the Board scheduled a site walk for Saturday, May 22, 2010, at 10:00 AM.

#### E. NEW BUSINESS

1. **Deana and David Anderson – 1141 Lebanon Road – M262/L4 – After-the-Fact Conditional Use Permit for a Two-Family Dwelling** – Thomas Worcester advised he would be representing the applicants in this matter. He indicated the location of the existing dwelling on the plan and explained the proposal is to construct an apartment in the existing garage. He advised the construction has been done and they paid the contractor for the required permits as indicated on the proposal, but he never obtained them. He mentioned that the apartment was constructed in 2007 without a Growth Permit, but the original dwelling was already there. He stated the waste water is hooked into the existing septic system which requires an evaluation by a soils engineer for the apartment. He informed he has a stamped plan from the surveyor.  
Mr. Paul explained the lot contains five acres with 350' feet of frontage so it meets the Ordinance requirements. He mentioned when the apartment was constructed, there was no need for a Conditional Use Permit, but since one is required at this time, the permit fee is double because it is now an "after-the-fact" permit. He said he would be able to make an abutter's list for Acton, but not for Sanford. He suggested that the Board not deal with the plan for the house, just the apartment.  
Mr. Venell advised that the Board will need an abutter's list in both towns for the public hearing notification, a copy of the deed and a copy of the survey.  
At this time, a public hearing was scheduled for Thursday, June 3, 2010, at 7:00 PM.
2. **Cynthia Wyatt – Milton Conservation Commission/Piscataqua Region Estuaries Partnership (PREP)** – Mr. Cashin advised that Ms Wyatt was unable to attend the Board's Meeting this evening, but she will be here on Thursday, May 20, 2010. He gave a brief overview of what will be discussed when Ms Wyatt appears before the Board as it relates to a partnership

between Acton and Wakefield, New Hampshire regarding the development of zoning ordinances to protect the water bodies shared by the two communities. He stated he was made aware that Milton, New Hampshire had adopted the very restrictive ordinances at their recent town meeting to address the various issues that threaten the water bodies shared by Maine and New Hampshire. He mentioned previous information received by the Board from the Piscataqua Region Estuaries Partnership and their recommendations concerning local zoning ordinances. He stated he would appreciate the Board adopting a resolution about entering into an agreement with Wakefield, New Hampshire to apply for a non-matching grant for the purpose of hiring consultants to assist the two communities in developing a phosphorus control ordinance. He said there will be no cost to either community and they will be working with PREP. A Motion was made that the Acton Planning Board resolves to take the first step with the Wakefield, New Hampshire Planning Board in seeking a joint grant application from PREP to investigate the opportunity to improve the water wildlife habitat as there will be no cost to the Town of Acton. Cashin/  
Gallagher – Unanimous.

F. **CODE ENFORCEMENT OFFICE BUSINESS**

**Dame Farm Right-of-Way** – Mr. Paul read the request submitted by John Hutchins dated April 30, 2010. He advised Mr. Hutchins would like to construct a garage, but it will be too close to the right-of-way. He said the property owner would like to move the garage further into the property, create a defined description of a 50’ right-of-way and give the abutter a 50’ right-of-way across the Bedard property. He mentioned that the right-of-way exists and is being used, but it needs to be defined. He said the 50’ right-of-way will serve as a road for the purpose of developing the property in the back someday and when that occurs, the Bedards will have another 400’ of frontage. He mentioned the Board could request that the road be constructed now, but the use won’t change at this time.

During a review of the information before them, it was noted that doing as requested would create a non-conforming lot which the Board cannot do.

G. **OTHER BUSINESS**

There was no other business to come before the Board.

H. **ADJOURNMENT**

The Meeting was adjourned at 10:05 PM.

Respectfully submitted,  
**ANNA M. WILLIAMS**

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ANNA M. WILLIAMS,

Recording Secretary