

Town of Hill
Planning Board minutes
20 June 2019

Board members present: Mike Brady, Tom Whitman, Marshall Bennett, Bob Helmers,
Excused absence: Charles Estes
Public: Dave and Tina Madore, Steve Thompson, Alan Barnard, Tom Hann

Meeting opened at 7:05 p.m.

Mr. Helmers made a motion to accept the application by Green Acres Woodlands for a subdivision of land near March Pond. Motion seconded and passed unanimously.

The hearing for the subdivision was opened at 7:10 p.m. No abutters were present. Mr. Barnard and Mr. Hann approached the table and distributed updated plans. Mr. Helmers summarized the subdivision proposal for the benefit of the Madores. Green Acre Woodlands would like to subdivide a 10 acre lot from a large parcel in a remote section of Hill with access by a class VI road. The property has a small cabin and frontage on March Pond. There were no significant changes from what was presented at the May meeting. The Society for the Protection of New Hampshire Forests, which holds an easement on the property, had sent a letter consenting to the subdivision of one 10 acre lot, rather than two five acre lots, which the easement allows. Mr. Barnard also presented a draft form entitled Waiver of Municipal Liability for Class VI Highway. Mr. Barnard stated that the subdivision would be a benefit to the town as a slight increase in tax base and the town would be released from liability on March Pond Road. Mr. Helmers noted that the plans comply with town regulations and approval of the application would depend on the town granting a waiver of the subdivision regulations prohibiting subdivision on class VI roads. He noted that the hearing was the appropriate time to address questions or concerns regarding the waiver. Mr. Brady commented that he did not think the waiver would be valid as selectmen only grant waiver for class VI roads for building permits. The validity and terms of the waiver would need to be checked by town counsel. Mr. Barnard noted that the terms had been drafted by an attorney and complies with RSA 674:41 and that the terms should be adequate for the planning board to grant waiver. Public hearing closed at 7:25 p.m.

Discussion of the matter began thereafter. Mr. Barnard and Mr. Hann remained at the table and were allowed to comment during deliberation at their request. Mr. Brady stated that he did not think a hardship or injustice exists, referring to the economic well-being of the applicants. Mr. Helmers suggested that the hardship be viewed more like a zoning board definition relating to the uniqueness of the property and be applied to the property, not the owner. Mr. Brady pointed out in Section 8.3 that the land subdivision regulations state "...undue hardship or injustice to the owner of the land". Mr. Brady expressed concerns that if approved, the property would appear on plats and would likely attract persons interested in developing waterfront properties. He noted that title and deed restrictions are often not made by realtors or buyers. He anticipates that new landowners may resent being denied the right to improve the property, likely leading to litigation. He also noted construction in Hill is sometimes done without landowners consulting the selectmen's board or obtaining building permits. The town does not want to be forced into providing services in such a remote area and the liability release is very important to the town. He again stated that he did not think the waiver would be valid or if the planning board had the authority to grant such a waiver in conjunction with a subdivision. Mr. Hann noted that the uniqueness of the proposed property is that a cabin already exists on the property and that all the surrounding land cannot be developed. The proposed subdivision would negate the exclusions noted in section 6.1.A of the town regulations. Mr. Whitman asked if the cabin was built prior to zoning. Mr. Barnard stated that the cabin predates the zoning ordinance. Mr. Whitman stated that he did not think the town should be granting exceptions. He expressed concerns that future applicants could cite this exception and demand that they

be granted one too. He noted that the town has been involved in too many court cases. Mr. Helmers noted that recent court cases should really not be considered relevant in this matter. Mr. Barnard suggested that the board decide if the proposed subdivision would substantially comply with the spirit of section 6.1.A. Mr. Whitman said it would take time to take a close look at 6.1.A. Mr. Bennett expressed some concerns about future owners restricting access to March Pond. Mr. Helmers stated he thought a waiver could be granted because the building already exists and there would be no need for the town to provide any services, essentially there is no harm in granting the subdivision. Mr. Brady again stated that he did not see hardship or injustice in this matter. There was a brief discussion regarding the waiver form provided by the applicants. There was uncertainty as to validity of the waiver form if approved by the selectmen or if the planning board could approve a waiver for a subdivision. Chair suggested he could forward questions to town counsel. Discussion seemed to stagnate and Mr. Helmers stated he was not going to make a motion to deny the waiver. It was clear that Mr. Brady and Mr. Whitman were prepared to do so. Mr. Barnard requested a continuance of the matter. After a brief discussion, board agreed to continue deliberation at the next meeting July 18 at 7:00 p.m. Mr. Hann and Mr. Barnard departed.

Dave and Tina Madore approached the table. Mr. Madore has been in contact with Mr. Helmers for past few months. He currently lives in Connecticut, but plans to move to Hill soon. He is establishing a small construction business and had originally contacted the town to see if permits would be required. There was a brief discussion as to the scope and size of the operation. Mr. Madore plans on a small construction business from his house, with a few ladders and platforms stored on site. There will be no employees and no construction on the site. Board decided that site plan review regulations were not needed because the business was small, more like a home occupation. Mr. Brady thanked Mr. Madore for coming in to see the board as other individuals in Hill often begin operations without consulting the zoning ordinance or the town prior to beginning operations. The Madores departed.

Mr. Helmers distributed a handout of the first 11 pages of Chapter V: Application, Submission & Review Procedures of the 2018 edition of The Planning Board in NH published by NH OSI. He asked that members read it before the next meeting and be prepared to clarify the boards procedures.

The May minutes were reviewed. The board determined that factual errors existed in the minutes. The minutes will be re-considered at the July meeting.

Meeting adjourned 9:15 p.m.