

Minutes of the Franklin Planning Commission
Tuesday, July 19, 2016
Homestead Dining Room

Members Present: Clark Hubbard, Dan Larivee, Judith McLaughlin, Rolland Rainville, Dave Bennion

Members Absent: Peter Kittell

Other: Maureen Sodaro, Secretary

Guests: Suzanne Hull-Parent, Amanda St. Pierre, Michael Gervais (Surveyor), Fran Hopkins, Curtis Ploof, Ed Rainville (Selectboard), Donna Benoit, Jamie Benoit, Peter Magnant (Selectboard), Yvon Dandurand (Selectboard)

Meeting called to order at 7:03 pm

Approval of Minutes: Minutes were discussed after Taylor Newton left the meeting. Clark asked if members had any questions about the June minutes. Rolland made the motion to approve the minutes, Dan Larivee seconded the motion. All members but Judith approved the motion. Clark asked Judith if there was a problem with the minutes. She did not feel they addressed all her issues, but said it did not matter.

Mail Folder: no mail

Old Business: no old business

New Business:

Hull Property Subdivision Proposal Review:

The meeting began with introductions as well as connection to the proposed subdivision. Clark said that it has been brought to his attention that he may have a conflict of interest with the proposed subdivision. Clark stated that he is a distant cousin (4th or 5th cousin) of the Hull family, and does not own property attached to the Hull property. He stated that his mother does own property. Clark read from the bylaws the definition of "conflict". He asked if anyone felt he should abstain to speak out. Judith would like Clark to abstain from voting as he is a cousin. Clark responded by stating "as a 4th or 5th cousin." Amanda St. Pierre is requesting that Judith abstain as she believes that Judith has some feelings against Amanda and Mark St. Pierre. Judith responded by saying "I don't even know you". Amanda St. Pierre stated that she has it on record some complaints that have come in regarding their farming activities. Clark stated that the PC is in a deadlock if both he and Judith abstain. He stated if they abstain there are only three members of the PC available. Clark asked the Selectboard members to respond to the fact that he is a 4th or 5th cousin, not living in the household, and not prospering from this proposed action. He wanted to know how the Selectboard would rule on this. Peter Magnant stated that the Selectboard cannot rule on Clark abstaining. Peter feels it has to be a personal choice whether or not to abstain. Peter's personal feeling is that if Clark feels he does not have a conflict, he cannot see why Clark should abstain. Clark stated that he has nothing

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financial to gain from this subdivision, and will not abstain. Judith also stated that she will not abstain as well.

Michael Gervais handed out sketch plans of the parcel to the PC members and went over the plans to those in attendance. There was a review to make sure that the map met all requirements of the Town Plan. Clark went over all the subdivision rules to make sure the sketch plan met the requirements.

There was a question by one of the Selectboard members about a brook on the property. He wondered whether or not the brook is a year round running brook. Michael answered that it is not listed as an intermittent running brook.

Questions regarding the map. Fran Hopkins requested to view a map. Clark thought that everyone had a copy. Clark explained to Judith what portion of plan review the PC was following. Clark answered that he was reading from the sketch plan review requirements. Judith thought that at the June meeting the PC did a sketch plan review, and Clark responded by stating that was a preliminary sketch plan review. There was discussion regarding whether or not the Franklin Homestead was interested in lot 2. Clark said that the Homestead was interested so that no one can build next to their facility. The Homestead has not signed an agreement yet. Amanda St. Pierre stated that if the Homestead buys a lot, there are no plans to build on it. It will be left as is. Maureen Sodaro asked for confirmation on the lot number that the Homestead is interested in. Clark said lot #2.

Clark reviewed again with Michael Gervais the requirements needed on the maps. Clark also handed out the application for the proposed subdivision. Clark said there was a question about a right of way going across the water. It is his understanding that the right of way was kept because the land is "landlocked" and the right of way has to go through the Army Corps of Engineers if the land were to be developed. He also said that if there were to be future development that would entail an action by Zoning Administrator and PC.

Judith asked if there was an access permit, and Michael answered that there were no plans for driveways or access on the properties other than a walkway. Judith said that there is a proposed ROW off a state highway. Michael stated that in the future if a driveway(s) were planned, an access permit would then have to be completed. Judith said that the state requires an access permit in order for the PC to approve the Mylar with the current ROW. Suzanne Hull-Parent stated that the land is not being developed. Judith said that the regulations have nothing to do with development. They have to do with access permits. Michael Gervais said that they are not asking for access, this is currently a walkway from the public ROW. Judith gave Michael copies of the state regulations regarding access permits for ROW connected to a state highway. Judith said the PC cannot approve the plan as it is shown according to the state regulations.

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Amanda St. Pierre stated that the ROW is being used for farming, and that tractors use it. Nothing new is being proposed. Amanda stated that she does not understand why Franklin would be any different than Enosburg, Berkshire, or Richford in which a similar proposed ROW has been approved. There are no proposed cutouts to the state. The only time they have had to get access permits was if they were to propose a new drive cutting into the main road. Amanda wished that her statement be recorded on record. Judith would like it recorded on record that according to her interpretation of state law she disagrees with Amanda St. Pierre. Judith said that she is sure the state will have a say about it.

Clark stated that his understanding is that a ROW needs to be kept to get to a piece of property. Once you do a curb cut to include a driveway, you need to get an application for a driveway cut for that. If you are not changing the use and stating that one can walk through the property, you can do that. Clark said he had property that are in the Franklin bog and had a ROW through it that the state granted without a road because it was across land owned by the state. The state statute states that you have to have a ROW in order to sell a piece of property.

Judith stated that in order to subdivide land and in order to record a deed, the state requires that a right of way has to be already permitted by the state. Although it may not have been done in Franklin in the past, the Hull family is subdividing along a state highway. Judith also stated that a curb cut is if you actually have to cut the curb- it is an access permit.

Clark asked whether or not there was a curb cut on the property. Amanda St. Pierre stated that there was no curb on the road. Clark explained that it is a main road, and that normally a curb cut comes out 6 inches from any old drives. Michael Gervais pointed out that there are two right of ways proposed. There are access points on lot one and two, but cannot state for certain that they are inside the ROW where the actual curb cuts exist now. Yvon Dandurand asked Clark if there are currently curb cuts, and Clark said yes.

Fran Hopkins asked whether the right of way on lot 2 is across the road from her house or not. Amanda St. Pierre said it is not directly across from her house. Fran expressed a concern regarding traffic if the Franklin Homestead decides to develop the land, there would be increased traffic in front of her house which is a concern. It would affect her privacy as well. Michael Gervais responded to Fran Hopkins that such an issue would involve a new hearing. Peter Magnant asked whether or not the land is being actively sold to the Homestead, and Amanda answered affirmatively. Judith read from page 30 of the Town of Franklin Development Regulations. She said that an access permit is required since Rt. 120 is a state highway. It is part of the submission requirements in the town plan. Michael Gervais answered that he read through the packet that Judith gave him, and did not see a requirement in the statutes that there was a restriction on the ROW- actually on the construction of a ROW. He stated the regulations were stated for new curb cuts and new right of ways. Judith stated that the town of Franklin requires that

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a permit is needed. Judith read from town regulations that a deed cannot be recorded unless all requirements regarding access are met. She said the Hull family needs a state permit.

Clark read from the regulations regarding access permits. He feels it does not apply to pedestrian access only if it involves vehicles. The state of Vermont does not get involved unless vehicle use is involved. Michael Gervais requested that when the PC deliberates, they make a condition that any state permits be required to be obtained prior to the application be approved. Amanda asked Michael Gervais how long he has been involved in his current line of work, and he said owned his own company for 8 years, and working at this process for 15 years.

Clark asked if there were any other questions.

Rolland asked about the proposed right of way. Michael Gervais stated that it is a shared right of way. He showed a map of the existing right of ways. Rolland asked about the right of way to the meadow and the homes on the hill. The ROW to the homes on the hill that was temporary and was dissolved as stated by Suzanne Hull.

The PC asked the guests to leave the meeting so that the PC and the Selectboard can discuss the proposal.

Discussion:

Maureen asked is she should remain or leave since she lives across the street from lot 2, and Clark said that she should remain as she is part of the committee.

Judith talked about the Craig Adams subdivision. When he subdivided his property and created 4 lots, he had access coming off a state road. He incurred a large offence and had to redesign the access because he did not ask the state for a permit. Judith is against the subdivision being done with this current Mylar. If the land is sold with the proposed right of ways off of a state road without a permit they are duping the buyers. Judith feels the state should decide on the matter. She does not feel the PC can approve it. Clark said that the agency of Transportation will only enact if one is having access by vehicles. Ed Rainville said that he sold land to his brother in law that was landlocked. He went to three different lawyers to discuss the need for a ROW. He was told that he needed to get a ROW that served the reasonable use of the land behind it. There was discussion of what is reasonable use for the land. The ROW had to be classified as reasonable interpretation. Clark said that Michael Gervais has agreed to go to the state to apply for the ROW. Clark that the PC will not sign off on the proposal without a letter from the State of Vermont stating that an access permit is not needed, or that a permit from the state was obtained. Judith would like this not be approved until the requirements. So approval is contingent on the presentation of paperwork from the state whether or not an access permit is needed. If it is needed, the access permit must be received.

Clark proposed that the PC approve with contingent that the applicants get a letter from the state with either an approval for access permit or a letter from the state that they do not need an access permit for the 2 ROW's going off of the subdivision. Judith asked for confirmation regarding the contingency being met. Clark said that if all requirements are met, he will sign off on the proposal. Maureen asked who receives the paperwork that is

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being required, and Clark said it goes to the Zoning Administrator who will then notify the PC.

Clark made a motion to approve the subdivision review maps on contingency that they either supply the PC with an access permit granted by the state for the 2 ROW off Rte. 120 or a letter from the State Board of Transportation stating that there is no access permit needed for the two ROW for the proposed development. The motion was seconded by Dave Bennion. Four members of the PC said aye. With contingency the motion was approved. (Secretary note- I did not see whose hands went up, so it is not noted who approved the motion.)

The guests were asked to return to the meeting. Clark explained the ruling of the PC. He said that if the contingency is met, paperwork must go to the Town Clerk office to the Zoning Administrator. The PC will proceed from that point. Clark said that he will sign off the Mylar, and inform the PC members when that happens. At this point, the guests involved in the subdivision left the meeting.

Taylor Newton remained to discuss with the PC his plan and timeline for assisting the PC in updating the Town Development Regulations.

Taylor explained to the PC the map showing the River Corridors in the Town of Franklin. The map shows river corridor is a concept developed by the department agency of natural resources (formerly erosion hazard areas). He explained 100 year flood plains, and the fast moving waters eroding banks. Taylor explained what parts of the map are regulated by the town plan. He stated that the river corridors require a 50 foot setback from banks of the rivers and other requirements of river corridors. Right now river corridor is regulated through act 250. They are exempt from agriculture and forestry. The state is making a push for towns to adopt river corridor maps. If municipalities adopt this in regulations, they are eligible for funds from the state in the event of flooding. Taylor discussed the funding that was in place before Hurricane Irene and the funding that is in place now. He told the PC what regulating the river corridors means to towns. Dan Larivee told Taylor his concerns regarding the erosion of river banks and how it affects the landowner without banking the riverbanks with stone. The State of Vermont is not going to line riverbanks because the movement of the rivers is priority.

Farms are not regulated by the state with regards to the prevention of erosion of river banks. There was further discussion of erosion prevention. If towns do not adopt standards, they will not receive benefits from the state. The PC discussed the damage caused by hurricane Irene in the towns that were affected.

The PC members looked at the river in the town and the buildings that could be affected by flooding. The map will be sent to the Town Clerk office. Clark would like to know about old fill and also what the state's position is on beaver dams.

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Clark would like our Town Clerk to look into fiscal planning grants. Clark wondered how the grants are given. Taylor said it is competitive not first come first serve. He is advising that towns ask for as much money as possible from the State of Vermont. Grants are awarded by December 1.

Taylor will find out information to answer questions that the PC members had and bring back to the next meeting he attends.

Taylor went over the timeline he developed in order to help the PC with the Town Plan. The plan should be completed by June 2017. When the plan is completed it can be given to the Selectboard for approval.

Judith asked Taylor to bring copies of the regional plan to the PC. She would definitely like a copy. He will bring several copies to the PC.

Taylor will send to Clark a draft of what he is proposing before each meeting and Clark will send to the PC members for review. Clark would like to know what the state is mandating or what Taylor is proposing. The last time the Plan was being developed, the PC needed to meet the state mandates. Clark wants to know what is required by the state. Taylor will make notations on the drafts sent to the PC.

Taylor wants the PC to look at the Policy and Objectives portion of the Town plan as he is having difficulty differentiating between the two.

Taylor left the meeting.

Discussion of the June minutes (see above) took place.

Dan talked about the changes in the memorandum from the Public Service Board. Copies were given to the PC.

Maureen stated that her computer froze during the meeting, so will have to use the tape recorder to complete the minutes.

Clark had a question for Judith. He said that when the PC was discussing the subdivision, Amanda St. Pierre stated that Judith had a problem with them. Judith responded by saying she does not know them. Clark said that he is just asking because Amanda St. Pierre had said that something was on record that Judith had gone after them. Clark said that he heard Amanda say that Judith's husband has. Judith said that she does not know Amanda or her husband. Clark wondered if either Judith or her husband had a grievance with them. Judith said that her husband is his own person. She would not know if he had said anything. Clark said he was asking because he was curious. Dan said that the St. Pierre's rent land near Judith. She was not aware of that fact. She said she thought it was the Benjamin's.

Clark made the motion to adjourn the meeting, seconded by Dan. All were in favor of adjourning the meeting. Meeting adjourned at 8:50 pm.

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The next regular meeting of the Franklin Planning Commission will be held on August 16, 2016 at 7:00 in the Homestead Dining Room.

Respectfully Submitted,
July 21, 2016
Maureen Sodaro, Secretary

Note: These minutes are not final until approved by the Planning Commission at the next regular meeting.

DRAFT