

PRESENT: Vadney, Chairman; Sorell, Vice-Chairman; Bayard, Secretary; Bliss; Finer; Granfield, Tivnan, Clerk

ELECTION OF OFFICERS

Bayard nominated Herb Vadney for Chairman, Finer seconded. Voted Unanimously. Finer nominated Roger Sorrell for Vice-Chairman, Granfield seconded. Voted unanimously. Sorrell nominated Bill Bayard for Secretary, Finer seconded. Voted Unanimously.

CIP Committee Representative – Bill Bayard was the permanent representative last year and Pam Bliss was the alternate. Bliss suggested that Bill stay as the permanent and that someone else be the alternate. Lou Kahn was nominated but was not there to accept. Voted unanimously for Bayard as the permanent representative and to table the appointment for the alternate.

Finer moved, Bliss seconded, THAT THE MINUTES OF FEBRUARY 22, 2005, BE APPROVED AS PRESENTED. Voted unanimously.

Workshop – NFPA (Chuck Palm)

I am here to discuss water supplies for suburban and rural fire fighting. The guidelines for this process are included in the NFPA 1142 and were discussed at a previous meeting with this Board. Subsequent to that time all new developments consisting of a minimum of 4 lots, have been included for review by the AHJ (Fire Department). A variety of solutions have been used to provide reasonable compliance with this requirement of the State Fire Code. One solution is municipal water and fire hydrants that Mile Point and Meredith Bay Village use. Another is to be located next to an existing adequate and reliable source of water, such as Collins Brooks. Crestwood and Clover Ridge used the installation of an approved cistern(s). Crestwood will have two cisterns as the phases of the development are being built. Two locations are researching the installation of a dry hydrant either to a new fire pond or existing pond.

Recently an alternative was offered to require houses to be constructed with at least a 13 D sprinkler system for a proposed location at Hatch Corner, NFPA 1142 states that an approved sprinkler system can be considered as an

alternative for the adequate water supply requirement. The reasoning behind this alternative is understandable given that the primary purpose of a sprinkler system is to contain/control a fire for a reasonable period of time until fire suppression is accomplished. A good example of this was the fire at the Camp restaurant. I don't think we used 50 gallons of water. This would reduce the need to have a large quantity of water available for fire suppression. The 13 D sprinkler system is a design parameter for one/two family homes, with water for the sprinkler system being obtained from the domestic supply. Bliss - What is the average price for this? Palm- Approximately \$2000. Vadney- How about winter if the house is left unattended? Palm-It would freeze up. Vadney - What kind of upkeep? Is there any testing? Palm - As far as the testing, the only thing they require on the 13D is once every two years they do a flow test on it. Vadney - Our concern as a Planning Board is telling someone they can subdivide if they put in this system that cost x dollars and requires upkeep. The one out on Hatch Corner Road is a 4 (?) -lot subdivision. They may be a threat to themselves but they are not much of a threat to anyone else because they are several hundred feet apart. Where's the limit? Palm-Somehow we had to comply. Putting a cistern out there did not make sense. I would have loved to have seen it, because it would have helped us with all the other houses in the area. Granfield- Is this hooked up to any alarm system? Palm- There is no requirement for them to go to a central alarm system. Finer - Who's going to be responsible to know that these systems are up and running? Palm - For a CO, I do that now. After that at the present time I do not. Vadney - Are we putting requirements on the deed that are unenforceable? Palm- At the present time, I do not have the authority to actually go out and inspect them. I think if the insurance companies are going to be giving them discounts, they will do the same thing they do with wood stoves. Every time you renew your policy, you need proof from the Fire Department that the wood stove has been maintained. Bayard - We are concerned about the cost, but it sounds like it is considerably less than a cistern. Palm - I feel very comfortable with the requirement, I just haven't hit the requirement yet. Vadney - Comments? Sorell - I think it is going too far when big brother is telling us that we have to put sprinklers in our house. Vadney - I am a little uncomfortable with it myself. Finer - Especially when you consider the fact that it is going to be a very short span of time, I think, before the Fire Department is going to be coming before the Town for a full-time Department. For them to classify that as a rural area with a low water supply does not fly. They have water all around them there. They have hydrants out on Rt. 104 if they need it. They have how many fire trucks and no problem with getting a response from the firefighters. Plus, there is no enforcement to it. Vadney - If the homeowner is willing to accept some risk, let him. Finer - Those houses aren't near each other. Bliss - I think we should look at it on a case-by-case basis. Sorell - This year already, we have lost our power a total of 7 days. There is not a water system that will last over night. It is a stupid idea in this neck of the woods.

APPLICATION SUBMISSIONS

1. **DEREK MAKSY AND RICHARD KELLY FOR ROBERTS RECREATIONAL LLC** – Proposed minor subdivision of Tax Map U17, Lot 15, into two lots (10,951 Sq. Ft. and 7,313 Sq. Ft.) located at 95 Pleasant Street in the Shoreline District. *

Application, Subdivision Plans and abutters list are on file. Filing fees have been paid. Applicant requests a waiver of topography and drainage analysis. Recommend the waivers be granted and the application be accepted as complete for purposes of proceeding to public hearing this evening.

Sorrell moved, Bliss seconded, THAT WE ACCEPT THE APPLICATION OF DEREK MAKSY AND RICHARD KELLY FOR ROBERTS RECREATIONAL FOR A PROPOSED MINOR SUBDIVISION. Voted unanimously.

PUBLIC HEARINGS

1. **STAN JACKSON FOR CONVEX, LLC (Rep. Carl Johnson)**– Proposed modification to conditions of a 7-lot subdivision approval granted to James Belcher in 1989. Applicant is requesting that a condition restricting Tax Map R29, Lot 2D, from further subdivision be removed. Property located on Batchelder Hill Road in the Forestry/Rural District.

This presentation will be in three parts. The first part is to explain why we are here. The second is to explain a brief history of the project and the third is to try and explain the reasoning for the original restrictions on further subdivision.

In 1988 and 1989, Mr. Belcher went in front of the Planning Board for a subdivision. At the time, Batchelder Hill Road did not exist. Mr. Belcher, as part of the Subdivision (Eagle Ledge), dedicated a 50' strip that is now known as Batchelder Hill Road. This subdivision was brought in front of the Board in December 1988. During some discussion at that meeting, it was tabled. In January 1989 it was brought back and the Board approved the Subdivision. The Subdivision in the minutes, state that they approved the subdivision of James Belcher with no further subdivision of lots, except #8. The note restricting the further subdivision of any of the lots in this development never made it to the mylar. The mylar was signed on a Tuesday and recorded on a Wednesday. Consequently, as Mr. Belcher sold the lots, there is no stipulation in any of the

deeds that the lots could not be further subdivided. Why this happened we do not know. But it is important to remember that lots have been bought and sold with no understanding that the lots could not be further subdivided. Let me make it clear that we are not asking for Subdivision approval. We are here simply to determine if that restriction is valid or moot. We would have to appear before this Board at a subsequent hearing and make a determination if the lot has the physical characteristics necessary to support a subdivision. One of the issues that we considered as a possible source of the subdivision restriction was the density. At the time, the Town of Meredith liked to consider subdivisions in that part of Town to have a 5-acre net density. The note on this plan says the new density of lots 1-23 plus roads are 5.0065 acres per lot. That is important because you can see that the 5-acre net density rule at that time did not include the area that was subsequently developed in 1988 and 1989. So they were not using this to come up with their 5-acre net density. On the plan, Lot # 5, some of the elements that show up are a seasonal drainage, and associated setbacks. Ames Associates and Associated Surveyors were hired to do work on this lot. We looked at some of the aspects that might have been pertinent in 1988 & 1989. In 1988 & 1989 we did not show the extent of the drainage. We showed a seasonal drainage going down in some setbacks. This is a very narrow and seasonal drainage that runs up the entire length of the lot and another small one that is associated with some wetlands. You can see that with the benefit of the setbacks being reduced, we now have a bigger buildable area available. There was only one test pit done for each one of those lots, so it was questionable whether you could get additional good test pit areas because of the steepness, topography and wetlands. There have been further test pits done on the lot to further indicate that that is not today an issue when it comes down to whether or not the lot was subdivided. Vadney-The fact that they only did one test pit would not have been justification to put a statement in there that said, "can not be subdivided". Johnson – We don't believe so. The tapes of the meeting are gone. Roger was on the Board and Harry Wood was the applicant and John Edgar was just starting out. None of us can identify what the reason was for the restriction on the lot. We contacted Mr. Belcher. His impression was that the discussion was whether he was going to subdivide any more lots. He was representing to the Board that he was not. He personally did not believe that was a statement made to the Board to forever further restrict any subdivision. That is why he did not put any restrictions on any of the deeds he offered. Some of the issues that might have been pertinent would be driveway entrances, site distances. Were the lots on a road that was so windy and so substandard that you could not get any more than one driveway for each one of these lots? In 1988-1989 Batchelder Hill Road was a brand new road. That was probably not an issue. Jackson has met with my father and talked about driveway entrances onto this lot, and there are no issues for access. The possibility of wetlands and drainage might have been an issue

but as you can see now that the drainage is well defined and narrow, If you look at the issue of topography, there are some steep parts, but there are some fairly flat parts to the lot also. This topography was available back then. Vadney – What is the rough elevation from Batchelder Hill to the back of the property? Johnson - I will have to count lines because we put a stop to the details of the plan because we did not want to make it look like a subdivision plan. I would say over 100'. Vadney – This looks more like 250'. Johnson – John Edgar consulted with Town Counsel over this situation. If you look at John's Staff Review, Town Counsel says that if there is no apparent rationale behind the restriction, or if there was, but it is no longer valid today, then it would be reasonable for the Board to take a more favorable view of the request. Assuming there was a rationale or basis, has the rationale become moot or is it still valid? If there was a good reason and it is still valid, then it would be reasonable for the Board to take a narrower, more conservative view of the request. If the Board decided to lift the restriction, it would be specifically for this lot. Vadney – Nothing would preclude those other two lots from asking the same question. Johnson – That is correct, and those lots would have to demonstrate on their own that the same merits held for their subdivision. Vadney – Or lack of merits in this case. Johnson - This is a part of town that is not a rural area anymore. We cannot come up with any reasons in the minutes, or in talking with Harry and the original developer. Based on those facts, as we see them, we are requesting that the Board lift the restriction for no further subdivision for this particular parcel. Vadney – I do see in quotes “ Applicant does not wish to agree to a restriction of no further subdivision of lot #8”. If that is a quote and he specifically said that he did not want to agree to the restriction on lot #8, that at least implies he did agree to a restriction. Johnson – No one is arguing that he agreed to (can't hear) Vadney – But you said you asked him and he said he really hadn't agreed to it. Bayard- If you look at page #17 in the minutes it says he will accept a restriction of “ no further subdivision” on the other lots. Johnson – What I tried to say was that “He” had no intention of further subdividing any lots. Vadney - If he said it, maybe from a legal standpoint, he was speaking for the piece of property and that is how the Planning Board took it. Johnson – This is a delicate situation in that Town Counsel I did not form an opinion as to who's responsibility it is when there is restriction placed on a subdivision and the plan is recorded to make sure those restrictions are recorded on the plan. Vadney - It is clear we do not know why this condition was put in. Johnson – My offering is, if there was a major issue that would have been in the minutes of the meeting. I will say when the setbacks went from 100' to 50' that makes a significant difference. That frees up land for buildable areas. Vadney – The legal situation is absence of evidence, not evidence of absence. Bayard – It reads the way it reads. It talks about reserving #8 and offering up no further subdivision on the other. Finer – I don't think it was something offered up. It sounds like a requirement from the Board at the time. Johnson – Town Counsel has given the Board a range of options. Bliss – I think we have to be cautious. There are two other lots out there with 24 acres.

Johnson - If the Developer stupidly offers no further subdivision and the Board agrees to it, Town Counsel's opinion is that, in itself does not rise to the level where some Board down the road would have to uphold that. Vadney – There must have been something brought up. Wood - At the time we were asked by the Board if you intend to further subdivide. Our answer was that we did not intend to subdivide any of these lots, but we did intend to do lot #8. We were negotiating with a neighbor on the lot # 8 side where we did a boundary line adjustment. After we did the boundary line adjustment, we brought in the new plans for lot #8. with the lots that were created. Bayard - Nothing in the record and not recorded on the mylar. Johnson – Not on any of the deeds. Sorell – What I remember are the steep slopes and the water on that lot. Johnson – If we had done the investigation of this lot and determined there were no buildable areas for test pits or houses, I wouldn't be standing here tonight. There are areas that far exceed the standards on this lot. Worsman – I too have walked that lot. That area is very hilly and I would hope this Board would stick to the prior Board's decision. John Cotton – I own the lot opposite this. (Had a mylar with him, that Johnson put on the Board) Johnson - This plan shows lot # 4 that was carved out of lot #5. This plan is dated Nov. 1988. Johnson – The wetlands have been delineated. Back in 1988-1989 there was not the level of hard wetlands delineations that is required now. Vadney – I think it would be wise to talk with Town Counsel. Hearing closed at 8:30PM

Bliss moved, Sorell seconded, THAT WE CONTINUE UNTIL APRIL 12, 2005.
Voted 6-0 in favor.

2. **DEREK MAKSY AND RICHARD KELLY FOR ROBERTS RECREATIONAL LLC (Rep. Harry Wood)**– Proposed minor subdivision of Tax Map U17, Lot 15, into two lots (10,951 Sq. Ft. and 7,313 Sq. Ft.) located at 95 Pleasant Street in the Shoreline District. *

This property is located on Pleasant Street. It has frontage on the lake. They were granted ZBA approval for variances to create two non-conforming lots. It has operated as a Motel for as long as I can remember. The property now has two structures on it that are connected by a narrow breezeway. The ZBA allowed these lots to be non-conforming in several ways. The applicants are required to create a 10' setback along their common lot line by removing the breezeway roof and part of the structure on Lot 2 to create the required 10' setback. This use will be for two residences. There are two driveways. This has municipal sewer and water for both cases. Pavement on both lots will be removed to meet required coverage limits. The removal of the asphalt and curtailing the existing roadside parking will greatly improve the safety concerns regarding the access and egress to Pleasant Street. Based upon the recommendations of the Sewer and Water Department, we will be splitting the water main to have separate metering. There are separate sewer services now.

I will go over John's comments quickly. We do need to re-apply to the Zoning Board because one of the dimensions turned out to be 1 ½ ' less than what we anticipated it to be. This is the main reason John is recommending no action be taken this evening. We indicated that the lots would be a minimum of 10,000 sq. ft and 8490 sq. ft. What we found was the lots went to 10,951 sq. ft and 7,300 sq. ft. John indicated he wanted driveway permits for the change of use. John also wanted submitted calculations of lot coverage to demonstrate that each proposed lot meets coverage requirements. Utilities have been formally located. We know where they leave the building but not where they are underground in all cases. We have located the municipal manhole. John recommends easements be provided for the water to get from the present service to the other lot and for the sewer to cross the other lot to get to the access. In regards to dockage, John raised a question whether this creates a legal problem. It is my understanding that if you have 50' of frontage, you are entitled to a dock and a mooring. Sorell – What you are saying is that you are going back to the ZBA to get the front line straightened out? Wood – We are also going to answer the question on the size of the two lots. They will be considering whether or not these minor changes will change the whole application or not. Vadney – Nothing says that those two buildings could be torn down? Wood – This has been discussed. In our initial application, it called for one building to be razed in its entirety, moving it further back from the water, keeping it 30' from the street minimum and the new building would be 26' wide. It would not be 50' from the water. Under the new Shoreline Protection "Attitude", if the Town issues a variance that results in that structure being less than 50' from the water, you need a waiver. The Town has taken the position that you go to the State first. That can be a lengthy process, so we dropped it. We told everybody that we will probably go back someday for that. The Zoning Board would see that request. You would not see that. The final result would be a garage 30' back from the road, lifted up to avoid the steepness of the present driveway. The structure would be two-stories with a peak roof and a modest frontage on the lake. The other lot is contemplating construction of a garage with some long-term improvements. That's as much as I know. Bliss – John has a lot of notes in his staff review as far as things that need to be added to the plan. I want to make sure that we see that on the plan. Wood – John is recommending no action this evening. We are looking for your response and questions tonight. I would like to come back to you on the 12th. We will have 90% of everything and we're probably not going to write easements until we get to a conditional point. Pam – So when you come back on the 12th you are going to have all those notes written on the side of the plan. Wood – I'm simply saying I want to reserve the right to come back on the 12th. Hearing closed at 9:00PM

Bliss moved, Finer seconded, THAT WE CONTINUE UNTIL APRIL 12, 2005.
Voted 5-1 in favor.

COMMENTS

The Selectmen are having the Annual Volunteer Recognition Program at Church Landing on Monday, April 4, 2005. Everyone on the Board will be getting a letter.

TOWN PLANNERS REPORT

Reminder that the OEP Planning/Zoning Conference is April 9, 2005.

Meeting adjourned at 9:00PM

PLAN SIGNATURES: Bedingfield - Subdivision, Patricia Nestor - Subdivision, Rusty Bertholet - Site-Plan, Richard Dearborn - Site Plan.

Respectfully submitted,

Chris Tivnan
Clerk
Planning/Zoning Department

The above minutes were read and approved by the Meredith Planning Board at a regular meeting on _____.

William Bayard, Secretary