

**Town of Fitzwilliam  
Planning Board  
Meeting Minutes  
May 7, 2019**

**Member's Present:** Suzanne Gray, Chairman; Terry Silverman, Vice Chairman; A Robin Peard Blais, Secretary; Paul Haynes, Karen Craig, and Barbara Young, Members; Mike Methe, Alternate; and Charley Kenison, Selectman's Rep.

**Member's Not Present:**

**Others Present:** Paul Grasewicz, Surveyor for Ice House LLC and Tousley; Richard Ketcham, Applicant; and Laurie Hayward, Land Use Administrative Assistant (LUA).

**Call to Order:** The Chair called the meeting to order at: 7:00 PM.

**Preliminary Consultation: Ice House & Tousley Boundary Adjustment, located at Ice House Point on Laurel Lake, Paul Grasewicz presented** the plan for a Boundary Adjustment. Both properties are preexisting non-conforming lots, one of which has two dwellings. The property with two dwellings has been the subject of a Planning Board case before when the two dwellings were turned into condominiums. Silverman asked what the point of the proposal is. Grasewicz stated that Johnson, the owner of the Ice House property which has two dwellings wanted more land and Tousley was willing to agree to a boundary adjustment to accomplish that. Gray asked about the access road. Young asked about the boundary as shown and whether the boundary could be changed so that the road was the boundary, as is more customary. Gray asked that Grasewicz provide a completed plan with the application.

**Preliminary Consultation: Richard Ketcham, regarding an addition to an existing dwelling within the Wetlands Protection Overlay District.** Ketcham showed a plan of the current dwelling at 806 Rte. 119 West which is close to Kemp Brook. The plan also showed a sketch of the proposed addition and the distance to the brook. Gray asked about the interior of the new addition. Ketcham stated there would be no new bedrooms nor new kitchen nor baths. Haynes asked about the slope of the land. Ketcham explained that the land slopes down to Kemp Brook from the house. The addition will be on a fairly level part of the property. Gray gave a brief description of the process for a Conditional Use Permit when a construction permit is sought in the Wetlands Protection Overlay District. Gray explained that Conservation Commission needs to be consulted for their concerns. The LUA told Ketcham that the next meeting of the Conservation Commission is the next Monday, May 13th at 7

PM. Silverman suggested that the applicant consider water runoff mitigation efforts like catch-basins, maybe “french drains” to keep runoff out of Kemp Brook. Craig asked about the distance from the brook to the addition. Ketcham explained that the addition would be 62 feet from the brook. The requirement is 75 feet. Ketcham agreed to complete an application and to seek Conservation Commission input.

**Old Business: Davini Draft letter review-** There was a discussion about the history and the general lack of clear information about discussion and agreements in the context of a Site Plan Review. Haynes asked what the Board Members want to achieve with the letter to Davini. Haynes added that he doesn’t know where the Board is going with this when there were no agreements on conditions in the original minutes of meetings. Craig pointed out that there was very little to the application and agreed that there are no clear agreements in the minutes. Young mentioned that there was a concern noted in the minutes that Davini should follow state regulations. Young suggested a more general letter that indicates there may be other concerns might be the best course.

Gray asked for additional input from members. Silverman indicated that he has some concern with going back to Davini after this long period of time. Blais suggested some wording changes. **Haynes moved the question. The motion was to send the letter that Gray drafted to Mr. Davini after removing paragraphs 3,4, and 5 in the draft. It was voted unanimously.** Methe provided a bit of history, explaining that the property was an auto repair shop in the 1950’s, before it was Mayer Molding.

**Rules of Procedure-** Gray suggested they take up the draft revision of the Rules of Procedure (RoP) and discuss whether they could accept the draft or wished to make changes. Young noted that she had reviewed the state’s definition of “abutter”. Young asked the LUA if language in the draft used in the Rules section on Notices was the same as the state definition. The LUA stated that it is the same language as is found in the state statutes (RSAs). The LUA explained that the current Fitzwilliam Ordinance does not have a definition of “abutter’ and when there is no language in the Zoning Ordinance, the default is to the state language. The LUA noted that in the case of Zoning Board of Adjustment appeals, the Notices of Public Hearing have always assumed the state definition. Gray asked members if this change in the definition of “abutter” is a change to the Zoning Ordinance that they can say “yes” to now. Blais said that she doesn’t see a reason not to use the state’s definition in the Ordinance.

Gray moved on to the wording in the section on hearings and minutes. Gray noted that much of the language has to do with the Right-To-Know laws and public access to information. One change was made and that was to remove the section on the Order of Business as the Members have found that they frequently change the order of business to accommodate the changing needs of applicants in

context of Public Hearings. Craig suggested that the Board take up minutes after Public Hearings and members agreed.

There was a discussion regarding the process to finalize the Rules of Procedure and it was agreed that they would need to read the final Draft language during two separate meetings and if there were no changes, it would then be final. **It was moved and seconded that the Draft Rules of Procedure be approved with the exception that the section on Order of Business be removed.**

**NextEra, solar installation proposal-** Gray spoke about a meeting that was held by the Select Board with NextEra in attendance. The topic of conversation was the Payment in Lieu of Taxes (PILOT) program as part of a consideration of costs. Then the discussion turned to the NextEra rental of the Town Hall Upper Hall to make a town-wide presentation. The application used the words Public Hearing. Gray noted her expressions of concern that NextEra was using incorrect and maybe misleading language. It would be a “public information session”, not a Public Hearing. Gray also noted that they were planning to do this on a day that the Planning Board would be holding their own actual Public Hearing and an objection was made to the use of a Tuesday because Tuesday is the traditional day for Planning and Zoning meetings/public hearings.

**New Business: Agenda Items, Preliminary Consultations.** Gray asked that, in the case of Preliminary Consultations, the LUA provide information on location of the property in the agenda in the same way that is done with Public Hearings.

**Review and Draft revision to the Zoning Ordinance: Land Use Budget, Consultation Costs, and Funds Available.** Gray told Members that there was only \$3,000 in the Land Use Budget for Consultations and those funds are to cover all of the expenses for work on the current Zoning Ordinance and the additional Shoreland Protection language. Gray added that the Land Use Budget covers not just the Planning Board; but, in addition, the Zoning Board of Adjustment, and the Historic District Commission. Silverman stated that the Board used to have \$5000 budgeted for Consultation. Gray pointed out that last year there were no expenses charged to the Consultation line item in the Budget.

Gray told Members that, in their folders, there was a cost estimate from Rick Van de Poll for work on the Draft Shoreland Protection language and that it would cost, at a minimum, \$1900. There was a discussion about the cost and that the Land Use Administrator can do some of this work as she has experience in that work, enjoys it, and it is part of her job description. Craig commented that her primary concern is that the Ordinances be brought into compliance with the state and that be done as quickly as possible. Haynes asked whether Carol Ogilvie was contacted about the work. Ogilvie was not contacted. Gray stated that she went over the work needed with the LUA and taking into consideration that the Board of Selectmen has asked that they make every effort to utilize resources

that the boards have to keep costs down, this makes sense. The LUA explained that she is already taking up issues as they arise in context of specific work for the planning and zoning boards which makes it efficient for her to do the initial draft work on Ordinance language.

**Process for Ordinances revision, tracking issues, maintaining a list of completed draft language.**

There was a discussion about process. Kenison noted that the LUA does come across differences in state law and the ordinances in the course of research for cases that are under consideration. Members agreed that they would like to do their work in an organized way taking up whole sections not just bits and pieces. The LUA will keep track of possible areas of change to be provided to the Planning Board when they take up those chapters or sections. The LUA asked if the Board wished to begin work with the Wetlands Protection Overlay District (WPOD). She pointed out that the Board has multiple cases that involve wetlands right now and she had already done some of the work and provided the information to members for this meeting. The LUA offered to do a draft before the next meeting. The LUA pointed out that she could do the draft and then the Board can tweak that language. It was agreed that the WPOD draft language be on the next meeting's agenda. Gray stated that a list would be kept of each item that they take up and what is complete because they will have to schedule Public Meetings prior to the Town Meeting vote.

**Work Session: Draft Shoreland Protection Ordinance.** Blais opened with a statement of her concerns in light of a current case and the concerns formally provided by the Conservation Commission. She feels that the issues about protecting the Shoreland are important right now and so she wants the Shoreland to stay high on the list. Gray asked for more input. Methe spoke about the information he has about the deterioration of Laurel Lake, especially in terms of the clarity of the water. LUA will research the original Shoreland language and when it changed. Silverman questioned whether they should review the old Shoreland language and consider using that language which is stricter than the language in place. There was also the question about for change from seasonal to year-round. The LUA agreed to research the earlier language and to ask DES for the standards required for a change of a dwelling from seasonal to Year-round. Blais suggested that Conservation Commission may be able to provide the older Shoreland Protection language. Silverman also suggested that Planning Board applications ask whether the property in question is seasonal or year-round and that definitions be added to the Ordinance. Silverman also suggested that requirements for changes to year-round dwellings be more stringent than for seasonal. There was a brief discussion about oversight. Silverman explained that, without a Shoreland Protection Overlay District Ordinance, the town does not have oversight, the state does. Gray pointed out that the Ordinance does have the Wetlands Protection Overlay District which does provide some protections. The LUA suggested that the Planning Board can use conditional approvals and a system of follow-up on issues involving wetlands or shoreland. Silverman did not feel that the Planning Board would want to act as "policemen" and he feels that the current approach works well.

*Minutes approved as amended May 21, 2019*

The question came up whether to send what they have to Rick Van de Poll at this point. It was agreed that, in light of the discussion about considering using older and maybe more restrictive language from the original New Hampshire Shoreland Protection Act, they work through that first. Young asked the LUA whether she passed the Draft Shoreland language to the Conservation Commission. The LUA stated that she had already sent it. Young suggested that they wait until they have Conservation Commission input before sending a Draft Ordinance to Van de Poll.

**Minutes: Meeting of April 16, 2019.** Members took up the minutes of the last meeting. Members discussed amendments. **Gray moved that the minutes be accepted as amended; Craig seconded the motion and it was voted unanimously.**

**Correspondence/Announcements:** none

**There being no additional business to conduct, Gray moved; Craig seconded and** the meeting was adjourned at 8:56 PM **The next meeting is scheduled for May 21, 2019.**

Respectfully Submitted,

Laurie Hayward  
Land Use Administrative Assistant