

TOWN OF FITZWILLIAM
ZONING BOARD OF ADJUSTMENT
AGENDA

TUESDAY, FEBRUARY 13, 2018
7:00 PM

7:00 PM. Continued Public Hearing. Lon Caracappa application for an Appeal from an Administrative Decision from the Board of Selectman denying an after-the-fact application for a Construction Permit at his easement at the Grasewicz property at Tax Map 24, Lot 1, in the Rural District.

Administration:

Review Minutes from January 9, 2018
ZBA Application

DEADLINE TO SUBMIT AN APPLICATION FOR THIS MEETING DATE:

FRIDAY, JANUARY 26, 2018

APPROVED
Town of Fitzwilliam
Planning Board Meeting
June 21, 2016

Members Present: Terry Silverman, Robin Blais, Paul Haynes, Tom Parker, Suzanne Gray, and Nancy Carney, Selectman's Representative.

Others Present: Attorney Earl Duval, Blue Sky Towers, LLC, Steve Filipi, Russell Raitto, Carl and Scott Hagstrom, Mr. and Mrs. Heald, Rick and Bruce Brackett.

Call to Order: 7:00 PM

7:00 PM Preliminary consultation. Paul Grasewicz to present a boundary line adjustment between Map 29, Lot 23-2 and Map 28, Lot 36.

Mr. Grasewicz presented plans for the proposed boundary line adjustment between the Ford property, Map 28, Lot 36, with access off Route 119 W, and that of Mr. Vaal, Map 29, Lot 23-2, with access off Collins Pond Road. The new lot will have 2 acres, from which Mr. Vaal plans to build a driveway to access Route 119 W.

Silverman noted that the steepness and turns on that particular stretch of Route 119 W have a horrible impact on access to or from the road. He added it is not a line of sight issue. There are a lot of trucks on the road and he said it is the absolutely worst place for a driveway access. Silverman said the driveway isn't for residential use, but for commercial use by trucks leaving the site onto a bad stretch of road. Grasewicz said he would investigate the road specifications and delineate wetlands on the proposed new lot. Blais noted there will be ledge to deal with on the property. Parker said he didn't see a problem with the driveway access but that it was up to NH DOT to determine access.

7:10 PM Public Hearing continued. Lon Caracappa application for a conditional use wetlands permit to construct six foot wide access steps over the bank to access Laurel Lake from property located on West Lake Road, Map 24, Lot 1, Rural District.

Silverman recused himself from this hearing. Gray chaired the hearing. She noted she had a dispute with the contractor on another matter not related to this case. The Board did not feel she needed to recuse herself.

Carl Hagstrom said that several things were asked of him at the last meeting and he has done them. Gray said the Board had requested reports from the Conservation Commission regarding the Caracappa project. Gray reviewed the Planning Board preliminary consultation minutes on this case, indicating that pressure treated lumber should not be used on steps into the water, unless permitted by DES. During that meeting Mr. Hagstrom said the project was exempt from the need to apply for a wetlands permit, citing Chapter 127-16.1, D. 7 (d). Haynes asked if the type of wood used in the steps was determined by the Conservation Commission. Gray read from the Conservation Commission minutes which stated that a product called "Clear, similar to Trex," was to be used. She noted that she removed a tag from the steps in the water and they are constructed of pressure treated wood. She wondered if the newer pressure treated wood is called Clear? Blais said she didn't think the old fashioned pressure treated wood was sold anymore.

Gray questioned the number of steps and Mr. Hagstrom said no one was quite sure how many were needed to go over the boulders at the shoreline. Blais asked the property owner, Paul Grasewicz, what he thought of the project. He said he wished the steps were only 3 feet wide and that the whole project not so huge, but he agreed he had signed off on the project.

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Gray said the Board needed to find out just what kind of wood was used for the steps. It was noted that neither the state nor DES regulate the use of pressure treated wood in the water.

Gray moved on to the criteria for approving a conditional use permit under 127-16.1, D.7 (d).

- a. The activity is a productive and reasonable use of the land;
- b. Design, construction and maintenance methods are established to minimize detrimental impacts to the wetlands and restoration is provided for;
- c. No reasonable alternative exists which would avoid wetlands alteration or lessen the impacts;
- d. The altered wetland area is less than 2000 sf.

Blais moved, Gray seconded and the Board approved a conditional use approval for this project, noting the approval is retroactive since the project was completed prior to receiving DES approval and the conditional use approval. The motion carried unanimously.

The Board asked that Mr. Hagstrom provide proof of the type of lumber used in the steps. The Board noted that the project required a construction permit, which had not been obtained prior to construction. The applicant needs to apply for a retroactive construction permit and pay the fine for not obtaining one prior to the start of construction. The Board also noted that the application for the conditional Use Permit was not signed by the property owner and that needs to be done.

Haynes asked about how the property would be assessed now with the new construction. Carney said the Selectmen will take that up with the Assessors, who review all new construction permits annually. They will discuss the impact of the construction on the property taxes with the property owner. The Notice of Decision will be sent to the applicant's agent Carl Hagstrom, and the property owner, Paul Grasewicz.

CANCELLED by the applicant - Preliminary consultation. Andrea Hiekkinen to discuss a boundary line adjustment between properties located on East Lake Road, Map 27, Lots 23 & 24, Residential District.

7:30 PM Public Hearing continued. Blue Sky Tower Partners, LLC application for a conditional use permit under Article IV, Section 127-16.2 G, to install a multi-user Wireless Communications Facility consisting of a 125 foot monopole tower within a fenced compound located on property known as the Pinnacle, owned by Filipi Contracting, LLC on Upper Troy Road, Map 15, Lot 6-12, Residential, Rural and Historic Districts.

Attorney Duval reviewed the last meeting, recalling that the Project Engineer Tom Johnson had confirmed that T-Mobile does not plan to have a generator on-site. They will have battery back-up on site, which will give them several hours of operation during an electrical outage. He said it would be a rare circumstance that they would have to tow a generator to the site.

Attorney Duval said Verizon and AT&T will propose to have natural gas or propane generators for back-up, if they locate on the tower. He noted that any carriers wanting to co-locate on the tower will have to submit an application to the Planning Board and complete a site plan review. They would have to comply with the town's noise ordinance for any generator.

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Eversource question. Buonomano asked if a special meeting to discuss the Eversource MOU was planned. Silverman said we had not received any revised MOU, adding that they claim urgency but haven't yet delivered the work product to move the process forward.

7:30 Public Hearing. Lon Caracappa application for a conditional use wetlands permit to construct six foot wide access steps over the bank to access Laurel Lake from property located on West Lake Road, Map 24, Lot 1, Rural District.

Silverman recused himself because he has family members who are abutters to the property in question. Gray chaired this case.

Mr. Grasewicz noted that as property owner he had chosen not to sign the town wetlands application because he knew that the proposed construction was completed before the application was acted on, and before the state Shoreland permit had arrived, and that no construction permit was issued.

Mr. Hagstrom, who was hired to steer the project through the state Shoreland Protection permitting process, told the Board that Mr. Caracappa wanted to install steps to get to the Lake. He said the state allowed steps that were 6 feet wide. Mr. Grasewicz, as property owner, did sign the Shoreland application and the day the permit arrived is the day Mr. Grasewicz said he first saw that the steps had already been installed. Mr. Caracappa apparently talked with a contractor about the installation, and, perhaps due to a miscommunication, the contractor built the steps during a lull in his schedule. However, no permits had been obtained or approved prior to construction.

Mr. Grasewicz said Mr. Caracappa has a 15 foot wide right of way easement on the Grasewicz property and has built a 4 foot wide path to the Lake. He noted that it was difficult to get into the lake once at the shoreline because there are boulders and stones in the way. He said he agreed that steps could be built but was not aware of how massive the construction would be until it was built. The steps are 6 feet wide and are hinged so they can be pulled out of the water in the winter.

Blais asked what material was used for the steps. She also asked if Mr. Grasewicz had an agreement with Mr. Caracappa regarding the upkeep of the steps. He does not.

Ms. Carney noted that no construction permit had been issued and no town wetlands permit granted.

Blais asked the property owner what he would like to see done about this. Mr. Grasewicz said he didn't want to say, but he would have preferred the steps to be four feet wide instead of six feet wide, however, he said he wasn't asking that they be removed. Mr. Hagstrom noted that removal of the steps would aggravate erosion at the site. Haynes asked if a second state permit would be necessary to install narrower steps. Mr. Hagstrom said no.

Gray summarized that the state approved the Shoreland application, but no town wetlands permit was issued by the Planning Board and no construction permit was issued by the Selectmen, and the property owner did not sign the town wetlands application. Blais asked who would be liable for taxes on this structure. Gray noted that the applicant had not gone to the Conservation Commission for review of the plan. Mr. Hagstrom said they had

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met with the Conservation Commission and the Commission was going to write a letter to the Planning Board. The Board has not received this letter.

Silverman wondered if an equitable waiver of dimensional requirements was in order or if fines could be assessed. Parker suggested the Board write a letter to the applicant outlining the violations, giving a time frame for response. Mr. Grasewicz wondered if the project fell below the threshold for needing a construction permit. Carney thought it might. Buonomano clarified that a town wetlands permit should have been issued before construction began.

There was some discussion about the preliminary consultation and how the applicant was directed to apply for a town wetlands permit because the steps actually went into the water. 2/16/16

Gray asked the Board if they wanted to let the steps remain until they work through the steps to correct the situation. Parker said he felt the steps didn't need to be removed, but a reasonable timeline needs to be given in writing for addressing the issues raised.

Silverman asked what the square footage is on the steps. Mr. Hagstrom said 24 sf. Gray reiterated that the property owner is not comfortable with six foot wide steps. Mr. Grasewicz said he wants Mr. Caracappa to get an attorney to indemnify him and to straighten out the easements.

Gray asked why Mr. Hagstrom was here instead of the applicant Mr. Caracappa. Mr. Hagstrom said he was hired to do this project.

Gray asked for a motion to reflect the discussion, including a letter going to David Streeter, Paul Grasewicz, Carl Hagstrom, Lon Caracappa, and the Board of Selectmen, outlining the issues. Also the Board wants to see proof in writing that the material used in constructing the steps is not going to contaminate the water; that the Conservation Commission writes a letter giving permission to construct these steps; that the applicant returns to the Planning Board to complete the wetlands hearing; and that application is made for a construction permit; adding that the Board of Selectmen needs to see approval from all entities involved.

There was discussion about how steps are characterized by the state; about whether the applicant needs to go to the ZBA; about the town's definitions of structures and walkways; there was some confusion about whether the project needed town permits at all.

Gray said they wanted the applicant, contractor and Mr. Hagstrom to meet with the Planning Board following input from the Conservation Commission. Gray moved, Haynes seconded and the Board voted to write the letter to those involved in the case as noted above. The hearing was continued to June 21, 2016 at 7:00 PM.

8:00 PM Public Hearing continued. Blue Sky Tower Partners, LLC Application for a conditional use permit under Article IV, Section 127-16.2 G. to install a multi-user Wireless Communications Facility consisting of a 125 foot monopole tower within a fenced compound located on property known as the Pinnacle, owned by Filipi Contracting, LLC on Upper Troy Road, Map 15, Lot 6-12; Residential, Rural and Historic Districts.

DRAFT
Town of Fitzwilliam
Planning Board Meeting
February 16, 2016

Members Present: Terry Silverman, Robin Blais, Suzanne Gray, and Nancy Carney, Selectman's Representative.

Others Present: Dana Pinney

Call to Order: 7:05 PM

7:00 PM Public Hearing – Eversource has requested a continuance to March 15, 2016.

The Board reviewed the letter from Eversource requesting a continuance of their public hearing to March 15, 2016. Silverman moved, Blais seconded and the Board unanimously approved the request for continuance of the Eversource public hearing to March 15, 2016.

7:10 PM Preliminary consultation – Carl Hagstrom to discuss proposed work within the wetlands overlay district to improve access to Laurel Lake for resident.

Carl and Scott Hagstrom presented a plan to build access steps to Laurel Lake on property owned by Paul Grasewicz. They showed photos of the area with the graphics of the proposed work superimposed. They also presented a layout of the plan. The steps will be hinged so they can be removed in the winter. Rebar will be installed in boulders at the shoreline to secure the steps. One dead hemlock tree at the shoreline will be cut, but the root ball will be left intact. They do not plan to use pressure treated lumber. David Streeter will build the steps.

Carl Hagstrom reported they had met with the Conservation Commission and the Commission said the plan was OK as long as they secure a wetlands permit from DES.

Silverman said the Planning Board would like to meet with them for a wetlands hearing since the work will actually be in the water. Silverman said that the exemption cited by the Hagstroms, Wetlands Protection Overlay District, Section 127-16.1 D. 7. (d), did not apply to this proposal for that reason.

Silverman said the Board wanted a written report from the Conservation Commission and copies of all the wetland permits required by the state. Carl Hagstrom said it would probably be about 30 days before the approved permits are available.

Minutes. The Board reviewed minutes of the February 2, 2016 meeting. Blais moved, Gray seconded and the Board approved the minutes as written.

Silverman asked Chief Carney for a report on the proposed pipeline Safety meeting she attended regarding local responsibilities for the safety of people and property should an event happen. The proposed pipeline is to be buried, but she had questions regarding securing the site during construction, with lighting and fencing; questions about access to accident sites to insure the safety of people and property on either side of the proposed pipeline ditch. The NH Fire Marshal's Office sponsored the meeting and Kinder Morgan representatives presented. Not all towns in the proposed pipeline path were represented. Carney noted that the proposed pipeline is to be 30 inches in diameter. Carney said there was only one company now ready to purchase natural gas from the Kinder Morgan pipeline and questioned if additional companies signed up to buy natural gas, would additional compressor stations be needed that might be located locally. Kinder Morgan said that there