



**Raymond Planning Board
MINUTES***
Wednesday, May 9, 2012

Present: Interim-Chair Robert O'Neill, Greg Foster, Steve Linne, William Priest, and Dan West

Absent: Patrick Clark and Bruce Sanford

Staff: Hugh Coxe, Contract Planner; and Chris Hanson, Code Enforcement Officer

Other: Tim Nolan (Agent), Kristie Doyle & Jeff Ronfeldt (Applicants), Chris Brum, and Sam Gifford

1. Call to order: Interim-Chair Robert O'Neill called the meeting to order at 7:00 pm and a quorum was declared.

2. Approval of Minutes:

a) **March 14, 2012**

DISCUSSION: Steve Linne made a correction that the reference to the culvert on page 2 should say '15" rather than 12'" instead of the opposite.

MOTION: William Priest motioned to accept the minutes as amended; seconded by Steve Linne.

VOTE: UNANIMOUS APPROVAL (5/0)

3. Site Plan Review:

a) **Map 016, Lot 065**
Rural Zone
0 Frye Road
Tim Nolan OBO Mildred Frye

Hugh Coxe reviewed the application explain that the Board had seen the original plan at March meeting and the application was tabled. The applicant is requesting approval for a backlot driveway off a private way, Frye Road. The issue then was with the Right, Title & Interest and an expired Purchase & Sale Agreement. A new Purchase & Sale Agreement has been submitted and a letter from their

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**Item taken out of order

attorney indicating that the applicants' have the Right, Title & Interest to move forward with the project. The Town's attorney had reviewed the letter and deemed it as sufficient to move forward for the Board's consideration, but the question had been raised that the Town could be at risk for easement issues in the future.

Mr. Coxe continued that the applicant had not submitted a phosphorus plan because the applicant was waiting to get final approval. He suggested making it a condition of approval. The Public Work's Director had already suggested changing the plan to include 15" culverts, not 12", for drainage. The Town attorney was also concerned that additional driveways may be added to the road and suggested making a condition on the plan that any additional driveways must go before the Planning Board to establish a Road Maintenance Agreement. Also, another condition should be added that if there becomes evidence of Right, Title & Interest in the future, that the Town would keep its interest in the road.

The Board open the meeting up for discussion from the applicant. Tim Nolan wanted to make sure that the Right, Title & Interest issue was clear before moving forward with the application. The Board agreed that there were no issues remaining with RTI.

Mr. O'Neill wanted to know if the town maintained Frye Road and Mr. Coxe confirmed. Mr. O'Neill wanted to know if that was common practice and Mr. Hanson responded that it was not but the town had a prescriptive easement because they had been maintaining it for the last twenty years. Mr Coxe added that this did create an issue because backlot driveways can only come off public roads, not private roads. The Board could consider the maintained portion as public and the new portion would be a new private extension, because the standards for building each was about the same. Mr. O'Neill wanted to know what the road was considered and Mr. Coxe responded that the town had prescriptive easements, which made it public, but the town had not officially adopted it, which made it private.

Mr. Linne pointed out that the last paragraph of the applicants' attorney's letter refers to Right, Title & Interest being to the Estate of Mildred Frye, making the road private. He suggested moving forward with defining the road to remove it from hybrid status. Mr. Coxe commented that to get the road accepted as a town road would delay the application and the Planning Board would have to make the recommendation to the Selectmen. The Board could request a caveat on the plan, that if the road was found to be private in the future, the plan would still be applicable for the purpose of the backlot driveway.

Mr. O'Neill wanted to know if Dyer Road was an active road and if the two, at one point used to connect and Mr. Coxe confirmed. Mr. O'Neill wanted to know if the town would ever want the two to connect again and Mr. Coxe said that he felt that is was not necessary, since that was not common practice.

Mr. Nolan said that the applicants wanted to build the road to the Private Road Standards but would like to build it to the length requirements of the Backlot Driveway Standards. Mr. O'Neill responded that the Board needed to decide how they were going to treat Frye Road and asked Selectman Sam Gifford for his opinion and he responded that he did not see a problem with it but deferred to Mr.

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Coxe's judgment.

Mr. Coxe explained that the prescriptive easement gave use of the road to public easement, but had not been officially accepted at town meeting. Mr. O'Neill asked if they should send it to the Selectmen for consideration and Mr. Coxe responded that the Board could, but it was not built to town standards and it would be up to the town to bring it up to standards before accepting it.

MOTION; Dan West motioned that the Board recognize Frye Road as a town road for the purpose of considering the application; seconded by Greg Foster.

DISCUSSION: Mr. O'Neill explained that they were not accepting Frye Road as a town road but were treating it as a town road for the application. It was decided that the motion was not necessary.

MOTION WITHDRAWN

MOTION: Steve Linne motioned to accept the project as a backlot driveway unless there was a point that it (Frye Road) is considered a private road, at which point it is considered a private road extension; no second.

DISCUSSION: Mr. Coxe said that the motion was not necessary.

MOTION WITHDRAWN

Mr. Nolan referred to the original plans from March and pointed out that there was already a note that maintenance was by Public Works as well as a change in the culvert size, and the phosphorus plan would be built using the point system. He added that there would also be a note added that there will be no further division of the lot without Planning Board approval. Mr. Coxe added that there was drafted language dealing with private/public status of Frye Road and read the wording

Mr. Coxe stated that there was also another issue on the plan submitted. It showed that a portion of road, in front of Owen Nichols property, was being conveyed to the applicant. This would make the front lot nonconforming. To fix this problem, that portion needs to be a Right of Way to the applicant.

Mr. Nolan agrees that, rather than making it more complicated, they were going to make sure that Mr. Nichols' lot had enough road frontage on Frye Road.

Mr. O'Neill wanted to know where the construction would be and Mr. Nolan responded that a portion would be along the Right of Way on the frontlot and the remainder will be on the applicant's property. Mr. Coxe added that road maintenance will still be to the existing area.

Mr. O'Neill stated that there was not phosphorus plan to review and wanted to know if it should come back to be considered by the Board or staff review. Mr. Coxe stated that he was okay with reviewing the plans and if there were any problems, he would bring it back to the Planning Board. He continued by reviewing the conditions of approval:

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1. Developed in accordance with plans and testimony
2. Need to submit Phosphorus Impact Plan in accordance with Backlot Driveway Standards
3. New plan with conditions
 1. Note on plan that future development requires Planning Board approval for Road Maintenance Agreement
 2. If determine a private road, rather than public, than project will be considered a private road extension
4. Amended lot lines showing adequate frontage for the front lot

MOTION: William Priest motioned for approval of application with conditions; seconded by Dan West.

DISCUSSION: None.

VOTE: UNANIMOUS APPROVAL (5/0)

Mr. Coxe state that he would suggest that they recommend road to Selectmen for acceptance.

MOTION: Steve Linne motioned that the Board of Selectmen review the status of Frye road to determine if it should be accepted as a Town Road. The Planning Board is recommending that it should be approved; seconded by Greg Foster.

DISCUSSION: Mr. Priest said that he was concerned with accepting the road because the road was what it was and to move forward with accepting it would create problems because private roads like this one were not built to standards.

VOTE: MOTION CARRIED (3/2 [WP, GF])

4. Other business

a) None

5. Planner Communications

a) Discussion of Ordinance Changes for Upcoming Year

Mr. Coxe reviewed the changes that needed to me be made:

- Address backlot driveway issues
- Address Resource Protection designations that may not align with existing conditions, including Bartlett Brook and the gas station on Route 302.

Mr. Hanson added that he had spoken with Mike Morse at the DEP and he had explained to him the process of enforcing as well designations.

Mr. O'Neill said that the next applicant free application agenda would be a workshop, as long as

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Chairman Pat Clark was available and that Pat Cayer should be invited to discuss backlot driveways.

Mr. Foster said that he would like to revisit the LRR1 grandfathering. He either wanted to see the ordinance corrected, because it was not supposed to have negative consequences, or see the rural zone changed to 2 acres and eliminate the language. He added that some of the Selectmen had agreed to move toward a special town meeting to accomplish this correction.

Mr. Brum explained his situation and how the ordinance change in 2009 had caused issues for him. Mr. Gifford confirmed that the Selectmen were interested in getting this issue resolved quickly. The Board agreed to review this issue and would start at their next meeting.

6. Adjournment:

MOTION: William Priest motioned to adjourn; seconded by Dan West.

VOTE: UNANIMOUS APPROVAL (5/o)

Interim-Chair Robert O'Neill adjourned the meeting at 8:06 pm.

Danielle Loring
Recording Secretary

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