

GROTON PLANNING BOARD  
MAY 26 , 2010

Meeting convened at 7:10 pm.

Present: Selectboard liaison Miles Sinclair, Steve Lindsey, Deborah Johnson, Celine Richer, Russ Carruth, Jennifer Burnett, Chairman Stephen Spafford

Minutes of April 28th meeting were read and approved, with abstentions from Miles and Deb who had not been at last month's meeting.

First item on the agenda was Dave Leone's Subdivision Public Hearing. Steve moved to table the Leone Public Hearing because no preliminary hearing had been held first. Deb 2<sup>nd</sup> this, stating she wants the board to follow its own rules and treat everyone the same. Chair looked up board rules and found that no preliminary hearing is required as long as applicant has submitted plan and all required paperwork at least 15 days before Planning Board Meeting. Mr. Leone had done that. Deb then said that she agreed that Mr. Leone had met the requirements and felt that the board should continue with the hearing. At a future time she'd like the board members to discuss the hearings process. A vote was then taken on Steve Lindsey's motion to table. Steve voted yes, Jenny abstained and the rest voted no, so the hearing began. Miles informed the board that a message had been left on his home answering machine from Frank Grelle. Frank felt that the hearing should not be held this evening because he never received notification. Chair told board that all abutters had been notified by certified mail. Mr. Grelle had called the Chair one week ago, having been told of the upcoming hearing by someone else; to say that he had not received his certified letter. The next day, a call to the Local Government Center's legal department assured the Chair that since Mr. Grelle had called one week ago saying he had been notified by someone of tonight's hearing, then that, said the lawyer, is proof of Mr. Grelle's notification – even if he never received a certified letter. Chair read down the list of submission requirements for a subdivision, checking to see that Mr. Leone had met all requirements. Miles asked for an opportunity to read the Subdivision Regulations to determine if the board is allowed to have this hearing without first holding a preliminary hearing. To allow Miles time, Deb moved to table the Leone application until after the board had completed tonight's work session on excavation regulations. Celine 2<sup>nd</sup> and all were in favor,

Mary Pinkham-Langer, Gravel Tax Appraiser with the NH Dept. of Revenue Administration, shared her expertise with a very grateful board. She said that RSA 155-E gives minimum regulations for earth excavation and specifies which excavation projects are exempt from a permit. The burden of proof that a pit is grandfathered lies with the pit owner. By statute the regulator of excavation is the Planning Board. Exceptions from permitting must be spelled out in the town's Excavation Regulations, now being written. After reading Groton's Zoning Ordinance Mary stated that any applicant for commercial excavation must get a special exception from the ZBA before coming to the Planning Board. Mary said that a Planning Board can dictate hours of operation and when a project must be completed. The board could require setbacks from abutters with any

excavation project, be it commercial or incidental. She also clarified that an Intent to Excavate is NOT a permit. The Intent is issued by DRA for taxation purposes only. The Permit is issued by the Planning Board. If a project is complex and/or involves wetlands the Planning Board could, Mary said, hire an engineer, at the applicant's expense, to inspect the site. Owners of some excavated pits end up bringing material back into the pit for storage. Mary cautioned the Board that since this is another nonconforming use, a ZBA special exception must be applied for. Stump burial would have to be under DES regulations. Another caution from Mary was that perhaps when subdividers come before the Planning Board they should be asked where their roadbuilding earth is coming from and how much earth is being moved in the proposed subdivision. After spending more than an hour helping the Board, Mary stated her willingness to read Groton's completed Excavation Regulations and share comments. Sincere thanks were expressed to her.

The motion made by Celine, 2<sup>nd</sup> by Deb to reopen the Hearing for the Leone Subdivision on Brock Lane was approved. Miles stated that he had read the regulations and found that indeed a preliminary hearing is not required. Chair asked if members had any questions. Hearing none, a motion was made by Celine, 2<sup>nd</sup> by Miles to accept Dave's application as complete. Chair and Steve abstained. All others in agreement. The Public Hearing began at 9:17 pm. Deb asked Dave if he had any restrictions on his deed. He replied, "No". Miles expressed concern over the practice of taking an applicant's word and not checking the deed. Chair told the Board that an LGC lawyer, Mr. Sanderson, said that it is not the Planning Board's job to read deeds. Hearing no opposition from members of the public present, Steve moved to accept the subdivision. Celine 2<sup>nd</sup>. Miles and the Chair abstained. Remaining members approved. After all members signed the plan, a motion to adjourn at 9:35 was made by Celine, 2<sup>nd</sup> by Chair. All agreed.

Sharon Nelson  
Clerk