

Parsonsfield Zoning Board of Appeals
634 North Rd Parsonsfield, ME
Thursday, June 25th, 2020
Minutes

Public Hearing

Request for Appeal: Dana & Darla Gould, Gerard Clifford
Vs. Nathan Wadsworth Watson Woods Subdivision

In Attendance: Mike Sandahl (Chair), Donald Murphy, Donald Winslow, George Stacey, Todd Crooker.

Absent: None

Also, In Attendance: Lindsay Gagne, Harvey Macomber, Jesse Stacey, Jesse Winters (CEO), Maya Lary (Road Commissioner), Rick Sullivan, Andy Yale, Dana Gould, Darla Gould, Gerard Clifford, Steve Anderson, Ralph Austin, Nate Wadsworth, Denise Crooker, Tom Winter, Clifford Krolick, Lynn Sudlow, Donna Burk, Jeff Wright,

Mr. Sandahl Opens the meeting at 6:00pm. He completes a roll call, all members are present including two members on the Planning Board, the CEO and the Road Commissioner. He reviews administrative procedure. The board will review and approve the minutes from the last meeting, discuss necessities for abstention of board members and then move into the public hearing. During the public hearing, the applicants will be given the floor to explain their case, public comment will follow and then board discussion. The requests for appeal in front of the board are in regard to the decision the CEO (code enforcement officer) made on the building permit issued to Nathan Wadsworth. The board will review evidence provided regarding the building permit and any issues on the enforcement of the ordinance is not appealable to the board.

Review minutes from 6/11/2020

Mr. Crooker Motions to accept the minutes as they are

Mr. Stacey Seconds the motion

The motion passes by unanimous vote: 4-0 (Mr. Murphy abstains from the vote where he was not present for the meeting on June 11th).

Conflict of interest

Mr. Sandahl Asks the board members if they see any reason for recusals of themselves or other board members, by either conflict of interest or bias. Each board member states in agreement there is no conflict or bias to be addressed.

Public Hearing, review of request for appeals by Dana & Darla Gould and Gerard Clifford

Mrs. Gould Presents a video, approximately 30 minutes in length, depicting areal views of Rt 160 and Elm street, the Watson Woods subdivision and Hussey Road in relation to her home, pictures of the driveway recently put in with measurements of site distance, the building permit issued, the plumbing permit issued, picture location of the well put in on Mr. Wadsworth's lot, the signed plan by the

planning board, pictures of the driveway ordinance and the conditions of approval from the planning board.

Mr. Sandahl Asks if there is a summary to provide more concise points of the video the board can review.

Mrs. Gould States she dropped off a flash drive to the clerk's office earlier this morning.

Mr. Sandahl States he was only made aware of this flash drive a few minutes before the meeting.

Mr. Clifford States Mr. Wadsworth broke the clear-cut agreement by cutting into the 50-foot buffer and the vernal pools. The house was built illegally, and Mr. Wadsworth is lying about subdividing the retained land.

Mrs. Gould States there is no record of deed for the retained land and the building permit states "Brownfield standards" on it.

Mr. Sandahl Asks Mrs. Gould if she can present concisely what is being done incorrectly and why, for the board to use as a basis of a decision.

Mr. Krolick Asks the board to define their function as a board

Mr. Sandahl Explains the board is reviewing two requests for appeal on the building permit that was issued by the CEO. They will determine if the building permit is correct or not correct.

Mr. Yale States he is on the planning board and has been during the review of the subdivision. He asks the decision made by the planning board be enforced and also comments it appears timber harvesting has occurred on the retained land.

Mr. Clifford States the subdivision has been illegal since the beginning and Mr. Wadsworth had the driveway placed where it is located because he intends to further subdivide the retained land, to which he did not go to the planning board for approval. The well should be at least 50-feet from the roadway; however, he would estimate it is 12 to 15-feet from the roadway. The site distance is dangerous, and Mr. Wadsworth attempted to sell a portion of the retained land to Mr. Bosch.

Mr. Sandahl States there would need to be evidence to show that Mr. Wadsworth has subdivided the retained land.

Mr. Stacey States the land has not been subdivided, but in looking at the plan an area was set aside for resource protection. He understands the retained parcel will be sold as the whole parcel.

He reads the conditions: #2: "Retained Land: The remainder parcel of 28.06 acres, retained by the property owner, shall not be further divided, nor subject to additional timber harvest without planning board approval for a period of 10-years from the date of final approval. After this period, the developer will be required to seek planning board approval for any subdivisions, and for further development of two or more lots, will require the developer to cover the cost of improving upon Hussey road to better standards". The lot has not been subdivided and no timber harvesting has occurred. When building a house, you can cut the area to be built.

Mr. Clifford States the copy sent to the lawyer was not the same as what the planning board signed. He has a phone recording of Mr. Wadsworth offering Mr. Bosch a portion of the retained land. In the ordinance it states a well cannot be constructed within any travel way. He also cites the Land Use Ordinance on page 112 "approval of permits". Mr. Wadsworth cut 30 acres of trees, liquidating the lumber. He got a verbal driveway permit then after the appeal got a new one and he has cut into the 50-foot buffer on Rt 160, violating the conditions of approval. He also states there is a conflict of bias with Mr. Winslow.

Ms. Lane Cites the Land Use Ordinance, page 112 (4)(C)(2)(3) – "procedures for administering permits". No permits can be issued for structures that were not approved for a subdivision by the planning board.

Mr. Sandahl States the appeals board cannot review issues on the enforcement of the ordinance as defined in the Land Use Ordinance.

Mr. Clifford (after a series of arguments with Mr. Winter) States comments made by Mr. Winter shows him to be biased, should this have to go back to the planning board.

Mrs. Burk Asks the board what they will do going forward on the requests for appeal.

Mr. Sandahl Explains after the hearing the board will schedule another meeting to make a final decision on both applications. The board will review the materials presented to them and will have 35 days to make a conclusion. The next meeting held will be a public meeting, however, it will not be open for public comment.

Mr. Gould States if this appeal is about the building permit, he would like to have that permit looked at closely along with the driveway permit and any ordinances that would apply.

Mr. Clifford States Mr. Winslow should recuse himself due to bias.

Mr. Sandahl Asks for any further comment from anyone that is for the appeal. There is no further comment. He asks for any comment from anyone that is against the appeals.

Mr. Austin States he represents Mr. Wadsworth. He has provided a list of documents submitted in the record of appeals. Regarding the building permit he has heard seven issued raised and wanted to reiterate that the board is not reviewing the subdivision; anything to that matter would be irrelevant. To clarify, the retained land is shown on the subdivision plan because state law requires all the land by the owner be shown. The 28 acres retained is not part of the subdivision. To summarize the seven issues:

1. Mentions of the conditions of approval are inclusive of the home that was build are inaccurate. The conditions are that the land cannot be further subdivided in 10-years with no prohibition of building a home. During planning board review, they informed the planning board that Mr. Wadsworth intended on building a home. What Mr. Yale stated at the last meeting was that Mr. Wadsworth would be within his rights to build a home on the retained land.
2. Statements that Mr. Wadsworth has subdivided the retained land are false. He has not done that. Area A and area B are separated because area B will never be developed. The 13.71 acres indicates the size of the building area. When land is being subdivided it requires approval from the planning board, however, building a house does not. When Mr. Wadsworth sells the home, he will be selling the whole 28 acres.
3. On statements that Mr. Wadsworth clear cut the land; the state definition of timber harvesting defines it as cutting or removing of timber for the primary purpose of selling or processing forest products. He has cut for a house and a lawn area and therefore, has not timber harvested.
4. The town ordinance does not require a driveway permit be issued for a building permit to be issued. There are standards that will apply when it comes time for him to get an occupancy permit. He has recently gotten a driveway permit issued by the road commissioner.
5. For lack of site distance, this issue is premature. Mr. Wadsworth will need to first finish the driveway before he can obtain an occupancy permit, at which time, he will need to show the proper site distance and the standards are met. In reference to driveways being adjacent must be 50-feet apart, this is for driveways that are located on the same side of the street.
6. On the issue of the deed, Mr. Wadsworth has presented the deed to the planning board during their review and currently has a deed for all the subdivision including the retained land.
7. The building permit is a "Brownfield" permit; The permit clearly states it is a Parsonsfield permit on the front page. The fact it may say "Brownfield" on other area's does not make it a Brownfield permit. Mr. Wadsworth cannot be held responsible for a printing error that is out of his control. By rejecting the permit based on that, this would make all building permits that have

been issued invalid. Regardless of the permit, the CEO will be responsible in ensuring everything meets Parsonsfields standards.

In addition, Mr. Austin asks the board to reject both appeals and reiterates the appeal submitted by the Gould's was submitted two days after the filing deadline.

Mrs. Gould States the request was emailed to the CEO on June 14th, meeting the deadline

Mr. Sandahl Agrees with the application being submitted in time, the board will continue its review.

Mr. Wright States enforcement has not been done by anyone and everything that started with the subdivision should have gone to the planning board since day one.

Mr. Sandahl Asks Mr. Austin, when putting the driveway in, wouldn't the owner want to know they were putting it in the right place?

Mr. Austin Does not disagree but has not found any language in the ordinance requiring a driveway permit be issued.

Mr. Lary As the road commissioner, explains driveway permits are on a contingency. There may be trees that need to be removed or some ditching. The standards of the driveway will need to be met for when they get an occupancy permit.

There is some arguing at this point, where the dialog is unclear.

Mr. Sandahl Asks Mr. Austin to define what clear cutting is

Mr. Austin Clear cutting is defined by the state. Mr. Wadsworth did not timber harvest and any issue of timber harvesting would be an enforcement issue not appealable to the board.

Mr. Wadsworth Maine forestry department has been out to the property to look at it.

Mr. Sandahl States the building permit is a little confusing in that it notes the 13.71 acres. He asks if it would have been better to include all the 28 acres on the building permit.

Mr. Austin States by including all 28 acres on the building permit, that would speculate that area B could be built on, in which as part of the plan, nothing can be developed on area B.

Mr. Sandahl Asks both the Gould's and Mr. Clifford what they are seeking for resolution, stating this is of his own curiosity.

Mrs. Gould States he was approved for eight house lots and if the retained land is not part of the subdivision then she would like to see the house be built on the other lots, and the driveway be removed.

Mr. Clifford States the house should be removed and the trees he cut be replanted. Mr. Wadsworth should also have to wait 5-years to build any house on Rt 160 because he has already subdivided the property four times.

Mr. Sandahl Asks for any other comment, there is none. He closes the public hearing at 8:20pm and opens a meeting for the board to schedule another meeting

A meeting is scheduled for July 9th at 7:00pm

Mr. Murphy Makes a motion to adjourn the meeting

Mr. Crooker Seconds the motion

Motion passes, vote: 5-0

The meeting is adjourned at 8:28pm.

Draft completed by: Lindsay Gagne