

Effingham Planning Board
Meeting Minutes
March 11, 2021
(via video conference call)

Members Present: Theresa Swanick (chair), George Bull (vice-chair), Grace Fuller, Elaine Chick, Mark Hempton (alternate, seated for Paul Potter), Gary Jewel, Nate Fogg (Land Use Clerk)

Members Absent: Paul Potter, Mike Calahane

Others Present: Rebecca Boyden (Zoning Officer), Paul King (applicant’s representative), David Strauss (abutter), Anne Foley (abutter)

Meeting called to order at 6:00pm. Quorum present. Continued Hearing for subdivision and Special use Permit for Whitaker-Fadden subdivision.

CONTINUED PUBLIC HEARING – Whitaker Fadden Subdivision & Special Use Permit

1. Theresa Swanick provided a brief overview of the application and advised that a letter from Dan Coons regarding his review of the property on behalf of Effingham Conservation Commission had been forwarded to the Board and applicant, and will be added to the record. A letter from the Effingham Conservation Commission, and abutter statement was also forwarded and will be added to the file.
2. Discussion held re the Coons’ and Effingham Conservation Commission (“ECC”) letters.
 - a. Mark Hempton summarized the Coons letter’s report that the surface water and subsurface water did not provide evidence of any problem. He expressed concern that the Effingham Conservation letter cited quotes from Mr. Coons which were not in the Coons’ letter, and did not refer to a source for the information. The ECC letter also cited information that was contrary to the Coons’ letter.
 - b. Theresa Swanick advised that there had been a brief email exchange (not provided to Board) to ensure that Mr. Coons had received the latest HEB report.
 - c. George Bull stated that the ECC letter could refer to an earlier review by Mr. Coons, prior to his receipt of the HEB reports, which addressed the issues cited by ECC.
 - d. Mr. Hempton recommended that the Board refer to the reports, rather than email communications.
 - e. Ms. Swanick noted conclusions in Mr. Coon’s letter.
 - f. Ms. Swanick responded to query from Elaine Chick that there is civil recourse for the abutters if there is property damage from the construction as proposed. She also assured Anne Foley that Ms. Foley’s letter outlining her concerns and the ECC letter have been received and are considered as part of the process.
 - g. Mr. Hempton provided a point-by-point negation of ECC claims/conclusions, including driveway design and location, grade, design, size and length of culvert
 - h. David Strauss expressed concern that there was no review of other streams on the property, no formal notes from the site review and no mention of bridge alternatives.

- i. Mr. Bull clarified ECC's role was to review the wetlands, not abutters concerns, engineering reports or road design as pertains to the subdivision.
 - j. Mr. Strauss contended the least disruptive access to the lots would be from Green Mountain Road.
 - k. Ms. Swanick explained that the application was for a 3-lot subdivision with a single driveway access and also a Special Use Permit regarding crossing of wetlands.
3. Nate Fogg advised that the bond amount was set by HEB at \$25,500. Paul King confirmed.
4. **MOTION:** Mr. Bull made a motion to conclude the public comment section of the public hearing; seconded by Elaine Chick. Roll call voting results:
- a. Gary Jewel: aye; Grace Fuller: aye; George Bull: aye; Elaine Chick: aye; Mark Hempton: aye; Theresa Swanick: aye. Motion passed.

DELIBERATIVE SESSION

5. **MOTION:** Mr. Bull made a motion to approve the Special Use Permit based on the final iteration of the plans. Seconded by Mr. Jewel.
- a. Discussion held where multiple Board members expressed understanding of the abutters concerns, but since experts had not validated abutter issues of increased water flow, it was incumbent on the Board to follow the experts' opinions.
 - b. Roll call voting results: Gary Jewel: aye; Grace Fuller: aye; George Bull: aye; Elaine Chick: aye; Mark Hempton: aye; Theresa Swanick: aye. Motion passed.
6. Discussion re: subdivision application and conditions for approval, including:
- a. surety must be provided to ensure the driveway is installed and inspected by HEB, following the design specifications of the plan dated 12/18/20;
 - b. that the driveway must be installed prior to the sales of any lots, and within 1 year of application approval.
 - c. Mr. King explained that usually conditions would be either the surety or the driveway but not include both.
7. **MOTION:** Ms. Chick made a motion for the Board to approve the Subdivision application with the following conditions:
- Conditions Precedent:
- Subject to a surety of \$25,500 for driveway construction and inspection. The form of the Surety to be agreeable to the applicant and the Board of Selectmen.
- Conditions Subsequent:
- Driveway to be constructed per specifications on the final plan dated December 18, 2020 within 18 months of this approval.
 - Driveway to be inspected and approved by a qualified engineer, post construction, at the owners' expense.
- a. Roll call voting results: Gary Jewel: aye; Grace Fuller: aye; George Bull: aye; Elaine Chick: aye; Mark Hempton: aye; Theresa Swanick: aye.
8. **MOTION:** Mr. Bull made a motion to close the public hearing; seconded by Mr. Jewel. Roll call voting results : Gary Jewel: aye; Grace Fuller: aye; George Bull: aye; Elaine Chick: aye; Mark Hempton: aye; Theresa Swanick: aye. Motion passed.
9. Rebecca Boyden (Zoning Officer) provided an overview of a request from Green Mountain Shooting to build a new pavilion. She inquired if this needed a building permit.

- a. It was determined that the business operates as a non-conforming use prior to zoning; Ms. Boyden said building permits had been issued in the past without site review.
 - b. Ms. Swanick asked for a full listing of all previous interactions with the business.
10. Ms. Boyden provided an overview of a request from a resident of Grey Fox Road to be added to the Police Department wrecker rotation roster. There was a request to have this reviewed by the Planning Board. Ms. Boyden explained that the person has been cited for junkyard violations. Ms. Boyden contended that having a wrecker parked on the property would necessitate review as a home industry.
- a. Grace Fuller and others expressed concern that there appear to be 2 issues: one is that having a company vehicle necessitates registering as a home industry; the second is the junkyard issue.
 - b. The Board agreed that having a company vehicle does not trigger a requirement to register as a home industry.
11. **MOTION:** Ms. Fuller made a motion to adjourn; seconded by George Bull.
- a. Roll call voting results : Gary Jewel: aye; Grace Fuller: aye; George Bull: aye; Mark Hempton: aye; Theresa Swanick: aye. Motion passed.
 - b. Adjourned at 8:44.

Minutes prepared by Grace Fuller