

Approved: _____ Approved with changes: 8/17/2023 Minutes *are draft until approved*

**Effingham Planning Board
Meeting Minutes
June 15, 2023**

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Members Present: Elaine Chick (acting chair); Grace Fuller (scribe); Chris Seamans (Selectmen’s representative); Paul Potter; Gary Jewell; Nate Williams; Mike Cahalane (seated for George Bull)

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Members Absent: George Bull (Chair)

Others Present: Bridget Perry (Alternate); Linda Edwards (Alternate); Nate Fogg, (PB clerk). Applicants, and members of the public

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Chair, called the meeting to order at 6:35 pm. Quorum present.

25 **1. Review of Minutes from the June 1, 2023, Meeting.**

Grace Fuller noted some minor scrivener errors on various pages requiring correction. No other members had any other changes, additions, or corrections.

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MOTION: Ms. Fuller made a motion to accept the minutes as corrected. Seconded by Chris Seamans. Passed.

35 **2. Continuation of Public Hearing; 45 Bailey Road Map 104 Lots 2 and 3: Lot Line Adjustment, Subdivision and Conservation Land Application**

Ms. Chick reopened the public hearing at 7:45 PM.

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All members of the board were provided sample deed language for the Open Space Conservation Subdivision acreage and a description of the additional work needed for the roadway, prepared by the Applicant’s lawyer.

- Declaration of Nutter Meadows Conservation Subdivision
- Roadwork Description by Scott Drugg of Drugg Construction and Excavation

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Ms. Chick asked the applicant if she had sample language prepared for each of the subdivided buildable lots with regards to road maintenance and access.

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Ms. Gardella responded that her attorney told her that was not necessary, provided each of the subdivided lot deeds referenced the Open Space Conservation Subdivision Declaration and within that declaration the road maintenance and right-of way easement is defined. Ms. Gardella also stated that the original deed for the farmhouse, from 1914, states the easement is maintained by the Farmhouse. The Farmhouse is a separate lot not a part of this subdivision. It is located on the southeast corner of the main parcel. Abutting route 153.

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55 Ms. Gardella continued, this Open Space Conservation Declaration would need to be recorded first at the Carroll County Registry of deeds and then each subsequent deeded lot would reference the recorded book and page of this Declaration.

60 Ms. Chick replied she spoke with a contact at the Squam Lake Conservation Society about appropriate language for this type of subdivision. Typically, this type of subdivision requires membership in a homeowner's association and the deed for each property that is part of the subdivision has road maintenance and shared facilities outlined in the deed.

65 Mr. Potter stated that it is quite common that a property refers to another property's book and page number. First, before you sell or transfer ownership of any of the subdivided buildable properties you have the Declaration recorded book and page and then each new lot references back to that book and page.

70 Mr. Gardella commented that the three properties that have right of way access now all reference the original deed for the Farmhouse with regards to use of the road. They all state that the Farmhouse is responsible for the maintenance of the road.

Mr. Cahalane asked for clarification as to the location of the right of way.

75 Ms. Gardella explained the right of way leads from Bailey Road down to the camps at the edge of Province Lake.

80 Mr. Cahalane confirmed the road that is coming onto the property now will provide all the access for the new subdivided lots. And those lots will not have any responsibility for maintaining the road?

Mr. Potter shared that he knows of several places in Effingham that are structured the way Ms. Gardella is describing.

85 Mr. Cahalane stated this would need to be reviewed by the town's attorney as there is a recent RSA that requires all properties that share a private right of way are responsible to equitable maintenance of the right of way. These properties are legally bound to participate in road maintenance. The planning board will need to seek legal counsel.

90 Ms. Gardella states she does not want the road maintenance to go to the subdivided lots. She wants to maintain the road to her standards. She ran this by both her land use attorneys and they concurred that she could keep the road maintenance with the farmhouse.

95 Ms. Fuller asked if the smaller lots have already been subdivided out as house lots?

Ms. Gardella confirmed there are 6 lots as part of this subdivision that were approved as part of the conceptual plan.

100 Ms. Fuller noted that the Declaration needs to include the following statement: there will be no further subdivision of the property. No residential or industrial development. No roads for commercial uses except for forestry access.

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Ms. Chick commented you should also indicate if this for *private or public* use in your Declaration. Even though the intent is to privately own the conservation land you still need to state if the Conservation land is for private or public use. Also, to add to the Declaration the Map and Lot number of the Farmhouse not just the street address

Ms. Chick also mentioned if there are any trails or paths through the conservation land this should be identified. The applicant may also want to include a path or trail for access to the lake. Since the intent is to keep this land for private use, you should post the land as Private.

Ms. Chick asked if a wetlands delineation has been done by a Wetlands scientist.

Ms. Gardella stated that had been done. Mr. Cahalane asked if there was a Wetlands stamp on the Plat?

Mr. Cahalane stated the need to get final approval from legal counsel on the deed language.

Mr. Seamans asked if the applicant understood legal would be consulted on the language.

Ms. Gardella asked how long would that take? As she has a builder lined up to put a foundation in on one of the lots.

- Is she allowed to go ahead and build on the lots without the language being finalized?

Mr. Seamans asked if we could make a conditional approval based on the legal counsel signing off on the language.

Ms. Chick stated that the board had voted previously to not make any additional changes to the plat design.

- Discussion about the new Map and Lot numbers brought up the question of Road Name.

Ms. Fuller stated the subdivision regulations require the Road Name be included on the plan.

Ms. Gardella stated the Road name would be **Nutter Meadows**, she would ask Mr. Rines, the surveyor, to add that to the plan.

Ms. Fuller also notes the Easement for the Utility Service was not noted under Easements and Right of Way notes on the plan. Although the utility poles are depicted on the plan.

Ms. Gardella will ask Mr. Rines to add the Utility easement to the plan.

- Ms. Chick shared, the risk of starting to put in a foundation is if for some unknown reason there is an issue with the Subdivision you cannot continue to build. You assume that risk.
- Ms. Gardella asked, for an example of what would cause this from not going through.

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Ms. Fuller suggested we should review the Subdivision regulation to be sure they meet those requirements.

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Ms. Chick commented that not all of the Subdivision regulations would apply due to the nature of the Conservation Subdivision.

- The plat with the test pits was not included. Mr. Rines was contacted, and he forwarded it via email. State approval has been provided for each lot and test pit. He will add the Utility Easement to the final plat.

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Motion for Conservation Subdivision by Grace Fuller; to **conditionally approve** the Nutter Meadows Conservation Subdivision, based on the review of information shown on the State approved subdivision DES plat. Final plat will include the utility easement, and road name. With condition precedent that the planning board attorney review and approve the language for the Conservation Subdivision easement Declaration. Seconded by Nate Williams. All in favor.

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The applicant asked what happens next?

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The Planning Board attorney will need to review; the planning board will notify the applicant if additional language is needed.

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Motion for Lot Line Adjustment Map 104 -3 by Ms. Chick; to approve the Lot Line adjustment for Lot 104 -3, adding acreage from Lot 104 - 2 expanding Lot 104 -3 from; .23 acres to 3.06 acres. Seconded by Grace Fuller. All in favor.

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Of Note: The applicant has submitted a Wetlands permit request to the State to extend the existing culvert that crosses the existing right-of-way to span the width of the right of way. The existing granite culvert is too short.

Mr. Seamans will bring the request for legal to the Board of Selectman at the work session on 6/16/2023.

Timeline: Couple of weeks.

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3. Other Business:

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Mr. Fogg stated Darrel Remick was coming in July 6th to discuss a possible subdivision on his property at Province Lake on Remick Road.

There is also an application review and possible public hearing with Patric Lepene for a lot line adjustment scheduled on 7/6/2023.

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Mr. Fogg also stated an application from Mr. Galloway was received. Based on the current PB schedule for July 6th, Ms. Chick suggested first meeting in August, August 3rd.

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A Mylar Plat was received for the Ogren Lot Line Adjustment, signing needs to be scheduled. Waiting on paper copies.

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Motion to adjourn by Mike Cahalane. Seconded by Grace Fuller. All in favor.

Meeting Adjourned at 8:10 PM

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Minutes prepared by Elaine Chick

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To Do List:

- Update Subdivision Regulations: Number of Plat Copies
- Add Dates to applications and forms.
- Home Occupation/Cottage Industry Checklist/application

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