

**Effingham Planning Board  
Work Session Minutes  
August 17, 2023**

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**Members Present:** George Bull (Chair); Chris Seamans (Selectmen’s representative); Paul Potter; Elaine Chick; Nate Williams; Grace Fuller; Mike Cahalane (Seated for Gary Jewell).

**Alternates:** Linda Edwards.

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**Members Absent:** Gary Jewell; Bridget Perry (Alternate)

**Others Present:** Members of the public and Nate Fogg (PB Clerk).

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Meeting called to order at 6:32 PM. Quorum present.

**1. Old Business**

**a. Gardella Subdivision: Deed and Easement declaration language discussion**

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**Mr. Bull** stated the Gardellas have been e-mailing asking for an update from the lawyer regarding the latest language submitted.

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*Mr. Bull* heard back from the Attorney yesterday. Per Attorney Serge, the document provided by the Gardellas is similar to the last one. This is just a declaration there is no deed. The Zoning Ordinance requires a conveyance of a deed, there is no deed here. The other thing that needs to be done is a Conservation restriction easement that can go to either the Town or other 501c3 entity. In the declaration presented there is no problem with the other language just that there is no deed and no Conservation easement which are required. Until we have those we can go no further.

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*Ms. Gardella* responded that she feels this can be resolved quickly, she just has a couple of questions. She spoke with Jonathan Balanoff from the Acton Wakefield Watershed Alliance. He explained that she could convey it to the Town. She explained that up until her conversation with Mr. Balanoff, she did not understand that she needed a deed.

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*Mr. Bull* explained that you can convey the property to an LLC, you cannot convey it to yourself. When you convey the 2 parcels of land to the LLC, in that deed it will list all the restrictions that meet the ordinance. The next piece is the Conservation Restriction or Easement that is not land ownership. That can go to the Town or other Not for Profit.

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*Ms. Gardella* does not mind the Easement going to the Town, she just wants to be sure that the Town cannot, for example, put a town garden on the property.

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*Mr. Bull* explained the Town would basically hold the right to enforce what is in the deed. Because there are restrictions on subdividing and developing the property, the Town cannot put a park on the property. The Declaration you provided is just declaring what you intend to do, it actually has to be done.

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50 *Ms. Gardella* shared with the Chairman another document from her attorney that she received this afternoon.

The Board as a whole has not received this document for review.

55 *Mr. Bull* stated again this does not have a deed or a conveyance.

*Mr. Bull* provided instructions on what to do next, the applicant needs to submit for review by the Town's Attorney.

- 60 i. A draft of the wording of the deed, one for each of the two parcels, with the restrictions for the LLC.
- ii. A draft of the wording of the Conservation easement or Conveyance, that includes those same restrictions, to the Town or to a 501c3.
- iii. The Town's Attorney confirms those deeds meet the Ordinance conditions.
- iv. These conveyancing instruments must be provided before final approval can be given.

65 *Mr. Bull* read the response from the Attorney to the most recent submission from the Applicant.

*Ms. Gardella* will have her Attorney work with the Town's Attorney on the wording.

70 *Ms. Gardella* then asked if the Board could meet sooner than September 7, 2023, she has lined up a builder and doesn't want to lose the builder. *Ms. Gardella* again stated that she did not know she needed a deed or she would have done this previously.

75 *Mr. Bull* and *Ms. Fuller* referred *Ms. Gardella* to the Zoning Ordinance, this information is laid out in that Ordinance.

*Mr. Bull* restated you cannot build or work on this subdivision until this subdivision gets final approval.

80 *Mr. Bull* asked if the *Gardella's* had sold any of these lots. *Ms. Gardella* stated she has sold two of the lots already.

85 *Mr. Bull* and *Mr. Potter* both stated the subdivision has not been approved yet, so you cannot sell any of the lots from the subdivision. *Ms. Gardella* said she was told otherwise and has sold both lots to the same person.

90 *Mr. Bull* informed the applicant that before a building permit can be issued for any of these new lots, a waiver must be signed by each owner of the lot. The waiver absolves the Town of any responsibility for maintenance and upkeep on this private road. This is a state law. **This waiver requirement should be added to the final Mylar.**

95 *Mr. Cahalane* also shared another recently adopted RSA, 231:81-a. 'All Property owners on a private road pay equitably toward the reasonable maintenance of the road.' He restated the Town's Attorney referenced some concern about the road.

**This may be something that should be added to the final Mylar or the Notice of Decision.**

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*Mr. Bull* again stated it is not up to the Board to tell you what you need to include on the final plat.

100 *Ms. Chick* commented that she could not see the road name on the plat that was included in the recent e-mail.

*Ms. Fuller* again suggested; keep referring back to the Ordinance.

105 *Ms. Fuller* for clarification, after the Attorney has reviewed and approved the language for the deeds and conveyance/easement, the Board still must review the final plat and submissions before final approval is given.

## 2. Review of Meeting Minutes

### 110 a. Minutes from May 4, 2023

**Motion:** by Elaine Chick to approve as amended. Seconded by Paul Potter. All in favor, passed.

### b. Minutes from May 11, 2023

115 **Motion:** by Elaine Chick to approve as written. Seconded by George Bull. All in favor, passed.

### c. Minutes from June 15, 2023

**Motion:** by Grace Fuller to approve as amended. Seconded by Mike Cahalane. All in favor, passed.

### d. Minutes from July 6, 2023

120 **Motion:** by Elaine Chick to approve with changes. Seconded by Grace Fuller. All in favor, passed.

### e. Minutes from July 11, 2023

**Motion:** by Grace Fuller to approve with amendments. Seconded by Mike Cahalane. All in favor, passed.

### 125 f. Minutes from August 7, 2023

**Motion** by Grace Fuller to approve as amended. Seconded by Mike. All in favor, passed.

## 3. Draft Notice of Decision (NOD)

### a. Lepene/Augenti Lot Line Adjustment NOD

130 Chair Bull asked Nate Fogg if we received confirmation that Mylar was registered at the Registry of deeds. Mr. Fogg will follow up.

- Ms. Chick distributed, for review and comment, a draft NOD for this application. Ms. Chick explained she took the NOD from Attorney Boldt and formatted this draft.

135 The draft NOD includes application information: Applicant name(s), Map and Lot numbers and property address(es). Finding of Fact including dates of discussion of conceptual design, dates of hearings and other pertinent information.

- 140 i. Chair Bull stated the findings of fact are not necessarily the minutes but those things that are relevant to making the decision and the minutes must reflect everything that is included in the NOD.
- ii. Ms. Chick stated as a starting point, she added as much information as could potentially be pertinent and will remove or add whatever the Board decides.

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- iii. The Board reviewed the document and recommended striking some entries, truncating other statements, and rewording some information to make the NOD more succinct.
  - iv. The Board agreed to keep information referenced from the minutes, including any granted waivers, as well as any specific references to any identified notations on the plat.
  - v. Ms. Chick will do a second draft mockup and forward to Ms. Fuller to review and add any additional corrections based on the Boards input.
  - vi. Mr. Fogg will send finalized copies to the Board.
  - vii. Mr. Bull will sign and send a scanned copy to Mr. Fogg who will distribute the final document to the applicant. He will also forward a copy to the ZEO, Rebecca Boyden and Accessor, David Hynes.

**Motion** by Michael Cahalane to accept the Notice of Decision with finding of fact for the Lepene/Augenti lot line adjustment based on the amendments discussed. Seconded by Grace Fuller. All in favor. Passed

**Next Work Session Meeting:**

Review Workflow Process so everyone knows who is responsible for doing what function.

**Motion to Adjourn** by Elaine Chick and Seconded by Grace Fuller. All in favor. Passed.

**Meeting Adjourned at 8:50 PM**

***To Do List:***

- ***Update Subdivision Regulations***
- ***Add Dates to applications and forms.***
- ***Home Occupation/Cottage Industry Checklist Application***
- ***Major/Minor Site plan review***
- ***Accessory Dwelling Unit Conditional use permit***
- ***Clarify Contiguous land.***

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