

**Effingham Planning Board
Meeting Minutes
September 7, 2023**

Members Present: George Bull (chair); Elaine Chick; Gary Jewell; Paul Potter; Chris Seamans (Selectmen’s Representative); Linda Edwards (alternate seated for Nate Williams); Bridget Perry (alternate seated for Grace Fuller)

Members Not present: Nate Williams; Grace Fuller; Michael Cahalane (alternate)

Others Present: Applicants, Gardella Family; Nate Fogg (PB Clerk) Other members of the public.

Meeting called to order at 6:35 pm. Quorum present.

Chair Bull advised those present of the agenda for this meeting:

1. Public Hearing Continued for the Lake Front Landing, LLC

- Applicant has requested a 30-day extension.
- **Motion** by George Bull to continue the Public Hearing to October 5, 2023, no earlier than 6:30 PM at the Effingham municipal office. Seconded by Elaine Chick. All in favor, passed.
- Nate Fogg, Clerk; will notify the applicant of the new date and time.

2. Continuation: Gardella, Nutter Meadows; Conservation Easement & Deed language.

- The applicant emailed a draft Deed and draft Conservation Easement on 9/6/2023.
- Ms. Chick shared copies of the Deed, Conservation easement and the sample Conservation easement provided by Attorney Serge.
- Ms. Gardella stated the two deeds were merged into one Deed per recommendation of the Town’s Attorney. Both parcels were listed.
 - i. Mr. Bull will run this by the Lawyer again.
- Mr. Bull went through the Conservation easement against the template provided by Attorney Serge, identifying the sections that were removed from the applicants document that need to be added back.
 - i. Add back the statement on page one, paragraph 1. “acting by and through its Conservation Commission and with the Approval of the Board of Selectmen.”
 - ii. Add back Section D under Use Limitations. Section D pertains to mining, minerals, removal of gravel ...
 - iii. Add back into the section on Breach of Easement language regarding parties responsible for costs including staff, Attorney and legal fees and how those fees will be covered.
 - iv. Applicant will keep the mediation reference as a first line of reconciliation.

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- 50 v. Under Reserved rights, Section C. retains the right to construct and maintain one or more dam fence..., swimming pool, raised beach... Some of these items were listed as Use Limitations in the Sampel provided.
- vi. Ms. Gardella described what her understanding is of a raised beach.
- vii. Ms. Chick commented that the Conservation parcels would not have swimming pools, buildings, and structures. The subdivided building lots would have pools and structures.
- 55 viii. Mr. Bull raised a concern about a clause regarding adding the storage and spreading of compost, manure, or fertilizer....
- ix. Ms. Gardella will make the changes requested. However, she will take out the swimming pool as long as she can keep the raised beach as a reserved right.
- 60 x. The Board is unfamiliar with the raised beach and will investigate further.
- Ms. Gardella asked if they can move forward with the building on the lots while the board is finalizing this language.
 - Mr. Bull explained: Once the language is finalized, the town files the Conservation Easement at the registry of deeds, then the town will file the plat. Then the applicant can file the deeds at the registry with book and page number(s). Once that is done then you can proceed with construction.
 - Mr. Bull stated: we need the final wording before any of this can be done. The PB has to give the final approval.
 - Ms. Chick stated she has not had an opportunity to review the material and would like time to review the documents before making a decision.
 - Mr. Jewll suggested the PB schedule a follow up meeting next week to review a finalized copy of the Conservation Easement. Meeting to be held following Counsel's review and approval of the latest Conservation easement.

Next Meeting Scheduled: 9/14/2023 no earlier than 6:30 PM at the Town Offices.

75 **3. Meena Litigation- Motion to Stay by the Opposition**

- Mr. Bull related that Attorney Boldt asked how the PB wanted him to handle the Motion to Stay. Two options were offered, Motion to dismiss or Motion to continue.
- Mr. Bull asked him to take the quickest, least costly, option.
- Attorney Boldt submitted a Motion to Dismiss the appeal as the applicant has not satisfied the Pre-conditions. One cannot appeal a decision when the decision is not final yet.

85 **4. Spill Prevent Control Plan Sign off – Meena LLC – Northpoint final report.**

- **Mr. Seamans** brought forward a concern presented by the Fire Chief about a Meena condition of approval.
- Chief Harmon reported to the BoS that there isn't anything that he can sign off on with regards to the Spill Prevention Control Plan. Chief Harmon spoke to DES regarding this condition. They have no regulations or rules specifically for the Fire Chief to review and sign off on.
- Mr. Bull will follow up with Jeff Lewis to find out why this was added.
- Mr. Bull received a follow-up e-mail from Attorney Matt Johnson. Attorney Johnson stated the applicants are in the process of recording documents with the registry of deeds and working on meeting the conditions of approval.

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- Mr. Seamans also stated per direction from the Town’s Attorney, the BoS voted on 9/5/2023 to instruct Rebecca Boyden to remove the Cease-and-Desist order from the Meena LLC property.
 - Mr. Bull commented that the Town’s Attorney and Attorney Boldt have no knowledge of the “Stay” that Blair Folts claimed was approved by the court.
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5. Applicants doing work on Proposed Subdivisions prior to final approval.

- Mr. Seamans brought up the concerns raised by members of the PB regarding work being done on Subdivisions before they receive final approval.
 - Mr. Bull stated a lot of people are moving forward on projects prior to Final Approval. He clarified two points. The Final approval and the Notice of Decision. Following the Final approval, the applicant can begin work prior to receipt of the NOD as long as they have met the conditions of approval.
 - Mr. Seamans recommended, moving forward, the PB needs to make it perfectly clear to the applicants that they cannot do work without Final approval. “You don’t stick a shovel in the ground” until final approval is given, and all conditions have been met.
 - Ms. Chick stated: There should not have been a building permit issued without prior approval from the PB. Mr. Jewell concurred.
 - Mr. Bull stated the ZEO should not be issuing any building permits without have confirmed the Subdivision has been approved. The BoS will need to make it clear to the ZEO that applicants should not be digging a hole without the Final Approval.
 - Mr. Bull also made the recommendation, the PB notify applicants that no submissions will be considered within 48 hours of a hearing or meeting.
 - Ms. Chick suggested adding it to the applications.
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6. Notice of Decision –

- **Lepepe Lot Line Adjustment – Final Notice of Decision**
 - i. Has been signed and forwarded to Mr. Fogg to forward a copy to the applicant.
 - **Ogren Lot Line Adjustment – Notice of Decision**
 - i. Ms. Chick provided a draft NOD for review by the Board.
 - ii. The Board reviewed and approved the NOD as drafted.
 - iii. Ms. Chick will forward final to Mr. Fogg
 - **Green Mountain Land Holding LLC – Subdivision Notice of Decision**
 - i. Mr. Bull asked Mr. Fogg if the applicant received State approval for the Subdivision.
 - ii. Mr. Fogg stated he believed that was received. The applicant was waiting on the NOD before submitting the final Mylar.
 - iii. Ms. Chick will draft the NOD for this subdivision with Condition of State approval.
 - iv. NOD draft will be sent out for PB review.
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7. Review of Minutes

- **Minutes of regular meeting on August 3, 2023**

Motion by George Bull to approve as amended. Seconded by Paul Potter. All in favor, passed.
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- **Minutes from work session on August 17, 2023**

Motion by Bridget Perry to approve as amended. Seconded by Geroge Bull. All in favor, passed.

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Motion to adjourn by Elaine Chick, Seconded by Chris Seamans, All in favor. Motion passed.

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Meeting adjourned at 9:05 PM

Minutes prepared by Elaine Chick

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For future Planning Board Discussion

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.***
- ***Document submission at minimum 48 hours prior to meeting/hearing***

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