

LITCHFIELD ZONING BOARD
TOWN OF LITCHFIELD, NEW HAMPSHIRE
APRIL 8, 2009

ZBA Members Attending (Indent if Absent):

Richard Riley, Chairman

Laura Gandia, Vice Chairman

John Regan

Albert Guilbeault

Tom Cooney, Clerk (present but had not been sworn in so did not participate)

Gregory Lepine (alternate)

John Devereaux (alternate)

Eric Cushing (alternate)

John Brunelle (alternate)

I. Call to Order

- Richard Riley calls the meeting to order at 7:12 pm.
- John Regan takes attendance.
- Richard Riley appoints John Brunelle and Greg Lepine to the Board.

II. New Applications

There are no new applications.

III. Case Review

There are no cases presented for review.

IV. Miscellaneous Business

- Meeting minutes.
 - Richard Riley asks if all board members have read the March minutes. Not enough board members have reviewed the minutes to vote on acceptance. Mr. Riley states board will defer the approval of the March minutes until the May meeting. After more discussion three of the board members did review the minutes and the board decided that the minutes could be voted on.

*Greg Lepine makes a motion to **accept** the March meeting minutes.*

Laura Gandia seconds the motion.

*The board votes **in favor** of **accepting** the meeting minutes, **3-0-2**.*

- Update of ZBA member appointments.
Richard Riley asks board if they have been sworn in.

Response:

Laura Gandia has been sworn in and will extend her term for three years (2012)

Gregory Lepine (alt) has been sworn in and will extend his term for three years (2012)

Mr. Riley states that every board member is updated except Tom Cooney. Tom will take care of this.

- Discussion on scheduling site walk for Case 2009-10, MDP Management Inc.; 27 Cutler Road; Map 2, Lot 128.

Mr. Riley stated that he had been in touch with the Conservation Commission and they have suggested a couple of dates for the site walk on 27 Cutler Road. The two dates mentioned were Saturday, April 11, 2009 at 10:30 a.m. and Thursday, April 16, 2009 at 6 p.m. Mr. Riley would like as many members that were present at the hearing of the case, to attend the site walk.

Mr. Riley proposed a question of whether or not a site walk was considered a meeting or a hearing. The opinion of the board was that the site walk would be considered a meeting. The reason for the question was to determine the length of time needed for the appropriate notices to be posted. John Regan asked if this information needed to go into the newspaper. Board responded that it did not as site walk would be considered a meeting. Board agrees that site walk is a meeting and that the necessary minutes should be recorded at the walk. The board will be just gathering information at the site walk and not making any decisions. Mr. Lepine also points out that the hearing had already been posted in the HLN prior to the March meeting so we are not required to provide public notice again.

Laura Gandia suggested to the board that it would be very helpful at the site walk if the driveway area were marked properly with stakes to determine exactly where the driveway is intended. John Regan brings up the fact that the board is doing the site walk to determine the location of the driveway in relation to the wetlands. Without the appropriate markers it would be very difficult to determine the exact location of the driveway. Mr. Riley added that the board would notify Morgan Hollis (the attorney for the applicant) regarding the marking of the proposed driveway.

Greg Lepine suggested sending letters to the applicant (MDP Management) to let them know the actual date of the site walk.

The board discusses the best way to document the minutes at the proposed walk. It was decided that a written recording would be taken, as well as, a taped recording. This will be transcribed for the record.

Mr. Riley indicates that during his conversations with the Conservation Committee about scheduling the site walk he learned that Joan McKibben had recently been in the area on April 2, 2009 and that she had the opportunity to view the large wetland area to the back of the property (could not recall if north or east) which she estimated came within 75' of the proposed location for a residence. MS. McKibben stated that she clearly could hear a very high level of mating calls which she recognized to be that of the wood frog suggesting there are vernal pools present. Mr. Riley then asks the Board if they should discuss hiring their own wetland specialist to conduct a survey on our behalf. Mr. Riley then explains that because the best time to conduct a survey of the area is between March and May that he is concerned about the timing and since he has never hired a wetland specialist he is not sure how long it would take to get one scheduled especially if this is their busy season. He states that if we wait until the May meeting to discuss this then we might not have the time to schedule the survey to be done within the optimum window.

John Regan asks, "Who determines that something is too close to a vernal pool?" Gregory Lepine reminds board that a building permit has not yet been obtained. He would like to know how close to the proposed driveway is the vernal pool if in fact there is one out there.

Laura Gandia stated that she would like to engage an expert who would be totally impartial.

Mr. Riley explains that based on our bylaws the applicant would need to pay for the ZBA expert. The Board discusses the logistics involved with coordinating the whole process.

John Regan reminds the board that he will not be in town for the May meeting. He will be available for the site walk but not the meeting. Gregory Lepine suggestion is to tell applicant that they can hear results from site walk at the May meeting with a four-person board or applicant can accept a substitute board member. The Board could also grant a continuance if the applicant requests it.

Richard Riley makes a motion to set the date for the site walk on Case 2009-01 for Thursday, April 16, 2009 at 6:00 and that the applicant will be informed that the driveway will need to be clearly marked.

John Regan seconds the motion.

*The board votes **in favor 5-0-0.***

Mr. Riley asks if there are any other motions.

Laura Gandia makes a motion to the Board that pursuant to the ZBA bylaws regarding Case #2009-01; that the ZBA shall engage their own expert to determine the viability of the wetlands.

John Regan seconds the motion.

*The board votes **in favor 5-0-0.***

- Discussion on Continental Paving Inc. ET. Al v. Town of Litchfield.

Richard Riley states he received an update from the town attorney that the Supreme Court is supposed to be handing down a decision tomorrow.

- Discussion about BOS representative to the ZBA.

Mr. Riley received an email from the Board of Selectmen to relay how each of their members are aligned with the different committees and boards. Mr. Riley sent a message back to ask "what about the ZBA?" ZBA used to have Pat Jewett. Greg Lepine stated the ZBA board is appointed and BOS cannot influence ZBA. Mr. Riley explained that the Board of Selectmen Chairman, Frank Byron, has indicated that if the ZBA needed anything we could contact him.

- Review of Budget Report.

No report to review yet. Mr. Riley did attend a department head Board of Selectmen meeting and they asked ZBA to look at the budget for any adjustments that would result in savings. The proposed budget has not been voted in so they asked ZBA to work from the default budget. He stated all departments were asked to view the default budget and make appropriate changes in the ballpark of 15%. Mr. Riley said that in the case of the ZBA, the default budget was a little bit more funds than needed. He came in with the right number for the default budget and somewhere between 6 and 7 percent under the proposed budget we have submitted for 2009. Mr. Riley said he took a little bit of funds out from the equipment side but most of the reductions came by lowering the number of cases we expected to hear this year. Board discussed use of equipment and access to printing. This issue is being addressed. Mr. Riley also asked the board if anyone was interested in attending the spring conference.

Mr. Riley then raised the issue on reviewing the policy on collecting fees for new applications. This item was not on original agenda but added by Mr. Riley at the last minute. Mr. Riley was looking for a policy regarding mailing notices to abutters via certified mail. The ZBA's current procedure was to bring these mailings to the post office and pay out of pocket. Mr. Riley suggests that the mailing fees be added to the bottom of the applicant Application. Applicant would present two checks, one for application fees and one for certified mailings. Separate checks would make the mailing of notices much easier for the administrative assistant. The board checks into the By-Laws to see what the protocol is for amending the application and adding a fee to the application. Mr. Riley reads from Section 4.8 of By-Laws which were amended on 06/2008. Board decides that nothing in By-Laws prevents the modification of the Application for Appeal.

Mr. Riley will modify the Application for Appeal to reflect both fees and present modified Application at next month's meeting.

- Nominations for Chair, Vice Chair, and Clerk for 2009-2010 term.

Mr. Riley asks for nominations. Greg Lepine explains that the By-Laws state that such nominations be done in May 2009. Board will postpone this issue until next month.

V. Adjournment

John Regan makes a motion to adjourn.

Laura Gandia seconds the motion.

*The board votes **in favor** of adjourning at 8:35 pm, 5-0-0.*

*Respectfully submitted,
Karen McCloskey*