

TOWN OF ANDOVER  
PLANNING AND ZONING COMMISSION  
Monday, February 22, 2021  
LOCATION: VIRTUAL MEETING VIA ZOOM, 7:00 P.M

**REGULAR MEETING MINUTES**

**Members Present:** Chair Jed Larson, Vice Chair Anne Peterson Crème, Scott Person, Susan England, Kevin Arnesen (alternate), Leigh Ann Hutchinson (joined at 7:08 p.m.)

**Member Absent:** Anne E. Blanchard (alternate)

**Others Present:** Zoning Agent – Jim Hallisey, Board Clerk – Mindy Gosselin, Donna Phillips, Megan Phillips, Dianna Grenier, Mike Sheehan, John Sheehan

- 1) Call to Order/Seating of Alternates: J. Larson called the meeting to order at 7:00 p.m., K. Arnesen was seated for L. Hutchinson.
- 2) Public participation: None.
- 3) Additions and/or Changes to the Agenda:

J. Hallisey stated that an application for 57 Hendee Rd came in today (02/22/2021). The application is for a special permit, building in the flood prone zone.

There was not a motion to add this application to the agenda. The Commission needs time to review the application before it is considered.

- 4) Old Business
  - a) Update – Lake Regulation Amendments

J. Larson stated that the Lake Regulations were discussed and approved last meeting. He asked if the Zoning Agent had received any comments on the regulations since last meeting. J. Hallisey stated that Linda Derrick indicated that at least one member from ALPOA was caught off guard that the regulations had passed. No one from that organization was present on zoom to address this.

J. Larson asked if there were any permits that have been affected. J. Hallisey stated that there was an inquiry, but no applications have come in yet.

J. Larson stated that the regulations are not perfect, they will be revised as applications come in and more is learned.

- b) Discussion – Status of lot determination of Wheeling Road Property (formerly #9 Wheeling) i.e use of town-owned right of way.

J. Hallisey stated that this property has been discussed previously. The property was taken by the State Department of Transportation (CT DOT) for the realignment of Wheeling Road

as a part of the Route 6 project. The realignment did not happen and the property was subsequently deeded over to the town. This town property (~1.5 acres) is now between the Sheehan parcel (~4 acres) and Wheeling Road. The Sheehan's would need to cross the town property to access their property from the road. The Sheehan's are looking to sell the property as a building lot.

J. Hallisey emailed the quick claim deed and the plans to the Commission. J. Hallisey wanted to clarify that in last meeting's minutes he mentioned open space, he is not sure where he got that from but there is a notation about a non-access line on the plan up to a point. The email from the CT DOT regarding the quick claim said it's for highway purposes and it's up to the town to interpret. J. Hallisey contacted Mark Branse for his legal opinion, he indicated that he did not have an issue with the use of the town property as a right of way for the Sheehan parcel.

J. Larson stated that he looked at the town assessor's maps and the town plan for conservation and development. There were inconsistencies amongst them. J. Larson also stated that he provided J. Hallisey with the open space comment mentioned last meeting, he will look further into the context in which it was brought up.

M. Sheehan said that when they started to negotiate with the CT DOT regarding purchasing the land back, Christina Smith made it clear (verbally) that it wasn't imperative to get the frontage back because it would be unlawful to landlock them from the building lot.

J. Larson stated that the property is landlocked. M. Sheehan stated that they should be entitled to a right of way.

M. Sheehan stated that there is a contract of sale on the parcel, the closing is scheduled for March 12<sup>th</sup>. He asked if there would be a conclusion by March 12<sup>th</sup>, J. Larson stated that he is unsure. There will be later discussions in this meeting regarding frontage.

J. Hallisey stated that the Sheehan's have two properties. The property that is being discussed is to the East of the town parcel.

c) Filling of Commission Vacancy

S. England signed up as an alternate for the upcoming election. She was endorsed this past Friday by the democratic commission.

K. Arnesen stated that he would be interested in applying for the vacant position and will contact his political party.

5) New Business

a) Discussion – Frontage Requirements (Subdivision and Zoning Regulations)

J. Larson presented on lot width and frontage. He addressed the definition of frontage, cul-de-sac, rear lots, open space and development densities, and more.

J. Larson reviewed the town map from the town conservation and development document. The state and town properties were shown and there were discrepancies found. Two parcels on Hendee Road were discussed along with the Wheeling Road parcel.

Moving forward in regards to properties like the ones mentioned above, J. Larson stated that the regulations could stay the same with the understanding that the town property can be treated as an extension of the town's right of way to allow access. Another option would be to keep the regulations the same and allow driveway access to properties via an 824 referral. This option results in the same outcome but involves the Board of Selectman. Another option would be to change the regulations to require frontage instead of width, this could preclude some building lots. There could also be other options.

J. Larson evaluated whether the Route 6 project would subject other lots to this same problem of access to a town road and frontage. He stated that there aren't many other lots in this same situation, most have this land in between two different properties (that abut each other) and still have frontage on their roads. That land is now open space.

J. Larson looked into Columbia's and Lebanon's regulations. Columbia uses both width and frontage and they have requirements for both of them. Lebanon had frontage, J. Larson could not remember if they had width.

If the Commission agrees with attorney M. Branse's conclusion, the town property will be treated as a right away alongside the road and allow a driveway to cut through. That is doable. A. Crème stated that the Commission should allow them the right of way like one would at any other place. Everyone has a town right of way to reach the street, in the case of Wheeling Rd. it is just a bit wider. S. Person stated that each property is different. The Wheeling Rd. parcel should have a right away allowed. The parcel on Hendee Rd. should've gone about it differently and gotten an 824 referral.

There were more discussions on those parcels in regards to town land and frontages.

J. Larson asked if the Wheeling Rd. parcel is treated like a right of way, should it have to go to the Board of Selectman for approval. He continued on to state that whatever is decided should be consistent.

S. Person MOVED to have the Zoning Agent make a determination on the Sheehan property on Wheeling Rd. A. Crème SECONDED.

S. England stated that this is a unique situation that the state itself created. Now the Commission has to remedy the state's decision. K. Arnesen expressed concern about future instances where people could propose driveways across designated pieces of town land to make building lots.

J. Larson asked about the proposed driveway location and length. J. Hallisey stated that it is roughly 75 feet, however, it is a proposed plan that is not approved.

S. Person MOVED to modify the motion to include the basis of approval because of this particularly unique situation and effort to remedy the state's decisions. The property was

taken from the Sheehan's by the state with the intention to modify Wheeling Rd. and the modification was not made. That property was then given to the town. This subsequently eliminated the Sheehan's remaining parcel's frontage on Wheeling Rd. Due to these events, the Zoning Agent will make a determination on the Sheehan property. A. Crème SECONDED. By roll call vote, MOTION CARRIED 5:0:0.

J. Larson said he will brief the Board of Selectman on this matter.

L. Hutchinson cited the December meeting minutes and stated that it mentioned that situation like these are on a case by case basis.

J. Larson asked if there should be a regulation regarding frontage on a town or state road. S. Person said yes. This would be something that would need to be discussed at a public hearing. Unique situations would still be handled case by case.

b) Discussion – Amendments to the Sign Regulations

J. Larson presented on Sign Regulations – Chapter 15. He stated that the current regulations list restrictions for political signs. This has been deemed a violation of free speech, content cannot be regulated.

The following regulations were reviewed and discussed: 15.4.2, 23.2.1 (15.5.3), 15.4.2, and 23.2.1 (15.5.3).

J. Larson explained the types of temporary signs: public interest and novelty. These explanations can be put into the regulations.

If more restrictions are put in place, that is okay. However, it cannot read that tag sale signs can be this size but political signs have to be this size. It must be universal for all temporary signs.

A. Crème asked the difference between public and private property.

J. Larson stated that it is not crystal clear. He also said that he struggles with deciding if a flag is a sign. Additionally, business signs are different than temporary signs. Permanent signs need a permit.

The Commission discussed the requirement of keeping the temporary signs 15 feet from the road and from the property lines. A. Crème stated that 15 feet is far back, people might not even be able to see the signs. J. Larson stated that 15 feet was originally mentioned because it is existing in the regulations and is consistent with setbacks. Additionally, there is a good chance that the sign would be out of the town right of way. Either way, the distance that is chosen must be consistent throughout the town. Sign time limits and size limits will be discussed further in the future.

6) Approval of Minutes – January 25, 2021 Meeting

Item 2. “The tan/orange color is Zone D, it is ~~in~~ **outside** the Lake district but ~~outside~~ **inside** the watershed area.”

Item 2. “J. Hallisey suggested the adoptive date for these regulations be tonight (January 25, 2021) and the ~~adoptive~~ **effective** date would be a month from now (February 25, 2021).”

Item 5a. “The proposed amendment will provide the town an additional tool to preserve ~~of~~ the water quality of Andover Lake which is a goal of the Town’s Plan of Conservation and Development.”

Item 5c. “~~Filing~~ **Filling** of Vacancies – Discussion (update)”

Item 5c. “S. England will not be ~~re~~-running, she wants to become an alternate.”

Item 9a. “J. Hallisey stated that ~~him~~ **he** and the building official sent a cease and desist letter to a property on Shoddy Mill road.”

S. England MOVED to approve the January 25, 2021 Regular Meeting Minutes as amended. S. Person SECONDED. By roll call vote, MOTION CARRIED 5:0:0.

7) Correspondence: None.

8) Administrative Report – Zoning Agent

a) Enforcement Actions

J. Hallisey stated that the situation on 44 Wales Road involving people living in an RV is still in progress. The cease and desist was issued and the deadline passed. The town attorney sent up follow up cease and desist order. J. Hallisey stated that the property owner contacted him today (2/22/2021) and stated that he has been having mail issues. The property owner stated that he is working on resolving the matter and asked if he could have until April 1<sup>st</sup>. J. Larson requested there be an update at the March meeting. Legally there is nothing that could be done faster than April 1<sup>st</sup>. J. Hallisey stated that he will check with the attorney to make sure that timeline is okay and he has the ability to extend the deadline until April 1<sup>st</sup>.

J. Hallisey stated the cease and desist order for 137 Shoddy Mill is still in progress. The owner is in the process of taking the utility structure down. J. Hallisey granted him a 30-day extension because the snow has made access difficult. It should be resolved in roughly two weeks.

b) Upcoming Training Opportunities

There are three upcoming CLEAR UConn Workshops. J. Hallisey sent out an email with information. There is also a CT DEEP training about a Forestry App.

9) IWWC Liaison Report

J. Larson stated that he expected to see an application for a proposed accessory apartment on 129 Hebron Road, which was approved by IWWC. He is unsure why they haven't applied.

J. Larson stated that ZBA recently approved an application regarding building in the flood prone zone on 57 Hendee Rd. They submitted application materials that will be addressed next meeting when there is proper time to review.

10) Miscellaneous

J. Larson submitted the PZC budget that was voted on at a previous meeting. At the time, the Commission thought that \$962 of the \$5,000 budget for professional services was spent this past year. However, \$4,500 was spent. If more money needs to be requested, that is doable.

J. Larson stated that he learned that IWWC legal fees and professional services come out of this budget. Additionally, the way application fees currently work, fees associated with applications go into a general fund, not back to the Commission for professional services.

11) Adjournment

S. person MOVED to adjourn the meeting at 9:26 p.m. S. England SECONDED. By roll call vote, MOTION CARRIED 5:0:0.

Respectfully submitted by Mindy Gosselin,

*Mindy Gosselin*

Please see the minutes of subsequent meetings for the approval of these minutes and any corrections hereto.