

Bridgewater Planning and Zoning Commission
Bridgewater Town Hall
44 Main Street South, Bridgewater, Ct. 06752
Approved Minutes of the Regular Meeting
Wednesday, May 13, 2009, 7:00 P.M.

Call to Order: Chairman Leo Null called the meeting to order at 7:05 p.m.

Roll Call and Designation of Alternates:

Present: Thomas Gilmore, Thomas Allingham, Susan Branagan (alt.), Laszlo Pinter (alt), Ed Terry, Jean Bandler, Leo Null

Absent: Ed DeVoe (alt.)

Also Present: Lois Carreira, Land Use Coordinator, ZEO

Minutes of the Meeting of April 8, 2009:

T. Gilmore made a motion to approve the minutes of April 8, 2009. S. Branagan seconded. Unanimous approval.

Any Other Business Added By 2/3 vote: none

Old Business:

1. Anderson, Old Town Highway, new single family dwelling and garage.

T. Allingham recused himself. S. Branagan was moved up to voting status. Attorney Mark Branse was present for the application. Attorney Paul Garlasco was representing Hannah Anderson. Atty. Branse stated that the only application before the commission is for a zoning permit. The applicant has not applied for a subdivision or a rear lot. L. Null raised the issue as to whether or not the application should have been for a subdivision due to the numerous cuts and transfers of the Hansen property.

Atty. Garlasco had supplied M. Branse with a newspaper article concerning the Selectman's decision that the "abandoned road" was never a town road. The commission received a letter from Attorney Fred Baker, the Town's attorney, concerning the application and rear lots. There was discussion concerning the status of the road and possibly expanding Old Town Highway as well as the applicant possibly seeking a variance. T. Gilmore felt that Old Town Highway, which is a dead end road, doesn't comply with today's regulations because it exceeds 750', has more than four lots on it and therefore it can't be extended. A variance was discussed. P. Garlasco cited the Grillo Doctern that says that a variance cannot be achieved. He also addressed the issue of a special permit which was also suggested and he felt that would not work with the property as it is now. He also felt a subdivision was not needed and Old Town Highway was an abandoned town road. M. Branse stated that under the definition of "street" in the zoning regulations the "abandoned" portion of Old Town Highway does not meet that definition and the applicant does not have 200' of frontage on a street. P. Garlasco and M. Branse discussed several land use cases and the need for a subdivision. P. Garlasco asked for another extension so the new materials submitted at this meeting could be reviewed. M. Branse told him he could only get one extension. L. Null reiterated that the "abandoned road" is not a road. M. Branse emphasized that the only thing to consider is if this lot complies with zoning and has frontage. Frontage on a discontinued road doesn't count and

the Board of Selectmen said it was never a road. If frontage is on the accepted portion of Old Town Highway the applicant has only 65 feet of frontage. L. Pinter asked what level of discretion the commission had. M. Branse expressed to the commission that if the lot complies with the zoning regulations, then the commission must approve it. If not they must deny it. The level of discretion is to interpret the regulations according to their text. You have to construe them according to what they say. How are frontage, lot width and street defined? There is also the question of whether a special permit is needed for excavation in excess of 1000 cubic yards. The materials submitted by the applicant tonight are supposed to answer that point.

L. Null feels this is a subdivision issue and a frontage issue. He wants to be able to review the materials submitted tonight. At the March meeting, the applicant had granted a 65 day extension to the commission from the April 8th meeting, which is good through the June meeting. P. Garlasco suggested the application be denied so he can make an appeal. T. Gilmore suggested tabling the application until next month to give the commission time to review the materials the applicant submitted at tonight's meeting so all the submittals can be given full consideration. He felt the four issues are: it is not a legal lot; it does not have frontage; is it a subdivision; are there more than 1000 cubic yards of material to be removed.

P. Garlasco asked to withdraw his extension. M. Branse asked him if he is going to argue on his appeal that the commission failed to adequately consider the materials he presented tonight or is he waiving such a claim. L. Null also asked him to waive the claim and stated that it was not fair to the commission since they did not have time to review the materials the applicant submitted.

M. Branse felt that the applicant had adequate time to respond to requests made for additional materials. He had written to the applicant's attorney on March 16th asking a series of questions. Attorney Branse was requesting additional materials so he could provide the commission with a timely opinion since he had promised the commission he would have a letter to them prior to the April meeting. He had that letter to the commission a week prior to the April meeting so that the applicant would have plenty of time to respond. He did not receive a reply. He wrote a letter in April with no reply. He then received a newspaper article from the applicant's attorney about the selectmen's decision that the alleged abandoned portion of Old Town Highway was never a road. The applicant waited until tonight to respond. If the applicant wants to withdraw then the applicant has to waive a claim that the new materials have not been adequately considered by the commission or their consultants. L. Null also asked for something in writing waiving the claim that the commission failed to adequately consider the materials he presented tonight.

T. Gilmore suggested tabling the application. L. Null felt he had given the applicant every consideration including getting another attorney and the applicant wasn't being fair to the commission. P. Garlasco wanted to move on this matter at this meeting and take all of the issues before a judge. M. Branse reiterated that Mr. Garlasco is not willing to waive any future claim that the commission failed to adequately consider the materials he presented tonight. L. Null asked for a motion.

M. Branse presented a motion that he had drafted for the commission's consideration. The commission reviewed the motion. T. Gilmore felt that some adjustments needed to be made to the motion as presented. M. Branse made changes to the

motion. J. Bandler made a motion to deny the application on the basis of 1, 2 & 3 and having read the material under E 1,2 & 3 of M. Branse's motion. E. Terry seconded. Discussion followed concerning amendments made to the proposed motion. J. Bandler made a motion to accept the amendments to the original motion. E. Terry seconded. E. Terry, J. Bandler, S. Branagan, L. Null were in favor of the amended motion to deny the application (attached). T. Gilmore abstained.

T. Allingham returned

New Business: none

Communications, Bills, Reports:

1. The ZEO report was distributed to the commission. E. Terry made a motion to approve the ZEO report. T. Gilmore seconded. Unanimous approval.

2. Bills:

Bill for Mark Branse for \$675. Unanimous approval.

Bill for Northeast Consulting for \$750. This is a second notice from last month and will be resubmitted to the treasurer.

Bill for R. King for \$257.40. Unanimous approval.

3. By-Laws: tabled until next month.

Comments on Items not on the Agenda:

Adjournment: T. Allingham made a motion to adjourn. T. Gilmore seconded. Unanimous approval at 9:20 p.m.

Respectfully submitted,

Lois Carreira, Land Use Coordinator

The following addition was made to the minutes:

Under 1. Anderson, Old Town Highway, new single family dwelling and garage. Add to: (Atty. Branse stated that the only application before the commission is for a zoning permit. The applicant has not applied for a subdivision or a rear lot.) The application should have been for a subdivision due to the numerous cuts and transfers of the Hansen property.