

**TOWN OF NEWPORT, NH**  
**Minutes of the Planning Board Meeting**  
**June 8, 2021 – 6:00 P.M.**  
**Board of Selectmen's Room**  
**15 Sunapee Street**  
**Regular Meeting and Public Hearing**  
**Remote Access:**  
**Zoom.com - Meeting ID: 822 7548 7874 Password: 753567**

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**MEMBERS PRESENT:** David Burnham, Chairman; Ken Merrow, Vice Chairman; Tobin Menard, Ray Kibbey  
Sean Glasscock, Herbert Tellor, Jr., BOS Representative

**MEMBER ABSENT:** John Hooper, II, BOS Representative Alternate

**VIDEOGRAPHER:** NCTV

**STAFF PRESENT:** Christina Donovan, Planning and Zoning Administrator

**COMMUNITY MEMBERS PRESENT:** Tom Dombroski, Sam McNeel

**CALL TO ORDER:** Chairman Burnham called the meeting to order at 6:01 p.m. followed by a roll call.

**AGENDA REVIEW:** Accepted as presented.

Mr. Kibbey stepped down as a sitting Board member.

**NEW BUSINESS:**

**Newport Waiver for Private Road: Larry and Meredith McNeel:** Request a final review for a waiver to construct a manufactured home on 28 Brown Road identified as Map 233 Lot 025 located in the Rural (R) Zoning District.

Chairman Burnham opened the hearing for Newport Waiver for Private Road: Larry and Meredith McNeel.

Ms. Donovan informed the Board that last meeting it had been posted as a Class VI Road. It is a Private Road-the posting had been changed. She had touched base with Town Manager Rieseberg. The applicant has been returned to the Planning Board because they have oversight of subdivisions in Newport.

Mr. Ray Kibbey posted a site plan showing a state-approved septic (system) design and lot schematics. He then addressed the Planning Board members and stated there used to be a mobile home on the lot. There is already a well on the lot. It has electrical pole lines already in place. The current road needs to be upgraded and widened (14 ft.). He reiterated what was in place, pointing out items to the Board members and stated the applicant needed a waiver to continue.

Mr. Kibbey stated the applicant had a report from the Fire Chief.

The Planning Board members had these questions and statements:

- a. Will the road be brought up to the minimum standards (requirements) as set by the Town?

When asked to explain, Mr. Merrow read aloud from the Subdivision section of the Zoning Ordinance Handbook referenced 908 Roads and Driveways a. Private Roads Article 13 &14. It had a chart for different sized roads and the upgrade needed for each size.

b. Is there a Road Maintenance Agreement with the residents on the Private Road?

Mr. Kibbey and Mr. McNeel stated that all but one resident is a relative.

c. How long is the road?

The Board was told it is approximately 500 feet in length.

Ms. Donovan addressed the Chairman Burnham and stated that the first resident on the road is not a relative. They do not have a Road Maintenance Agreement. They do not want to sign one because their frontage and access to the main road is maintained by those further in on the road. This resident will not be able to sell their house without a Road Maintenance Agreement in place.

Mr. McNeel explained the problem with the process they (Town) are requesting. People on the road are averse to signing a Road Maintenance Agreement. Chairman Burnham stated that if Mr. McNeel took 100% responsibility for the road maintenance, no one else on the road would have to sign it.

Mr. Merrow read aloud from the Newport zoning regulations about Waivers and Road Maintenance Agreement stipulations.

Ms. Donovan and Board members discussed the implementation of a Road Maintenance Agreement and future consequences of not being a part of one (for the other residents).

Mr. McNeel asked what he needed to do to move forward. He was told:

- Have a Road Maintenance Agreement (Christina will assist acquiring a template).
- Approval will be conditional that the road is brought up to grade (Town minimum requirements)

Mr. Kibbey asked when (year) the Town began requiring a Road Maintenance Agreement. Chairman Burnham didn't know.

There was a discussion between Mr. Kibbey, Mr. McNeel, the Board members and Ms. Donovan concerning the requirements. Mr. Merrow addressed Mr. McNeel and explained that the process and conditions were to his benefit; insurance companies will want to see the paperwork and his premiums will be adjusted accordingly (it was suggested that as soon as the road was up to standard the Fire Chief go out, inspect, write and file a new report with the Planning Office which stated his road met the Town of Newport requirements). Mr. Merrow also stated that banks would not finance Mr. McNeel without a positive report from the Fire Chief or a Road Maintenance Agreement. A waiver ensures that the Town is not liable if emergency vehicles cannot get to house due to ill maintenance.

Mr. McNeel said he can't get a building permit without a waiver; he cannot get a building permit without the road being up to Town minimum requirements. He could not get a certificate of occupancy without the road being up to Town minimum requirements. He could not get a bank loan without a Road Maintenance Agreement.

Chairman Burnham stated that the final decision (waiver) was up to the Board of Selectmen. Ms. Donovan stated that Mr. McNeel will have to go to them for the formal waiver. The BOS will have the Planning Board's and Fire Chief's guidelines. The building project will be overseen by Fire Chief Yannuzzi, Building Inspector Alan Chase and Ms. Donovan.

The BOS will meet on June 21, 2021 at 6 p.m. in the same room. The BOS look to the Planning Board for guidance, to ensure that all procedures are being done correctly by the applicant. Ms. Donovan stated she needed a decision of the Planning Boards oversight.

Mr. Merrow made the following decision: Under advisement of the Planning Board (to the Board of Selectmen): Mr. Merrow made a motion ***to approve the application for Newport Waiver for Class VI Road: Request a final review for a waiver to construct a manufactured home on 28 Brown Road identified as Map 233 Lot 025 with the following conditions:***

- 1. Applicant must get a Road Maintenance Agreement***
- 2. Applicant must upgrade road to the Town's minimum road standard (for private roads: Articles 13 & 14 in the Newport zoning regulations under Subdivisions).***

It was seconded by Mr. Menard. ***The motion passed 5-0-0.***

For clarification, Mr. McNeel stated he needed to get the conditions done before the June 21, 2021 BOS meeting. Ms. Donovan stated he didn't have much; she would get the template for him, he would fill out the application for the BOS meeting to be on the agenda. He was asked to try to get the maintenance agreement or draft of one prior to the June 21, 2021 meeting. Mr. McNeel would then file it with the Registry of Deeds and the Zoning and Planning Office will issue permits needed.

The case was closed by Chairman Burnham.

Mr. Kibbey addressed the Board and asked if he could say something as a member of the public. Mr. Kibbey said there should be a fairer way to obtain a waiver. He didn't know if it was in the Planning Board's purview or another Board. It doesn't seem like a fair process (for the applicant). If applicants can't get other residents to sign a Road Maintenance Agreement, the applicant has to take responsibility of the whole road in order to build on it. It seemed like an unfair position that the Town takes.

Chairman Burnham explained: if someone builds on a Town road, there is no problem. If a person builds on a well maintained road, there is no problem. If an individual wants to build on a road that is below Town road standards, the applicant needs a waiver.

Mr. Kibbey repeated his question. If there were eight, ten people on the road and they did not sign the road agreement, why is it the burden of one person to undertake all responsibility? After a short discussion, Mr. Kibbey said this case is not the last one the Board would see. There are several other private roads in Town without Road Maintenance Agreements. New people will be building on them. Mr. Kibbey restated there had to be a better way to accomplish getting a waiver without putting all the responsibility on one person.

After a brief discussion, Mr. Merrow clarified how things could be righted. He read aloud from the Newport zoning ordinances on private roads and Road Maintenance Agreements. Ms. Donovan stated she believed there was also a state RSA pertaining to private Road Maintenance Agreements. Chairman Burnham clarified her statement, saying it was RSA 674:41.

Mr. Kibbey agreed the Planning Board had to follow the RSAs. In discussion, he said it was good that the Planning Board was discussing it (the process to obtain a waiver on a private road). Mr. McNeel stated instructions were not specific (by the Fire Chief) about the road work that he as an applicant needed to do. Ms. Donovan stated that only his section needed to be upgraded (as he was currently planning), not the whole road. Chairman Burnham and Mr. Merrow clarified that Mr. McNeel needed 18 feet of clearance on the road in the upgrade (14 ft. road width plus 2 ft. on either side of the road).

Mr. Kibbey resumed his seat as a sitting Board member.

## **CONTINUED BUSINESS:**

**Sign Mylar**

**2021-SDFP-001: Kathleen Gestay/Brent Johnson:** Request a final review for a subdivision for properties identified as Map 239 Lot 038 and Map 239 Lot 039 located on Cutts Road in the Rural (R) Zoning District.

Planning Board members who were in attendance at the May 18, 2021 meeting signed the Mylar for Case 2021-SDFP-001.

**MINUTES: May 18, 2021**

May 18, 2021

On a motion by Mr. Kibbey, seconded by Mr. Menard; *the Planning Board voted to approve the minutes of the May 18, 2021 meeting as presented. The motion passed 4-0-2 (Glasscock and Tellor abstained).*

**ADMINISTRATION:**

Update on Shed Ordinance: Posting Public Notice

Ms. Donovan addressed Chairman Burnham and stated that the deadline for a posting a public hearing had not been met, therefore a public hearing will be advertised and posted for the July 13, 2021 Planning Board meeting. If necessary, a second public hearing could be held at the August 2021 Planning Board meeting. She had notes from the Town attorney concerning the Planning Board holding Public Hearings that she would share with the Board.

**COMMUNICATIONS:**

**Board:** Mr. Tellor addressed Ms. Donovan and questioned the condition of the Turkey Hill Road area around the solar array. He stated the road and gutters still looked a mess. Nothing has been improved at the site. When asked, he stated that a gate has not been erected at the site (as was discussed during the Planning Board hearing). Ms. Donovan informed the Board that the gift of land has been denied by the Town due to the condition that the road and land are currently in. She will have Mr. Chase and Fire Chief Yannuzzi go out to the site tomorrow (Wednesday, June 9, 2021). Ms. Donovan will relay the reports on the inspection to the Planning Board members. The Planning and Zoning Office has not done anything yet because Town Manager Rieseberg has been addressing the issue with the company. There was a discussion on the Turkey Hill site and the responsibilities of the Norwich Solar Company.

**Public:**

Mr. Gary Wood addressed the Board and stated he purchased the house at 39 Unity Road in Newport. A survey had been done in the 1940s which notated a right of way bisecting his property. Mr. Wood read aloud from survey notes which explained the proposed use of the right of way. Mr. Wood said the right of way has been on the books since 1940. It has never been used. He would like to build a garage on his house lot and was told he could not get a building permit because of the right of way. He wanted to know how it could legally be removed so he could build his garage.

Chairman Burnham asked who had the right of way. Ms. Donovan explained it was the Town. In the '40s it was a proposed road (to nowhere). The Town decided against building a road (proceed with plans) but the right of way remained. Mr. Wood owned the land, but the Town has a right of way. There was a discussion on the right of way between the Board members and Ms. Donovan. Mr. Merrow said the Town would have to release the right of way. Chairman Burnham said Mr. Wood would need to go before the BOS. During discussion, Mr. Merrow restated his original statement, saying the Town would have to do a reverse waiver.

Ms. Donovan asked the Board for their guidance on the steps to take to remove the right of way. Chairman Burnham and Mr. Merrow stated the Board of Selectmen would have to release the right of way. Mr. Wood would tell them:

- 1) The deed says there is a right of way.
- 2) Research says the Town has indicated it would be a potential road. One has never been built
- 3) It is all private property.

- 4) There is no intent by the Town.
- 5) Mr. Wood would like to get the right of way off the deed.

Chairman Burnham said it needed to go through the proper channels, starting with the Board of Selectmen.

Mr. Woods asked Chairman Burnham if once he goes to the BOS that will be the end of the process (to remove the right of way from his deed). Ms. Donovan said she believed there would be an adjustment to the deed, which would then be registered with the Registry of Deeds showing that you (39 Unity Road) no longer have it. Then it (deed) goes to the Town and is taken off Avitar (online tax map and information). Mr. Woods was told he will need to go to the June 21, 2021 BOS meeting.

With no more business in the public meeting, on a motion by Mr. Merrow, seconded by Mr. Tellor; ***the Board voted to adjourn at 7:03 p.m. The motion passed 6-0-0.***

Respectfully submitted,

Maura Stetson  
Scribe

Approved: July XX, 2021

*The next meeting of the Planning Board will be on July 13, 2021 at 6 pm in the Board of Selectmen's Room.*