

Town Hall Meeting Room & Zoom Virtual Meeting Platform
Municipal Building
Minden Street, Greenville, Maine 04441
Minutes
September 20, 2023

NOTE TO PUBLIC: There is a video recording of this Planning Board meeting available on the Town website: <https://greenvilleme.com/boards/planning-board-meeting-video/>. The video recording is the official record of the Planning Board meeting. These Minutes reflect specific actions taken by the Planning Board (the “Board”) at the meeting and identify the discussions at the meeting.

Meeting called to order at: 5:00 p.m.

MEMBERS PRESENT: John Contreni, Chair, Lurline Arco, Secretary, Noel Wohlforth, David Case, Brent Ireland (Alt. 1), Vacant (Alt. 2)

MEMBERS ABSENT: None

MEMBERS VIA ZOOM: Maureen Hopkins

ALSO PRESENT: Mike Roy (Town Manager)
Ronald Sarol (Code Enforcement Officer)

GUESTS: Margarita Contreni, Emily Patrick, Heidi St. Jean, Nina Patrick, Burt Whitman, Janet Chasse

GUESTS VIA ZOOM: Susan Gallant, Jeanna Buttman, Carl Chretien

Conflict of Interest with any agenda item by Board members: None

Minutes: September 6, 2023

Motion Made By: David moved to accept the September 6, 2023 Minutes

Seconded by: Noel

Motion passed/failed: Passed 5-0 via roll-call

Additions or Deletions: None

Report from CEO: Ron reported on the period from 9/6/23-9/19/23. Ron continues to work on assigning 911 addresses to new properties and updating existing properties using the State’s Geolynx Server. Ron also continues to check the status of permits that are soon to expire to verify their progress as well as property line setbacks. Ron checked on a property line dispute at Prong Pond. There were 3 new permits issued with 3 pending for a total of 130 for the year.

Action Items: None

Old Business: None

New Business: Emily read a statement regarding the concrete barriers located on 59 Lily Bay Road stating that it is a shared driveway, and her family has a right of way to the end of the pavement. Emily provided the Board with certain sections of the Land Use Ordinance. Article V, Section 6, District Space Standards and Dimensional Requirements. “Unless otherwise permitted by this Ordinance, all lots structures and uses must meet the minimum standards and requirements as set forth in Table V-2, Space and Dimensional Requirements.” Under Article IX Definitions, “Structure – Outside the shoreland zone, a structure shall mean anything built, constructed or erected, the use of which requires a fixed location on or in the ground or an attachment to something having a fixed location on the ground, including but not limited to buildings, swimming pools, ponds in excess of 10,000 square feet, billboards, commercial park rides and games, carports, porches, decks and other building features...”. Article IX. Definitions, “Use – the manner, in which s or a structure is arranged, designed or intended or is occupied”. Article V, Table V-2 which notes that minimum setback from property lines is 15’ front, side and rear. Emily also stated that their youngest son has medical issues and if the ambulance is required, the concrete barrier makes it difficult for the first responders to back up the driveway. Emily provided the Board with a copy of a letter from Kevin Springer, NREMTP/CP/FF for Northern Light Hospital. Emily also stated that the ground is unstable since there is a lot of runoff and it is an unsafe condition that will only get worse once winter comes.

John thanked Emily for her thorough statement. John then asked Ron if he would like to comment. Ron said it is not a shared driveway. They have a right to drive across it. It is the Chretien’s property. They own the driveway. It is an easement not a right-of-way. Ron also pointed out that under Article IX, Definitions, Structure – outside the shoreland zone, it specifically says except for fences. Ron said he is unwilling to call it a structure, it does not fit the definition of a structure. There was a metal fence there and was removed and these concrete blocks were placed with the intention of a fence. Emily said that Mike and Ron agreed that the Deed was recorded wrong and it is presently before a Judge. Emily said as far as they are concerned, the blocks are placed in the middle of the easement which cuts off access to the end of the pavement which they have a right to. Ron said yes, they have a right-of-way from the middle of the road up 125’ of the center of the Chretien’s property which is where they have placed the blocks. It was always understood to the end of the paved portion which it currently is not. This is a civil issue and must go before a Judge. Emily said they are waiting to hear from the Judge but could take a while. Therefore, looking to the Town to make a decision. If the Town cannot help, could it put in an ordinance so it does not happen again to someone else. Janet said she is just a by-stander but would be outraged if it was along her property and something could happen to her grandchildren. The ground is very unstable there and it is a dangerous situation. If there isn’t a definition for a fence, then one should be created. The bottom line is that it’s just wrong. John said we do not have a fence ordinance and agreed we don’t want anything like this going forward. Emily said that according to the Ordinance she believes the blocks to be a structure and not a fence. David said the Oxford Dictionary definition of a fence is “a structure made of wood or wire supported with posts that is put between two areas of land as a **boundary**, or around a garden, field, etc. to keep animals in, or to keep people

and animals out”. Emily said she feels that the Town is trying to find ways to get around this. She said the Land Use Ordinance says it is a structure. John said it is open to interpretation. We have consulted with the Maine Municipal Association’s legal counsel who responded in part with the following: “...I agree with you that a dispute between private landowners concerning the legal rights to use private property is a private matter that generally does not involve the municipality. Municipal officials, such as planning boards, and CEO’s, do not have any statutory obligation to resolve boundary or title disputes among neighbors. The residents will need to consult with the [sic] own attorney (or bring a court action) to determine their legal rights in the property.” Emily accused the Board of seeking legal advice before she even came before the Board. John replied that the Board is entitled to do their own due diligence as she did. Emily said why don’t we enforce the Ordinance stating it is a structure and have it removed. Ron said it is not a structure and he would provide Emily with a written explanation. Noel said this a very unfortunate situation. What is written is what we can do and what we can’t do and the letter from the lawyer is clear and we must follow the law. We don’t have a fence ordinance and even if we created one tonight, it does not take effect. Heidi asked is there anything we can do for this family? Besides being ugly, the barriers present a dangerous situation and will get worse with winter. Ron said we have to look into what the intention is. There was a metal fence which was damaged and replaced with the blocks. John said we did not have many things in our ordinance which have been added over the past few years – solar farm, cannabis, telecom. Heidi said there hasn’t been a fence since 1982. At first there were no trespassing signs behind the pavement and with every issue the barrier kept moving further down. Lurline stated that she understood that a jersey barrier is not a permanent structure. They are usually used to regulate traffic and can be moved accordingly. Noel said he doesn’t know what we can do legally but we definitely need a fence ordinance. Emily asked if she could participate regarding the fence ordinance. John, yes. Our agenda is published on the website.

John, next is the revision of the Planning Board Establishment Ordinance. We need to revise the Planning Board By-laws since we moved the meetings from Mondays to Wednesdays and looking to change the quorum from 4 to 3. John said he looked at the By-laws and it states the By-laws may be amended at any time by a majority of the Board. Maureen said the Establishment Ordinance sets the quorum and we cannot in our By-law change the definition of a quorum. John is there a motion to recommend to the Select Board to change the Establishment Ordinance passed in 1988 and amended June 6, 2022, to (1) change the meeting from Monday to Wednesday and (2) change the quorum from 4 out of 5 to 3 out of 5. David moves, Noel seconds. Roll call 5-0. John will bring before the Select Board this evening.

STR follow-up. John asked if anyone saw the front-page article in the Bangor Daily News regarding STR. Absence an ordinance, they are illegal in Bangor. John asked if Jonathan Boynton’s presentation at our last meeting was helpful and were there any comments. Noel said it was very informative. David said we need to get a handle on who and where and there will be other big issues involved. John said if the Board agrees, he will present the Select Board with the following:

- There is concern about STRs in Greenville

- So far, the concern is anecdotal
- Concern may be broadly based, but we don't know that
- We don't know how many STRs are owned by our neighbors or how many are owned by outside investors
- Basically, we just don't have good data on a complex issue

As far as the PB is concerned:

- The STR issue is not currently within our purview
- From LUO:
 - Planning Board. The Planning Board shall be responsible for such duties and exercise such powers as are provided by the Town's ordinances and the laws of the State of Maine. This shall include reviewing and acting upon conditional uses as provided within this Ordinance. The Planning Board shall operate according to the Ordinance for the Establishment of the Greenville Planning Board, which may be amended and repealed by the Selectmen
 - "Rent", "rented", "rental" and "rentals" appear 13 times in the LUO
 - Only use relevant to STRs occurs in the definition of "commercial use" (Section IX) where it specifies that rental of residential buildings or residential dwelling units is *not* considered a commercial use
- We have been pondering the question of STRs for some time
 - It is not apparent to me that the PB has the authority on its own to pursue its own investigation into the issue of STRs. Will continue to gather info such as newspaper accounts
 - The SB may request that the PB do so, but so far the SB has not requested that we look into the matter of the STRs
 - If it did, it seems to me that the PB would need:
 - A specific directive from the SB as to the scope of any investigation and expected outcomes;
 - The PB would also need financial support to engage consultants who are experts in the STR issue;
 - We might also need resources to conduct a census of STRs to identify the number of STRs in town

John asked the Board's thoughts. Maureen said it is a reasonable approach. It will be a burden on the Town both financially and personnel wise, but, it is very valuable discussion. Janet said other towns already have ordinances we could follow which they track via registrations. John said before we can put a hold on how many STRs would be allowed in Town, we need to find out how many are already here. John said he will mention it to the Select Board this evening but present at a future date.

Items for Next Meeting: Fence ordinance, subdivision, whether we need a Special Town Meeting regarding the changes to the PB Establishment Ordinance

What's on your mind: John asked Brent if he has heard anything on the old house in his neighborhood. Brent, not yet. Ron said he needs to get in touch with the owners regarding their intentions, i.e., tearing down, refurbishing. It will be a legal matter. David wanted to know if we have a harbor master. Mike, no. Noel – investigate what we can do when an issue like Emily's ever happens again. John, Maureen and Lurline passed. Emily said they have gotten in touch with a fence viewer who is someone that inspects the fence to see if safe, actually is a fence, whether safe or not. Has not heard back. Ron said a fence viewer is mentioned under spite fences. Not sure who would inspect. Two townspeople, or two officials. Someone with some type of expertise in fences.

Adjournment: Noel motioned to adjourn at 6:04. David seconds. Passed 5-0 via roll-call