

**TOWN OF HENNIKER  
PLANNING BOARD**

**May 13, 2009**  
*Draft Minutes*

**Members Present:** Kristin Claire, Chairwoman; Kellie Dyjak; Rick Patenaude; Terry Stamps; Ron Taylor, Selectman, ex-officio; Leon Parker, Alternate Selectman, ex-officio; Jeff Roach, Alternate; Scott Osgood; Ed Miner, Vice-Chairman

**Others Present:** Mark Fougere, Town Planner; Peg and Jody Keeler; Brad Brown; David Foster; Lee Martin; Caleb Dobbins; Denis McComish; Jennifer Astholz, Recording Secretary

**Call to Order**

Chairwoman Claire called the meeting to order at 7:00 pm. Ms. Claire introduced Mark Fougere, the new Town Planner.

**Review and Approve Minutes of the April 22, 2009 Meeting**

Minutes of the April 22, 2009 meeting were reviewed, and corrections were made. Terry Stamps **MOVED** to accept the minutes as amended; Kellie Dyjak **SECONDED** the motion. Motion **PASSED, 6-0-1**. Scott Osgood abstained as he was not present at that meeting.

**Developments of Regional Impact: RSA 36:54-36:58**

Mark Fougere, Town Planner, stated that it is a good practice to always list this item on the meeting agenda as a determination about DRI should be made on all projects.

**Discussion: Jody Keeler, Crescent Street duplex, approved April 28, 2005, Review Notice of Decision conditions.**

Mr. and Mrs. Keeler came before the Board this evening to discuss changes to the previously approved minor subdivision. Mr. Keeler stated that the subdivision had never been completed, and it is their understanding that the approval from 2005 has lapsed. He stated that the house is simply a two-family dwelling, and a new application has been submitted for consideration at the June 2009 meeting. Mr. Keeler stated that they are requesting a waiver from condition #1) add ground elevation contours to the as built final mylar plan. Mr. Keeler stated that this is not a new piece of land that is going to be changed; therefore, this information is not relevant.

Mark Fougere stated that he visited the lot today and reported that it looks fairly flat. He stated that he does not think that requiring the ground elevation contours will add any information that would be helpful.

Ron Taylor asked about condition #4) correcting the turn-around for Unit 1. Mr. Keeler stated that this has been resolved and that the driveway goes straight into the garage. The Board asked for this to be shown on the as-built final mylar plans.

Scott Osgood asked for the utilities to be shown on the plans.

Mr. Keeler stated that approval of the application at the June meeting will create the ability to form condominium ownership.

Ed Miner asked where the surface drainage goes. Mr. Keeler stated that the high point of the street slopes drainage flow to the edge of the street. The Board members stated that the minutes will reflect that they are comfortable with the understanding that the direction of flow is to the street.

Chairwoman Claire stated that instead of requiring ground elevation contours, the Board is asking for the plans to show the direction of drainage flow and the utilities. The applicant will have a full hearing at the June 2009 meeting.

### **Board Discussion on Grandfathered Active Excavation Operations**

Chairwoman Claire talked to the Town attorney about interpretation of RSA 155-E. She reported that RSA 155-2 speaks of grandfathering status in terms of “sites” not “property owners.” It appears that grandfathered status runs with the land, not with the owner, and there is no case law to indicate anything else.

Rick Patenaude stated that he feels that it is best to recuse himself from the Board during discussions about Excavation rules and regulations. He submitted a written statement to the Board explaining his position which, he stated, he has expressed during the last three meetings.

Chairwoman Claire stated that as long as the Board is functioning in a legislative capacity and not a judicial capacity, the law supports, and even encourages, participation by members of the public with particular knowledge of the subjects being discussed. Mr. Patenaude stated that he has thought the matter over and feels more comfortable being in the audience during these discussions.

Chairwoman Clare stated that Jeff Roach, alternate Board member, will vote in Mr. Patenaude’s place in excavation matters.

Mr. Fougere stated that he understands that the excavation issue is high on the Board’s agenda. He stated that he is creating a map of excavation sites and owners’ names to better understand the Town. He suggested that he visit one excavation operation at a time. He will review the file, meet with the owner and write a memo back to the Board to update them on the status of each site. Mr. Fougere stated that he will be looking at the operation’s reclamation process and discuss operation plans with the owners.

There was discussion about the Intents to Excavate that have been submitted to the Board of Selectmen. Pike Industries did submit a letter of intent last April. There appears to be a discrepancy in the size of the operation which needs to be addressed due to the Army Corps of Engineers easements.

Mr. Fougere suggested that he write a letter to the excavation operators in Town introducing himself as the new Town Planner who will be contacting them soon to visit their site.

There was discussion by the Board about reviewing the existing pits first; then they will pursue reviewing the Town regulations which govern new excavation pits.

Denis McComish stated that he needs help in pursuing the permit that the Board has stated is required. Ms. Claire stated that it is a requirement of the Town ordinance. She instructed Mr. McComish to meet with Mr. Fougere in order for him to get put on a future agenda. Ms. Claire stated that Mr. McComish's operation requires a permit as the previous owner did not apply for grandfathered status of this pit.

### **Miscellaneous**

Mr. Fougere stated that it is likely that the deadline for "Workforce Housing" will be extended. He stated that he will be meeting with the assessor to determine housing values, number of apartments in Town, etc. in order to begin compiling necessary data. Leon Parker suggested contacting the CNHRPC to see if they had any useful information.

Mr. Osgood confirmed that he and Kellie Dyjak are the 2009-10 representatives to the CNHRPC.

### **Adjournment**

Terry Stamps **MOVED** to adjourn at 8:04 pm; Mr. Taylor **SECONDED** the motion. Motion **PASSED, 7-0.**

Respectfully submitted,

Jennifer Astholz  
Recording Secretary