

Minutes of the Antrim Planning Board Meeting March 8, 1990

Present: Judith Pratt, Chairman; Ed Rowehl, ex officio; David Essex; Rod Zwirner; Nancy Timko, Alternate sitting for Robert Watterson; Barbara Elia, Alternate sitting for Donald Chambers.

Chairman Judith Pratt opened the meeting at 7:30 P.M. She introduced the Board, Judith Pratt, Chairman; Ed Rowehl, ex officio; David Essex; Nancy Timko; and Barbara Elia. Rod Zwirner arrived late.

James T. & Lynne W. Blair and Frederick C. & Nancy F. Blair Public Hearing for the subdivision a 33 acre plus or minus parcel to be divided into two lots 16.6 acres each. Blair stated that this parcel is composed of two lots the Rokes lot and that formerly owned by Alice Mulhall. Blair expressed the opinion that this is a boundary line adjustment and not a subdivision. He also stated that he had been informed by the Board at a previous meeting that a complete instrument survey would not be necessary. In answer to a question put to him by the Board, Blair indicated that any wet area that there might be on the lot was at the rear of the property. Ed Rowehl pointed out that the lot cannot be subdivided further. Blair confirmed the fact and indicated that it is so indicated on the deed. Rene Rabideau questioned how the lower lot line was established. Blair answered that it had been done by instrument and tape by Attridge, and that it has been flagged but there are no stakes. The Chair asked about pins for future reference. Blair expressed his willingness to place stakes where it is presently flagged, but indicated that an accurate location for stakes cannot be established without a survey. In answer to a question from the Board Blair stated that the balance of the perimeter of the bounds has been determined by a surveyor, and he indicated that they, the subdividers, did not want to go to the extreme of a complete survey. Blair indicated that the boundary could be established by mutual agreement of the abutters. The Chair addressed the value of the bounds being accurately indicated. Essex asked about the center line. Blair indicated that there are permanent granite markers to stake out the center line. Chairman Judith Pratt asked the Board's pleasure. Rowehl stated that he recalled that the Board had agreed that an instrument survey was not necessary. Essex asked if the markers were adequate to delineate the line. Rowehl indicated that he believed that they were. David Essex moved to accept the application. It was considered to be complete according to an agreement made at a previous Board meeting. Nancy Timko second. So moved, unanimously. The Chair addressed the subject of the Approval of the Subdivision. Alice Mulhall commented on records and the fact that complete records are a benefit to all. There was further discussion of the waiving of the requirement for a complete survey and including reference to the deed restriction, that these lots will not be further subdivided, in the motion. Ed Rowehl moved to approve the lot line adjustment/ subdivision of lot #852 into two lots of 16.6 acres each with the understanding that there is a deed

restriction that these lots will not be further subdivided. Rod Zwirner second. So moved unanimously. The Chairman, Judith Pratt, signed the mylar.

David Cutter, Application made by Harry Page. The continued Public Hearing for the subdivision of a 25 plus or minus acre parcel into two lots of 90,000 square feet and 23.26 acres. David Essex had Chaired the public hearing held February 22, 1990, and in the interest of continuity took the Chair for this continuation of the public hearing. Page displayed a map of the proposal for a two lot subdivision with frontage on Route 31 for one lot, and Whiton Road, a Class VI Road, for the second lot. Page outlined the proposal and commented on the fact that it is the Applicant's argument that this is a Class V road and that there are no posted signs to indicate that it is not. He argued that there is no record of any letter indicating that The Board of Selectmen felt it was a Class VI Road. He asked that the Board move the issue to the Selectmen and have the Selectmen determine the status of the road. Page addressed the question of drainage and indicated that he saw no problem. He asked for approval subject to the determination of the classification of the road by the Board of Selectmen. Ed Rowehl read the minutes of the Selectmen's meeting on March 5, 1990, at which the Selectmen voted unanimously to designate Whiton Road as Class VI. Page argued that Whiton Road is indicated on all maps as being Class V and argued that it is so indicated on an inventory of roads signed by Selectmen Ed Rowehl and Bill Suydam. Judith Pratt pointed out that the Town does not have an official map and cannot create one unless so authorized by vote of Town Meeting. Page argued further that this is a Class V road and made reference to the case of Glick vs the Town of Ossipee. Page also pointed out that Kelton Garfield of the State Highway Department had provided the Applicant with the records in question. The definition of a Class V road was discussed. Rowehl submitted a list of roads which he has compiled and commented that the map on which the road was indicated as Class V is not an official map. Page asked the Board for a conditional approval. David Essex questioned the action taken by the Selectmen on Monday night. Judith Pratt reiterated that the classification of roads is the Selectmen's purview. Essex commented that the subdivision can be approved contingent on the Selectmen's decision on the Road. Attorney Henderson argued that this action was taken by the Selectmen on March 5 and that in view of the time frame, the Board should be considering this as a Class V Road. He argued further that the fact that Whiton Road is a Class VI Road has not been conveyed to the State. Henderson stated that there has been three opportunities to change the status of this road in 1989 and it has not been done. Abutter, Kathy Blackburn, voiced the concern that her well is on the applicant's property and sometimes goes dry. She commented further that the applicant's property drains into her basement and that there are trenches that are supposed to help with the drainage. She also pointed out that her driveway is on the Cutter property. Page addressed the problem of drainage and

stated that all the applicant was asking for was a two lot subdivision, a 2 acre lot and a 23 acre lot and that this will not change the drainage. The question was raised that if the road is determined to be Class V what is the obligation to the Town. It was determined that if the road is deemed to be Class V the Town can ask the applicant to upgrade it. Page agreed that if the subdivision is approved, it is the applicant's understanding that they will have to upgrade the road. Essex referred to the comments made by Bernie Waugh of the NHMA at a law lecture in 1989. Rowehl read from the subdivision regulations as they apply to subdividing on Class VI roads. He also provided a copy of an article, approved at the 1973 Town Meeting, which applies to roads. Henderson stated that this article was illegal when it was adopted. Henderson asked the Board to take a vote on the applicant's argument that Whiton Road is a Class V Road, and to accept the determination that was made prior to Monday night that this is a Class V Road, and to approve the subdivision on the basis that it is on a Class V Road. Judith Pratt stated that the Board attorney has advised that the Board cannot make a determination as to the classification of a road. Henderson argued that the Board of Selectmen should have so informed the State. Page asked for a conditional approval with the Selectmen to determine the status of the Road. Pratt stated that the NHMA has informed the Board that they can subdivide on a Class VI road. Rowehl addressed the grades of Whiton Road as it enters onto Davison Drive and commented that if the walls and trees are disturbed there should be a lot of water coming out onto Davison Drive. David Cutter commented that as a lot with one house on it, there will be no impact. Page contributed that the slope is under 10%. Rowehl stated that in his opinion this subdivision is not in the best interest of the Town. Rod Zwirner commented on Meetinghouse Hill Road and the need for a good driveway plan. He commented on the need for careful consideration as there is shedding to the Southeast. A comment was made, that the Board has to consider this as a single building lot and if anything further is planned it will have to be considered at that time. Rowehl observed that the Applicant should keep in mind that Whiton Road has been designated as a scenic road and Pratt commented on the rights of the property owner in this matter. Essex referred to the subdivision regulations and there was further discussion about slopes and potential drainage problems. Rowehl also raised the subject of erosion. Page argued that this road would be improved and Pratt stated again that the Planning Board has to accept the Selectmen's determination of the classification of the road. Rowehl read a statement to the effect that the Planning Board should not approve this subdivision unless there is adequate control of storm water drainage. Inspection during construction was discussed. Pratt stated that the drainage will be covered by the issuance of the Building Permit and the issuance of a driveway permit and referred to the Board of Selectmen's Class VI Roads Policy, which provides that before a building permit is issued on a Class VI road it must be considered by the Planning Board. She also observed that if it was to be further subdivided

it would also have to be heard by the Board, and she commented that regardless of what is proposed for this lot it will have to be reviewed by the Planning Board. The Regulations as they pertain to Scenic Roads were discussed. The consensus was that it should be subdivided as being on a Class VI highway. There was further discussion about the determination of the status of the road. Cutter observed that the Board can call this class V or class VI all he is asking for is the subdivision of this lot. Pratt observed that the applicant is not conceding that it is either. Judith Pratt moved to approved the subdivision of lot #85 into two lots of 90,000 square feet and 23.26 acres conditional on the determination of the classification of the road by the Selectmen. if it is determined to be a Class VI road the subdivision will be returned to the Planning Board for conditions to be added to the mylar. Rod Zwirner second. The vote: Rod Zwirner, yes; Ed Rowehl, nay; Judith Pratt, yes; Nancy Timko, yes; Barbara Elia, yes; David Essex, yes. Motion carried five to one. Acting Chairman, David Essex turned the meeting over to Chairman Judith Pratt.

Maja Gamitri Realty Trust continued Show Cause Hearing. The Chair stated that inasmuch as nothing has changed and that it has been indicted that the obligations will be met on or about April 1, the show cause hearing will be continued until April 12, 1990.

The Chair brought up the subject of a letter from Senator David Currier asking Planning Board members to write letters to their State Senators supporting HB 1375 and relative fee legislation (Impact Fees). It was agreed that a letter supporting the legislation would be written and that all the Board members will sign it. The letter will be sent to Senate President William Bartlett and copies sent to the members of the Executive Department Committee.

The Board discussed the budget, Town Meeting and other correspondence.

The minutes of March 1, 1990 were addressed with some editorial changes recommended. At the end of thee first paragraph change word "before" to "when" and make a correction to the first sentence of the fourth paragraph on page 1. Ed Rowehl moved to accept the minutes as corrected. Rod Zwirner second. So moved.

Motion to adjourn.

Respectfully submitted,
Barbara Elia

10. To see if the Town will vote to close subject to gates and bars, the following Town roads:

1. The road from Nathaniel Hawthorne College to the top of Stacey Hill
2. The road from Lovern's Mill to the Windsor Town Line.
3. The road front Route No. 9 to the old Boyce Place so-called known as Kiblin Road.
4. The road known as Holt's Hill Road from the Richard Schacht place to the Philip Baker place.
5. The road known as the Graystone Lodge Road from Pleasant Street to the former Graystone Lodge.

To re-open any of the above roads, any individual or developer must have, at his or her expense, improve the road or roads to meet specifications as may be required at the time such request is made, or take any other action thereto. — Theodore Hardwick, Richard White.

Moved by Barrett Proctor, seconded by Wayne DeKoning that the Town of Antrim adopt as an ordinance thereof the following: Whereas it is determined that it is in the best interest of the Town of Antrim to provide standards for the acceptance of new roads or the reopening of previously abandoned roads, Class 6 highways and roads closed subject to gates and bars, and in order to protect the public safety. Now therefore, no new highways shall be accepted as a town road; and no previously abandoned, discontinued, or closed subject to gates and bars highway shall be re-opened as a town road; and no Class 6 highway shall be re-opened or re-maintained as a town road unless it shall be constructed or re-constructed to meet the following minimum standards.

1. Right of way of fifty (50) feet travel portion of eighteen (18) feet in width, constructed of good grade gravel of not less than twelve (12) inches in depth, on a base of non-organic material. Shoulders of not less than two feet (2) and proper drainage

where required by the terrain or the existence of ground water.

Any person applying to the Town for the acceptance of a highway, re-opening of an abandoned highway, or re-opening of a Class 6 highway, or re-opening of a Class 6 highway shall certify in writing, under oath to the Selectmen that said road meets the specifications herein set forth. In the event of hardship, upon petition and hearing the Board of Selectmen, may vote to waive such of the within standards as justice may require. Upon receipt of a petition for the acceptance or re-opening of any such road, the Selectmen shall personally examine the same and advise in writing as to their decision concerning whether or not said road meets the standards set forth herein. In the event any petitioner is dissatisfied with the decision of the Selectmen he shall be granted a right of appeal to the Superior Court for Hillsborough County. This petition shall be effected upon adoption by the Town of Antrim. SO VOTED

Roads No. 1, No. 4 and No. 5 were all voted to be closed subject to gates and bars.

Roads No. 2 and No. 3 were deleted from the Article.