

**Town of Northwood
Conservation Commission Minutes
August 2, 2016**

1 Chairman Steve Roy calls the meeting to order at 7:00 p.m.

2
3 **Present:** Chairman Steve Roy, Steven Hampl, Wini Young, Tom Chase, James Ryan,
4 Board Administrator Linda Smith, and Land Use Secretary Susan Jastremski-Pastor.

5
6 Vice Chair Shelley Frost joins the meeting at 7:05

7
8 **MINUTES**

9 **July 5, 2016**

10
11 *p. 1, line 7. Add Wini Young and James Ryan to the absent list*

12 *p. 2, line 20. Remove "non-conforming"*

13 *p. 2, line 28. Change "Fall Presentation" to "Northwood Dam presentation in October"*

14 *p. 2, line 34. Change "He" to "Bear Paw"*

15
16 ***Chairman Roy makes a motion to accept the minutes as amended, Mr. Hampl***
17 ***seconds. Vote 2/0/4 abstain***

18
19
20 **APPOINTMENTS**

21
22 Dennis Theriault and Fred Borman are present; they are concerned with the
23 harvesting of timber on open space property located at Map 210 Lot 84, owned by
24 Deer Ridge Homeowner's Association.

25
26 Mr. Borman states that he lives on 49 Knowles Way and is a New Hampshire licensed
27 Forester. Mr. Theriault also lives on Knowles Way.

28
29 Chairman Roy asks if either one of them are officers of the Home Owners Association.
30 Mr. Borman states that no, they are not. The existing Home Owners Association is an
31 association of one, which is the developer until the last lot is formed, and then it
32 automatically goes to the homeowners.

33
34 Mr. Theriault stated that he moved here in 2008 and purchased a lot that abutted 40
35 acres of conservation land. Half of the land has been cut and it will take decades to
36 regrow.

37
38 Ms. Smith states that the Open Space was a requirement of the design. Chairman Roy
39 states that it was a proposed open space subdivision that allowed the developer to
40 have smaller individual lot sizes because they proposed the minimum acreage of open
41 space.

42
43 Mr. Theriault reads parts of the Declaration of the Deer Ridge Home Owners
44 Association.

45
46 *In reference to Open Space "A":*

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1 *Page 2, line 2 “There is hereby established the Deer Ridge Northwood Association*
2 *(referred to herein and in the By-Laws as the Association) Declarant shall have*
3 *certain rights to control the association as provided in the By-laws referenced herein”*
4

5 *Page 2, line 3 “The purpose of the Association shall to be to enforce the declaration of*
6 *Conservation Restrictions affecting the Open Space”*
7

8 *“The Association shall own the Open Space and shall operate, supervise and*
9 *maintain the same in accordance with the Conservation Restrictions applicable*
10 *thereto, and this Declaration.”*
11

12 *Page 3, line 6 “The Declaration is also for the benefit of the Town of Northwood who,*
13 *acting through its Planning Board, may but is not required to enforce the obligations*
14 *contained herein.”*
15

16 Ms. Smith states that when this development was proposed, there was much
17 opposition to it. To clarify, the Open Space was a requirement of the design.
18

19 Mr. Theriault hands out a copy of the Deer Ridge Subdivision Conveyance of Open
20 Space and reads aloud the highlighted items.
21

22 *Page 2 from the top “The Grantor declares that the Premises contain unique features*
23 *for which conservation restrictions are imposed and the Premises are granted subject*
24 *to the stated conservation purposes and restrictions”*
25

26 *Page 2, section 1*
27

28 **Statement of Purpose**

29 *Line A “The Premises possess natural aesthetic, habitat and upland/wetland values*
30 *of importance to the Grantor, the people of Northwood, and the people of the state of*
31 *New Hampshire. (The Conservation Values.)”*
32

33 *Line B “The Grantor and the Grantee intend that the Conservation Values of the*
34 *Premises be preserved and maintained, including, without limitation, those relating*
35 *to wildlife habitat, uplands, wetlands, and vegetation, aesthetic characteristics,*
36 *natural resources, open and forested space, and storm water management”*
37

38 *Line C “The Grantor and the Grantee intend to restrict the use of the land to preserve*
39 *and protect the Conservation Values of the Premises in perpetuity”*
40

41 *Page 3, Section 4.*
42

43 **Enforcement**

44 *Line A “ The Town of Northwood Conservation Commission shall have reasonable*
45 *access to the Premises and all parts for such inspection as is necessary to determine*
46 *compliance with and enforcement of these restrictions, provided that said*
47 *Commission provides the Directors of the Homeowners Association with at least 7*
48 *days written notice of its intent to access the Premises.”*

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1
2 *Line B. "Enforcement shall be via proceedings at law or in equity against any person*
3 *or persons violating or attempting to violate these restrictions."*

4
5 *Line C. "The Town of Northwood and/or the Homeowners' Association, together or*
6 *independently, shall have the right but not the obligation to enforce or prosecute by*
7 *legal or equitable action any violation of the restrictions contained herein. If the Town*
8 *of Northwood or the Homeowners' Association prevails in any action to enforce these*
9 *restrictions, it shall be entitled to collect from the violating party its reasonable costs,*
10 *including attorney's fees, incurred bringing said action."*

11
12
13 Mr. Theriault also hands out advertising for the remaining twelve lots.

14
15 Ms. Smith states that the commission needs to be careful because the Gove group is
16 not here to speak for their side.

17
18 Mr. Hampl asks how many acres were cut and was a timber cut permit issued. Ms.
19 Smith states yes, a timber cut was issued. Mr. Borman states that twelve building lots
20 have been cleared and 25 acres of the 40 acres of Open Space was cut reaching within
21 75 feet of Bennett Bridge Road.

22
23 Mr. Theriault states that Newberry North sold the land to a Mr. Falzone, who in turn
24 sold the land to a Mr. Vitale in December of 2014.

25
26 Chairman Roy asks who owned the land at the time of the cut. MS. Smith states that
27 Mr. Vitale owned the land at the time of the cut, and Charlie Moreno was the forester
28 at the time. Mr. Moreno went back to the original subdivision and used the map and
29 lot numbers on that subdivision plan as reference numbers for his timber cut permit
30 submitted to the town. Those numbers did not correspond with the current map and
31 lot number for the open space. Mr. Borman states that the intent to cut should have
32 been vetted better.

33
34 Mr. Theriault provides the commission with pictures and deed copies.

35
36 Chairman Roy states that he's sorry that they are going through this. But, more
37 broadly, open space is related to these cluster developments at the town level.
38 He states that a private deed can't obligate the Commission to do anything; it only
39 authorizes the Commission to investigate.

40
41
42 Mr. Borman states that the deed was filed and the open space conveyance was
43 attached as a condition of approval. It appears to be violation of a condition. He states
44 that two provisions were violated. Section 2; line H which reads "*There shall be no*
45 *mining, quarrying, excavation or removal of rocks minerals, gravel, sand, top soil, or*
46 *other similar materials on the Premises. No vegetation removal shall be allowed unless*
47 *some action is to remove dead, dying, dangerous, invasive or diseased plants."* and

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1 Section 3, line B, which reads “*Dead, diseased, unsafe or fallen trees, saplings, shrubs,*
2 *or ground cover may be removed*”.

3
4 Ms. Smith states that if that is the case, the code enforcement officer needs to
5 investigate.

6
7 Chairman Roy states that the commission would investigate the open space at the
8 request of the town code enforcement officer to assess whether subdivision conditions
9 were violated.

10
11 Ms. Frost asks about the history of input provided to this specific subdivision.
12 Chairman Roy states that there was a site visit conducted early in the subdivision
13 process. The commission viewed the open space and the planned developed area. At
14 the time, pictures were taken and are likely still in the file. After the site visit, the
15 commission provided a memo to the planning board suggesting the planning board
16 consider an inclusion into the open space some areas of the fields associated with the
17 property as they were in the states prime agricultural district. But the commission
18 didn’t specifically mention the wooded area.

19
20 Mr. Chase asks if the owners decide they want to remove the ambiguity of the open
21 space definition, would it be possible for them to get a conservation easement. Ms.
22 Smith states that and easement isn’t possible because it is a part of the development.
23 Chairman Roy asks if the planning board had participation in the language of the
24 conditions. Ms. Smith states yes, it was reviewed by planning board and town council.

25
26 Chairman Roy states that he doesn’t feel that the commission can enforce anything,
27 given the language of the conveyance.

28
29 **Public Input**

30
31 Mr. Andreason is present; he was on the agenda for the June meeting about tree
32 cutting on his property. Mr. Andreason wished to clear brush on the adjacent lot to his
33 in order to clear the lake view. Joe Gunter is also present and states that someone has
34 been hired to do the work, and they are hoping it will be done this summer.

35
36
37 **Town Administrator Joe Gunter and Economic Development Chairman Hal**
38 **Kreider, TIF District.**

39
40 Mr. Kreider states that they presented the TIF information session at the Selectman’s
41 meeting and received positive response. The only comments were to make this happen,
42 and where is this district relative to the great woods.

43
44 Mr. Kreider hands an information sheet to the board, and states that he will review the
45 hand out line by line. TIF is a Tax Increment Finance District and it is one of the few
46 financing and investment tools that are available to municipalities in the state of New
47 Hampshire. It is one of the few things they can actively do to promote economic

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1 development. What it specifically does is provides funding for basic public
2 improvements. In many cases it is infrastructure but it can go for other things as well.
3

4 Mr. Gunter states the idea is really to stimulate positive economic development activity
5 in specific areas in the community. It does that by expanding the municipal tax base,
6 so when the term Tax Increment Finance District is used, do not think more taxes for
7 general residents, think increase in tax base. Mr. Gunter states that some of the
8 things it does not do are it does not change zoning requirements directly, it is not
9 going to change the zoning ordinance, it does not change setbacks or any of those
10 planning controls. It does not directly increase taxes within the district. Whatever
11 public improvements that are done or if there is any development in that area, it can
12 indirectly increase taxes but the idea is that it also increase your property value as
13 well which is critical. It does not create any special fees or does not directly change
14 assessments within the district but again if infrastructure is put in like a road, the
15 idea is that the cost of taxes will go up. It does not directly alter private property rights
16 at all.
17

18 Mr. Krieder states that typically though the TIF District is a specific set of parcels
19 within the community. It can range in size from 2 large parcels to 20 or 30 smaller
20 parcels to make up a given area. When you choose to set up a TIF District the assessor
21 goes in and creates a base value of assessment which is referred to as the original
22 assessed value. After the development is done, whether it be a road or some other
23 infrastructure improvement you create what is called captured assessed value, which
24 is an increase in the tax or the assessed value of that property after that development.
25 He also stated that change in value from the original assessed value to the captured
26 assessed value, your change in taxes that actually is applied directly to the
27 development of that infrastructure. In some cases if the town chooses to bond for a
28 road, which is the improvement, the change in taxes would actually go for paying for
29 that road, it would not go in the general fund or go towards paying for schools, etc. it
30 would actually go directly towards paying for that improvement within the TIF District,
31 you are really localizing the application of increase in taxes which is critical. Anything
32 above and beyond the captured assessed value that does not go towards the
33 improvement goes to the general fund and the revenues from that change in tax value
34 go directly towards paying for the improvement. After the improvement is paid for
35 whether it is through a bond or something else, the TIF dissolves, it no longer exists
36 anymore. It is set up for the one purpose of making that improvement. Any increase in
37 tax values in the district in the future, those will go directly in the general fund. The
38 idea is really to attract a development into the area, increase the tax base, and then
39 increase the general tax base long term.

40 Mr. Kreider referred to a map showing a variety of areas within the town that they
41 think they have a good chance at doing something with, and where the TIF District
42 would be.
43

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1 Mr. Kreider stated there was a TIF that was very successful in Keene, it was called
2 Black Brook TIF and from his perspective and his opinion, he thinks this is the way
3 they should model Northwood's TIF. He also stated they established an area, they got a
4 couple core people interested, they got commitments for some development, they got 4
5 or 5 people interested in building there. Mr. Kreider stated when they received those
6 commitments they could calculate how much the assessed value was going to go up
7 based on that they could look at how much they could bond and they used that
8 bonding for the roads. They made sure they had a way to pay for the bond before they
9 committed to the bond. In Northwood they have identified a core area, meaning they
10 have talked to the property owners and they have expressed interest in participating.
11 It was within that area that they sent out letters that confirmed they were in the core
12 area and if they were okay with that, they didn't need to do anything.
13

14 Mr. Hampl asks what happens when you add value to a property, would that be in the
15 assessment base? Mr. Krieder states that they are only looking at land that is not
16 currently developed.
17

18 Chairman Roy states that he's been involved in two TIF districts. One was successful
19 and the other failed. In Raymond the town pulled a bond and spent the money on a
20 design for wastewater and water treatment. The development fell through, and the
21 town was stuck with the bond. He states he also worries about what impacts
22 industrial business such as Turbo Cam may pose with regulated waste storage. The
23 Conservation Commission would be engaged into any land use development that
24 might introduce an industrial activity that has storage for hazardous waste. The
25 Commission will stay as plugged into those activities as much as they can to give
26 input from a conservation perspective.
27

28

29 ***Mr. Ryan leaves at 9:00***

30
31

32 **SPECIAL REPORTS**

33

34 **Paving at Mary Waldron Beach.**

35

36 Chairman Roy called to attention work being done on Mary Waldron Beach.
37 Mr. Gunter states that when they paved the parking lot they added black top. There
38 might be some stone where the skirt hits the road. They haven't touched the boat
39 launch or the beach. Chairman Roy asks if anyone checked with DES. Mr. Gunter
40 states no. Chairman Roy states that there may be a permit required to do any work.
41 Technically, the town cannot do anything in the parking lot that is within 50 feet of
42 the lake because it is in conflict of the Shoreland Protection Act.
43

44

45 Mr. Chase states that he is concerned about any work being done because it may be
46 contributing to run off into the lake and adding to impervious surface.

46

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1 Mr. Gunter states that the water run off problem is the reason they started this
2 project. The sand has been running off into the lake creating a mucky bottom. There
3 were culverts and swales put in to prevent the run off into the lake.
4

5 Mr. Hampl asks who designed the project and who approved it? Mr. Gunter states that
6 the road agent, contractor, and selectmen were all involved. Chairman Roy states that
7 the run off in the parking area is the concern. The mucky bottom is because of the
8 nature of the area and this commission has to do something. He states that he's not
9 sure that paving is in compliance with the Shoreland Protection Act. Mr. Gunter states
10 that the project is finished.
11

12
13 **Mr. Chase makes a motion to adjourn at 9:23, Chairman Roy seconds. Vote 4/0**
14

15 ***Respectfully Submitted,***
16
17
18

19 ***Susan Jastremski-Austin***
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21
22
23