

*Corrected  
Minutes  
Final*

**Johnsburg Planning Board Minutes  
February 28, 2011**

**ATTENDANCE:** Mrs. Osterhout, Mr. Record, Mr. Smith, Mr. Pelton, Attorneys Mr. Schachner and Mr. Hill. Absent Mr. Heidrich and Mr. Klippel.

**Guests; See Attached**

**Regular Meeting  
Called to Order 7:00 P.M.**

All members received the minutes electronically prior to the meeting eliminating the need to be read at this time. A motion to approve the minutes as received was entered by Mr. Smith and seconded by Mr. Record. A vote determined all were in favor no one opposed and no one abstained. Motion carried.

**Amend Subdivision Application #179-06 Front Street Development Corp.**  
Attorney Smith informed the Board that because of terrain individuals had begun skiing down property belonging to Front Street. Front Street and the Town have addressed this issue by the Town leasing this property for 90 days. This property is a parcel of 23.69 acres that will be added to the original parcel of 36.4 acres between the lift line and ski trail. Mr. Record asked if the trails have been conveyed. Attorney Smith answered that they have not the Town does not want to take the trails until ORDA state that they want the trails. Mr. Record asked if there would be an impact if there was a change of administration. Mr. Vanselow said that the Town does not want to remove them from the tax roles and that ORDA is not ready to provide maintenance at this time. A motion to schedule a Public Hearing was entered by Mr. Smith, seconded by Mr. Pelton and approved by a vote of all in favor. Public Hearing scheduled for March 28, 2011 at 7:00 PM.

**Preliminary Presentation Subdivision Application #220-11 Gerakaris**  
Attorney DeSantis represented the applicants to inform the Board that Mrs. Gerakaris plans to do a three lot subdivision. Attorney DeSantis has a recorded APA permit. The plan is to merge lot #1 with property owned by Mr. and Mrs. R Tuma, lot 2 to merge with property owned by Kevin Tuma and lot 3 to be retained by Mrs. Gerakaris. This subdivision will bring the non conforming lot of 1 acre into compliance. Attorney requested a Public Hearing. With a motion by Mr. Record and a second by Mr. Smith and a vote of all in favor, a Public Hearing was scheduled for March 28, 2011 as continuum from 7:00 PM.

**Preliminary Subdivision #221-11 Kimbrell**  
Attorney Smith represented the applicants and informed the Board that this agreement had been in place with the previous owners and that the current owner's desire was to complete this lot line adjustment to provide the parcel that the church required. Attorney Smith requested a Public Hearing to be scheduled. With a motion by Mr. Record and a second by Mr. Pelton and a vote of all in favor a Public Hearing was scheduled as third on the agenda for March 28, 2011.



### **Review of Subdivision Regulations**

Attorney Schachner advised the Board that past actions for Front Street Development Corporation could have produced grounds for an Executive Session. Attorney Schachner explained the difficulty in certain discussions being held in open meeting. He said that the Public did not need to be notified prior to Executive Session. He explained that if there was prior knowledge of the need for such a session it could be placed on the Agenda just out of courtesy. Discussion by Mr. Smith addressed the fact that the Planning Board is not an enforcement entity. Attorney Schachner said that per the Land Use Plan, Johnsbury Planning Board has a broader realm than other towns. Mr. Smith said that that was good to know. Mr. Record said that Attorney Jordan had made the Board aware of the enforcement steps that need to take place.

Mr. Smith revealed that if the Board decided to go into Executive Session either the Public could leave or they could stay for a report at the end of the session.

General discussion revealed that Attorney Schachner will provide some suggestions for the Planning Board to present to the Town Board in regards to lot line adjustments. Attorney Smith had two thoughts on the subject, one that if the adjustment created a separate building lot it would not be a lot line adjustment, and two in Warrensburg the ZEO signs the lot line adjustment as the action needed.

### **Old Business**

#### **Top Ridge second emergency egress**

At the time the Board required this there was no time limit set. The new Land Use Plan has no provision for this requirement. Mr. Record said that all sub structure for the exit is in place they only need to fill in a drainage ditch and remove the pile of dirt at the entrance of the planned emergency exit. Attorney Schachner said that logically the Board could send a letter requesting that the applicants proceed prior to any further construction for the next phase. He said leverage could be to withhold any more building permits until the exit was complete. Mr. Record said that the Board should nicely send a letter expressing concerns and asking for a response. He suggested that it be sent registered. The Board requested that a letter be sent.

### **Land Use Plan**

Mrs. Osterhout said that this Board had promised Mr. Nettle that the Board would discuss his two proposals from the prior meeting. She expressed again that this was a Town Board issue and that this Board could just send them a letter with suggestions. Mrs. Tucker asked if the County had any regulations regarding these issues. Mr. Osterhout said that the County referred her to the State Fire Code. The County also said that it could be possible to eliminate set backs but not suggested as there are a lot of regulations. Mr. Record said that he agrees with the 0 front set back. Mr. Vanselow said that there would be problems with construction and maintenance with 0 side set backs. Mrs. Osterhout has no issues with 0 front setbacks but 0 side setbacks would cause issue with storm runoff and maintenance of buildings. Mr. Millington asked if all lot lines have been considered. Mrs. Osterhout said that Mr. Nettle had come before this Board and requested that perhaps they could send the Town Board a letter in reference to changing the side set back requirements as well as possibly changing the zoning of HB2. Mr. Nettle



said that it was good that Mrs. Osterhout investigated further than personal levels. He said that there is nothing new in 0 setbacks as engineers could deal with windows etc. and that anyone could deal with interior spaces as needed. He said you never have to worry about putting a ladder on someone else's property. He said that the Town has only so much property and that the business people are concerned because of thousands of visitors. His concern is if this setback limit stays he will lose 30% of valuable property. If the Town continues not to take into consideration of limited land in town Rite Aid could conceivably move to Route 28 and put up a Big Box Store. This could lead from one box store to the next. There are many Ski Towns who have met the challenge such as Lake Placid. He said that if this Board cannot bring themselves to make a recommendation where is the back bone of the Planning Board? He said that this is the Planning Boards responsibility not to be happy with abandoning a certain amount of property to vacancies as apposed to commerce. Mrs. Osterhout said that as there are only 4 members present she would like to hold discussion and decision for a time when there were more members present. Mr. Record said that there are many areas with 0 side setback and that Mr. Nessel should bring back a list of these towns. That would allow for more information and more questions to be answered. Mr. Pelton felt that if there were a vacant in between they would be upset if someone built right up to the line. General discussion revealed that ownership does not enter into possibility of strip mall construction. Mr. Nessel again went over the history of the addition of Hamlet Business District 2. Mr. Record asked what was Mr. Nessel's proposal. Mr. Nessel said he wants to eliminate HB2 and extend HB1 to Nice and Easy. He felt that any other property owners could come to the Planning Board for a Special Use approval. If HB2 stays in place there is no guarantee anything can happen as an application comes in it must be heard. Mr. Vanselow said that if the greenway is extended there is a 25% build out restriction and with the 200 foot setback there is a limitation on usable property. Mrs. Osterhout said that the discussion needs to be continued for possible options and whether to send a letter to the Town Board.

Mr. Millington informed the Board he was looking for input on a plan that an Ordway Lane resident was considering. Owner is looking to subdivide his property to sell two parcels and retain a parcel to use for summer. Mrs. Osterhout told him to come up with a proposal and he could do a preliminary presentation.

Mr. Nessel said that he knows the Board has agonized over signs in the Town in particular the one in Wevertown. He noticed that the sign has been changed to a less than pleasing sign and wanted to know when this will stop. Mrs. Osterhout said that the Town Board has determined not to enforce the sign regulations at this time. She said this is now a Town Board issue. Mr. Smith commented that the restrictions must be in writing and he would like to keep it within the Board level.

#### **ZEO Report**

Mrs. Tucker has presented a written report and she also stated that she has been in touch with the County and is considering changing the issuance of the C of O to after the issuance of the Zoning Compliance form. Attorney Hill said the steps now are 1. Zoning Compliance 2. Building Permit 3. C of O and 4. Zoning Compliance completion. Mrs. Tucker said the County said it is up to the Town if they would like

it changed. Mr. Smith felt that that would be the way it should be. Mrs. Osterhout said that I would certainly be good to have it changed for improved control. Attorney Schachner said that however it was done it needs to be done the same way for everyone.

Mr. Record entered a motion to go into Executive Session including the ZEO, Mrs. Tucker and Councilman, Mr. Vanselow. A second was entered by Mr. Pelton and a vote determined Mrs. Osterhout, Mr. Record and Mr. Pelton were in favor and Mr. Smith opposed. Motion failed 3 to 1. A motion entered by Mr. Smith with only the Board and their attorneys to go into Executive Session, and with a second by Mr. Record and a vote of all in favor, no one opposed and no one abstaining. Motion was approved. Mr. Record entered a motion to come out of Executive Session at 9:35 PM, a second was entered by Mr. Smith and with a vote of all in favor Executive Session was ended.

**Board Entered Executive Session 8:40PM**

**Board ended Executive Session 9:35**

**Regular Meeting**

The Board voted by a vote of all in favor for the attorney to send a letter to Tall Timbers notifying them that their Conditional Final Subdivision Approval had expired.

With a motion from Mr. Record and a second from Mr. Smith and a vote of all in favor the meeting was adjourned at 9:40 P.M.

Respectfully,

Marion Monroe, Secretary