

Westmoreland Planning Board

November 12th, 2013

Approved minutes

❖ **Call to Order, Seating Members**

Present: Lauren Bressett, Dawn Lincoln, Steve Houle, Jim Starkey, Bruce Smith, June Hammond
arrived at 6:50pm Excused: David Hansel Laurie Burt
Lauren Bressett called the meeting to order at 6:30 pm

❖ **Review of Minutes:** October 8th, 2013

Dawn Lincoln made a motion to accept the minutes as read, Jim Starkey second, all voted in favor to accept the minutes as read.

Applications/Hearings

1. 6:30 PSNH/ Scenic road tree trimming

David Crane from PSNH informed the board members that they are in the process of trimming trees in the southern part of town , which includes Paine Road, he stated they did this typically on average every four years, what they do is trim back enough to keep the growth back from the power lines for that four year period. Jim Starkey questioned whom the wood belongs to that has been trimmed and left beside the road; Mr. Crane stated it belongs to the abutting landowner. Lauren Bressett pointed out to Mr. Crane via some pictures she had taken of trees trimmed in the past that should have been trimmed back to the trunk of the tree but were not and now those limbs are rotting and causing more danger and sought reassurance that best practices would be followed on Paine Road. Mr. Crane agreed with Lauren and stated he would check into these areas which are on the River Road and see if they can be taken care of. Jim Starkey questioned about an area just north of Park Hill Church in which a tree crew trimmed the trees all the way back and just left a 25 foot stump with no limbs, he felt this looked very odd and wondered if this was normal and why they did not remove the trunk, Mr. Crane stated that on occasion the landowner would request the trunk be left due to wildlife but that he would also check into that as it may have been an oversight.

Dawn Lincoln made a motion to approve PSNH tree trimming/cutting on Paine Road, Jim Starkey second, motion passed.

2. 6:45 Hoffmann application/hearing U3- lot 33

Lauren Bressett informed all in attendance this is a boundary line adjustment
Board members reviewed the boundary line adjustment application.

Jim Starkey made a motion to accept the application as complete, Dawn Lincoln second , motion passed.

Lauren Bressett opened the hearing to the Hoffman's, Wendy Pelletier spoke on behalf of the Hoffman's and stated she is the surveyor, that her clients purchased land from abutter Henry Zurmuhlen and would like to add 13.7 acres to their current lot which has no road frontage, is steep woodlands and will not be used for building. Lauren Bressett opened the hearing to the public. Richard Cate asked what the purpose of was for adjoining the two parcels. Lauren Bressett informed Mr. Cate that a boundary line adjustment is for moving their boundary line to include what they have

acquired from the abutter. Wendy Pellitier stated there is no road frontage, so it cannot be a separate parcel. Mr. Cate stated he feels there is an access problem with the acquired parcel as it is across the brook. Lauren Bressett stated they have access to the property via their current access to their lot which would now include the additional land. That if they wish they may pass over their own land or the brook. Dawn Lincoln made a motion to approve the boundary line adjustment of the Hoffman's property, Jim Starkey second, motion passed, Bruce Smith abstained.

Lauren Bressett informed the Hoffmann's that, due to the busy schedule of the evening, the board would not be signing items until the end of the meeting, they could stop by the town offices tomorrow and pick up their signed copies.

❖ **New Business**

1. George Graves R17 - lot 29

Richard Fraser representing George Graves regarding the letter from the Selectmen to Mr. Graves ordering a Cease and Desist for excavating gravel from his property in Westmoreland without the proper permits or approval. Mr. Fraser introduced Gretchen Fowler as George Graves's daughter who was in attendance. Mr. Fraser stated that George Graves has been permitted since 1974 to excavate the adjoining property in the town of Walpole NH. Mr. Fraser showed board members a copy of a survey done in 2012 of Mr. Graves's property; he also had some photographs of the Westmoreland site as it is now. Mr. Fraser estimated the length of the excavation to be 300 ft with a width of approximately 80 ft. Mr. Fraser stated that the town was absolutely right, that George did cross the line into Westmoreland, he knew exactly where the line was, but it was done. Mr. Fraser stated that George Graves has a maple orchard in this area and wants to preserve it, so there will be no more excavating and he is willing to set the slope, seed it and be done, he will do whatever the board would like. Lauren Bressett informed board members there are two options 1. Apply for permits and continue excavating or 2. Put the land back the way it was. Lauren Bressett asked if the land is in current use and Gretchen Fowler stated yes. Mr. Fraser informed the board that he will be applying to the State of NH for an Alteration of terrain permit. Lauren Bressett asked what about the owed excavation tax for the amount that has been taken out, Mr. Fraser stated he felt the was generally left up to the Selectmen.

Jim Starkey questioned if there was an estimate as to how much material has been taken out. Mr. Fraser stated he did not know, but maybe George would, Gretchen also thought he may have records of it. Lauren Bressett stated that the AOT will actually be for the reclamation and then they will have to come before the board for a site plan review. Mr. Fraser stated that there has been no excavating on the Westmoreland property for over two years and there is no intent to excavate in the future. Jim Starkey reiterated, there is nothing for the board to do at this point, they have ceased excavating and once they have their AOT approved by the state, they will come to us for the site plan review.

2. Matt Phillips R14 – 49A

Matt Phillips came in for information in regards to amending his site plan; he may be renting out part of the property and just wanted to get opinions from the board as to what they will want if he does amend his current site plan

❖ **Old Business**

1. Iron Clad update. U1 – 5A Lauren Bressett checked with the owner of the building, he did not know of the application but was ok with it and she also checked with the State of NH about the application, it was for a public inspection station not for his own fleet, which is not

in compliance with the current site plan for the property, Lauren returned the application stating not in compliance. Alison Fissette has since heard from the tenants and they are working on amending the site plan for a site plan review for the changes of use.

2. Employee hand book- releases

Board members were reminded to read and sign release stating they have read the handbook.

3. Review updating sign ordinances

Board members continued updating the sign ordinances - see attached.

Dawn Lincoln made a motion to accept sign ordinance as amended and to present them at a public hearing. June Hammond second , motion passed.

4. Continue updating building & zoning ordinances

Board members continued updating the building & zoning ordinances – see attached
Board members thought they would like to get Larry Muchmore's opinion on several items, Lauren Bressett will check with him. In order to attempt to have the building & zoning ordinance revisions done in time for town meeting, members decided to continue updating and finalizing the ordinance on Monday the 18th of 2013 at 6:30 pm at the town hall. Jim Starkey questioned why we have a minimum size in section 2:05 of 600 sq ft. He feels it shouldn't matter as long as they follow the ordinances.

❖ Select Board Update

June Hammond stated that the selectman would like to know what violation has been made in reference to any non compliance sign issues. Lauren Bressett stated if the Selectman need clarification on any property that has been reported to be in violation, they would need to refer the property and question to the board and the board would respond. If a complaint comes to the planning board, the board would refer the complainant to the selectman. June Hammond stated the selectmen are just looking for guidance in the event a letter needs to be written. Lauren Bressett mentioned, in doing research for ordinance updates, that she found case law regarding lack of enforcement regarding known violations brought to the select board that were not acted on which caused problems in later years with related issues.

Patricia Rodriguez questioned what had happen at the beginning of the meeting in regards the George Graves property. Lauren Bressett gave a brief description as to why they were in and what they planned to do and when. Patricia Rodriguez questioned if there was discussion on a letter of deficiency, Lauren Bressett stated no, that would be with the selectmen.

Jim Starkey made a motion to adjourn, Dawn Lincoln second, motion passed.

Meeting adjourned at 9:15pm

Respectfully submitted

Alison Fissette

Planning Board Clerk

Amended 12-10-13 (italicized & underlined added)

Mr. Fraser stated that the town was absolutely right that George did cross the line into Westmoreland *I do not know when he did that* he knew exactly where the line was but it was done.

Amended draft 11/12/13 (bold text added)

Sign: Any device, structure, building or part thereof, for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public.

Sign, advertising or billboard: Sign which directs attention to a business, industry, profession, service, commodity or entertainment conducted, sold or offered elsewhere than upon the same lot.

Sign, Business: Sign which directs attention to a business, industry, profession, service, commodity, or entertainment sold or offered upon the same lot on which it is displayed, including real estate signs.

Sign, Banner: A temporary sign of lightweight material (~~paper, plastic, or fabric~~) hung either with or without frames.

Sign, ~~construction~~ temporary service - a temporary sign not intended for permanent use indicating work currently being done or a current condition that applies such as a real estate, roofing, or carpenter's sign.

Sign, directory: A sign that indicates the name of the location as well as a listing of all businesses/entities located on the site.

Sign, flag: A lightweight material carrying a design or words designed to fly or hang from a pole.

SECTION 431 Signs

No signs or billboards shall be permitted in any district except as specifically permitted herein as follows:

A. An open flag or banner may be displayed during business hours.

B. ~~Construction~~ Temporary service signs not to exceed 6 square feet with the name and contact information of the contractor will be allowed during the active ~~construction~~ service period and up to 30 days after completion of the service.

C. ~~A temporary sign pertaining to the lease, sale or use of the lot or building on which it is placed will be allowed.~~

D. Signage not covered below or not in compliance may be allowed by special exception.

SECTION 432 Advertising Billboards

Advertising billboards shall not be permitted in any Residential or Village Center Districts.

SECTION 433 Signs in Residential Districts

The following signs are permitted when located on the immediate property.

A. No signs shall be larger than 8 16 square feet.

B. All permitted or approved non-residential uses shall be allowed to erect and maintain a single free-standing sign and any number of additional signs, **where the use occurs**, provided that the combined area of all signs does not exceed 32 square feet for all uses and are not contiguous with the primary sign.

C. Signs shall not exceed 15 feet from ground level.

A. 1 professional or home occupation sign, not exceeding 4 square feet.

B. 1 temporary sign, not exceeding 6 square feet.

C. Signs identifying any non-residential building or use permitted in residential districts, not exceeding a total of 20 square feet.

- D. ~~Directional or information sign, not exceeding 4 square feet.~~
- E. ~~Signs necessary for public safety or welfare.~~

SECTION 434 Signs in Commercial/Industrial Districts

The following signs are permitted when located on the immediate property:

A. When one business ~~sign~~ exists:

~~One directory sign not larger than 10 square feet.~~

1. One business sign not larger than 32 square feet.
2. Additional signage pertaining to permitted uses located on or immediately adjacent to the building where the use occurs provided that the combined area of all signs does not exceed 56-64 square feet.

B. When more than one business exists on a property:

1. One directory sign not larger than ~~40~~ 32 square feet, plus an additional 6 square feet per additional business listing the name of each business on site.
2. One sign per business not larger than ~~12~~ 16 sq feet located on or immediately adjacent to each business.
3. One additional banner sign not larger than 12 square feet located on or immediately adjacent to each business.

SECTION 435 Computation of Permissible Sign Area

When computing the total permissible sign area for any use:

- A. Existing signs shall be included.
- B. The total area of all signs shall not exceed the requirements as set forth in this Ordinance.
- C. Signs, consisting of free standing letters, numerals or other devices shall include any intervening spaces between them.
- D. Only the larger face area of double-faced or v-type sign shall be used.
- E. Back-to-back signs may be counted as one sign.
- F. Open flags are not counted in the computation of permissible sign area.

SECTION 436 Traffic Hazard, Safety and Obstructions

Every sign shall be designed and located in such a manner as to:

- A. Not impair public safety.
- B. Not restrict clear vision between a sidewalk and street.
- C. Not to be confused with any traffic sign or signal.
- D. Not prevent free access to any door, window, or fire escape.

SECTION 437 Illuminated and Flashing Signs

- A. A steady light may illuminate signs, provided that such lighting will not illuminate or reflect onto other properties or onto a public road.
- B. Flashing, oscillating, ~~and~~ revolving, neon or other tubular gas signs shall not be permitted, unless necessary for public safety or welfare.

(Explanation: Matter added to current ordinance appears in ***bold italics***.

Matter removed from current ordinance appears [~~in brackets and struck through.~~])

CHESHIRE COUNTY, NEW HAMPSHIRE

Article I

SECTION 1:01 To promote the health, safety, convenience, prosperity, and general welfare of the Town of Westmoreland and to protect and enhance the value of its properties, the following regulations are hereby enacted by the voters of Westmoreland.

Article II

REGULATIONS

SECTION 2:01 All land shall be subject to the following regulations, restrictions and conditions.

SECTION 2:02 A new building more than 35 feet in height above the natural ground level must ***be granted a variance from*** ~~[have prior approval of]~~ the ***Zoning*** Board of Adjustment ***prior to applying for a building permit.***

SECTION 2:03 ~~[No new building, exterior or interior, structure, or chimney shall be altered, without a building permit from the Building Inspector, to who adequate plans of proposed building or alterations shall be submitted.]~~
No building permit shall be required for small structures (as defined under SECTION 104 Terms) or for maintenance of an existing building or structure.

A building permit, issued by the Building Inspector prior to project commencement, shall be required for:

- 1) New buildings and new structures***
- 2) Alterations (as defined under SECTION 104 Terms) of buildings and structures***

The following information, and any other information deemed necessary by the Building Inspector, shall be submitted to the Building Inspector before a building permit can be issued:

- 1) New buildings and new structures shall require a completed application, the appropriate fee, driveway permit, state approved septic design, zoning permit, and adequate plans of the proposed building or structure.***
- 2) Alterations of buildings and structures shall require a completed application, the appropriate fee and adequate plans of the proposed alterations.***

~~[No permit will be required for repairing the exterior or interior of a building if the total value of such work, including labor and materials, does not exceed \$1500.00.]~~ The Selectmen will set building permit fees as they see fit. Fees must be paid to the ~~[Building Inspector of the]~~ Town of Westmoreland.

SECTION 2:04 All building permits shall expire one ~~[-1]~~ year from date of issue.

Extension may be granted upon application for one [(1)] additional year. Building permits are not transferable with the sale of the land.

SECTION 2:05 Every dwelling [~~house~~] **unit** or other building or addition thereto, shall be required to follow the setbacks as set forth in the Zoning Ordinances for their district. Every dwelling [~~house~~] **unit** shall have a minimum ground floor area of 600 square feet, exclusive of porches, breezeways, garages, sheds or similar areas.

SECTION 2:06 **Foundations**

Foundations shall be continuous and be constructed of solid concrete, block, stone, or other similar materials, extending at least four feet below the [~~normal~~] ground level.

Accessory buildings may be set on brick, stone, concrete piers, or pressure-treated [~~creosote~~] posts, [~~set 4' below ground level~~] **extending at least four feet below the ground level**, [~~completely~~] enclosed to prevent leaves and other debris from collecting under the building. A concrete slab, ~~designed by a registered engineer and approved by the Building Inspector~~, shall also be acceptable.

SECTION 2:07 Every dwelling, other building, or addition to presently existing dwellings or buildings, is to be finished on the exterior in a permanent manner within a period of two [(2)] years.

SECTION 2:08 **Chimneys**

All chimneys and fireplaces shall be constructed of stone, brick, concrete or [~~inder~~] **cement** blocks, on a twelve inch thick concrete footing. Width of footing for interior chimney shall be one foot wider in each direction than the width of the proposed chimney. Width of footing for exterior chimneys shall be sixteen inches wider in each direction than the width of the proposed chimney and set on top of the house foundation footing, but no less than four feet below ground level. All masonry chimneys shall be lined with flue tile beginning at the footing and extending two feet higher than a ten foot measurement horizontally to the roof. All entrances to chimneys shall be of fireproof construction with each flue to have a cleanout at its base. Chimneys shall not be used to support beams or timbers in any manner. No smoke pipe or thimble shall be installed so as to be within eighteen inches of any combustible floor or ceiling unless amply protected with non-combustible material. No smoke pipe shall be installed which passes into or through partitions or walls of combustible materials except when guarded by at least eight inches of brick of other non-combustible material between the pipe and the combustible material. Flue tiles will be joined with refractory cement. Under no circumstances will mortar cement be permitted to join flues together. Prefabricated chimneys bearing the approved label of the National Boards of Fire Underwriters shall also be allowed provided they are installed in an approved manner.

SECTION 2:09 No roof of any building shall be covered or recovered in whole or in part save with non-combustible or fire-resistant roofing material.

SECTION 2:10 **Sewerage & Water**

All dwelling units used for [~~permanent~~] human occupancy must be supplied with running hot

and cold water properly connected with the following fixtures: kitchen sink, lavatory sink, tub or shower, water closet (*unless a dry composting toilet is installed in compliance with 2:10 paragraph 2*). These fixtures must be connected with a [~~septic tank and leach field~~] *sewage and/or wastewater disposal system* that has been approved by the New Hampshire [~~Water Supply and Pollution Control Commission~~] Department of Environmental Services. [~~The required septic tank and leach field must be of sufficient size to accommodate a water closet.~~]

A family sized commercial dry composting toilet may be allowed in lieu of a water closet. Such a system must first be approved by the local [~~Board of Health~~] *Health Officer or equivalent* based on the determination that said system will not endanger the health of any person or cause a nuisance and that the end product will be disposed of in a sanitary manner. All other requirements in the first paragraph of Section 2:10 must be met.

SECTION 2:11 All electrical installations shall be in accordance with the requirements of the latest edition of the National Electric Code, the same being the standard of the National Board of Fire Underwriters for electrical wiring and apparatus.

SECTION 2:12 All fuel burning equipment shall be installed in compliance with the latest edition of rules and regulations issued by the New Hampshire Board of Fire Control.

SECTION 2:13 All construction, unless otherwise covered by this Ordinance, shall be governed by the Building Officials and Code Administrators International, Inc. (BOCA).

ARTICLE III

FLOODPLAIN DEVELOPMENT REGULATIONS

See SECTION 452.1 of the Zoning Ordinance

ARTICLE IV

BUILDING INSPECTOR

SECTION 4:01 For the purpose of this Ordinance, the Board of Selectmen shall annually appoint a Town Building Inspector who shall perform the duties pertaining to his office as designated in the provisions of the Ordinance.

SECTION 4:02 The Building Inspector shall in all cases visit the site of any proposed building or [~~remodeling~~] *alteration* in company of the owner of the site before issuing a building permit. He shall satisfy himself that the proposal will meet all requirements of the Town Building Ordinances.

SECTION 4:03 No building permit shall be issued until the Building Inspector has certified that the proposed building or structure and its intended use comply with the provisions of the Ordinance.

SECTION 4:04 It shall be unlawful for any person to commence work on erection or alteration of any building or structure until the Building Inspector has duly granted a permit for such erection or alteration.

SECTION 4:05 *Driveway Permit*

The Building Inspector shall not issue a building permit before the securing of a driveway permit *from the appropriate road authority*, if a new driveway is required. ~~Any new drive from a public road shall require a driveway permit from the Town Road Agent.~~ Factors to be considered include a safe location, suitable grade at its junction with the public road and adequate drainage.

SECTION 4:06 Certificate of Occupancy

No building shall be used and no building shall be changed to another use until the Building Inspector shall have issued a certificate of occupancy. The Building Inspector shall issue such certificate of occupancy only after the property has been inspected and found to comply with all provisions of the Building and Zoning Ordinances of the Town.

ARTICLE V

ADMINISTRATION

SECTION 5:01 It shall be the duty of the Board of Selectmen, and the Board is hereby given power and authority, to enforce the provisions of this Ordinance. The Board of Selectmen shall act as arbitrator to resolve any differences between the applicant and the Building Inspector.

SECTION 5:02 The Board of Selectmen shall require that the applicant for a building permit include [~~a plot plan and contain~~] all necessary information to enable the Building Inspector to ascertain whether the proposed building or structure and its intended use comply with e provisions of this Ordinance.

SECTION 5:03 Upon any well founded information that this Ordinance is being violated, the Selectmen shall on their own initiative take immediate steps to enforce the provisions of this Ordinance by seeking and injunction in the Superior Court, of by any other legal action.

ARTICLE VI

AMENDMENTS

SECTION 6:01 The provisions of this Ordinance may be amended or changed at any regular or special Town Meeting by a majority of the voters present as provided by law.

ARTICLE VII

GENERAL PROVISIONS

SECTION 7:01 Validity

Should any section or provision of this Ordinance be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof.

~~SECTION 7:02 Interpretation~~

~~In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the health, safety, morals and general welfare of the Town of Westmoreland and its citizens. The implied intent of the Ordinance shall be maintained. In addition to the general powers granted to the **Zoning** Board of Adjustment, they shall allow slight variances [form] **from** specific terms of this Ordinance, where it can be shown that unnecessary hardship would otherwise result.~~

SECTION 7:03 Penalties and Remedy for Violations

Every person, persons, firm or corporation violating any of the provisions of this Ordinance may be subject to a fine by the Board of Selectmen of not more than one hundred dollars for each day of said violation, plus any legal costs resulting in the enforcement of said violation.

SECTION 7:04 Acceptance

This Ordinance shall take effect immediately upon its passage.

(Explanation: Matter added to current ordinance appears in ***bold italics***.

Matter removed from current ordinance appears [~~in brackets and struck through~~.]

ZONING ORDINANCE ARTICLE I

SECTION 104 TERMS

Alteration: Structural change, rearrangement, change of location ***of a building***, or addition to a building [~~, other than repairs and modification in building equipment~~].

Building: Structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals, or chattel; ***except portable structures (as defined under SECTION 104 Terms)***.

Maintenance – ***general upkeep performed on any part of a building or structure including replacement and/or repair of existing features, equipment or fixtures.***

Structure: Anything constructed or erected, the use of which requires location on the ground, or attachment to something located on the ground [~~, except a wall or fence on an operating farm~~]. ***Fences, stonewalls and flag poles shall not be considered structures.***

Small Structure: ***Any structure that is less than 160 square feet and is permanently attached***

to the ground and can not be moved intact.

ARTICLE II

SECTION 421:1 Portable *and Small* Structures

Portable *and small* structures (as defined under *SECTION 104* Terms) [~~are allowed by permit,~~] must have at least a twenty [~~(20)~~] feet setback from side and back yards and must meet all other regulations for the zone in which they are placed.