



# Town of Eddington

906 Main Road Eddington, Maine 04428

**PLANNING BOARD**  
**September 22, 2020**  
**6:00 pm**  
**MINUTES**

**CALL TO ORDER:** Craig Knight called the meeting to order at 6:09 pm.

**ROLL CALL:** Members present were Susan Dunham-Shane, Craig Knight, Kristen Wilson, James McLeod and Dean Bennett, CEO. David Peppard, Jeff Argleben and Heather Grass have excused absences.

Move that we make James McLeod a voting member of the Board for this meeting.

**By Susan DS/Kristen W 2<sup>nd</sup>. Vote 3-0**

**MINUTES:** Motion to accept the minutes of July 28, 2020 as submitted.

**By Susan DS/Kristen W 2<sup>nd</sup>. Vote 4-0**

**NEW BUSINESS:** The Board will proceed with the review of the Meadow Brook Estates Final Plan Application to determine if complete. Susan DS pointed out that there were 4 items listed on the July 28, 2020 minutes that need to be added to this final plan and they are as follows:

1. The Final Subdivision Plan will show the 100' setback for wells from current septic test pits.
2. Section 201.10 – Add description of technical capabilities.
3. Final Plan to show natural buffers for storm water control in their approximate locations and that by deed these must be maintained for a distance of 25' - 50' per each lot.
4. Correct inconsistency of water usage as stated in 201.3 and 201.12.

Susan DS finds that they did provide all requested information and the rest of the Board agrees.

Dean B has reviewed the Final Plan submission documents, verified receipt of all required documentation and conducted a review of the Subdivision Criteria as specified in title 30-A, 404 of State Statues. He has made notations in the left column to assist the Planning Board in the review of the Application.

Susan DS said that Dean B's notes indicate that section 409, Recreational Access Standards, needs additional information from the applicant. Fred Marshall, representing Mr. Belanger, said they were surprised to find this section and said the way this was structured was like they were trying to create a private recreation area, which is contradictory of a town approval. He continued that some towns will do a "Fee in Lieu of" which would go into the recreation account that would grow the town's recreation fund. Susan explained that this provision came from when the ordinance was rewritten and density was addressed in the Subdivision Ordinance. The Oak Grove Subdivision was prior to the ordinance revisions. Dean B and Susan DS agreed that this section was in reference to open space designed subdivisions which would approve homes on smaller lots. Dean B suggests that it would be appropriate for the Board to waive the provisions of Section 409 because it is not applicable to this subdivision. James M asked if there are any current snowmobile or recreation trails through this property. Al Belanger answered that there are snowmobile trails through the property and there is plenty of land there to move the trails.

Motion that the Board finds that in consideration of the overall design for this application, that in this case the requirements of Section 409, Recreational Access Standards can be waived for this project.

**By Susan DS/Kristen W 2<sup>nd</sup>. Vote 4-0**

Susan DS questioned Performance Guarantee if applicable (H) and section 302.16 and Dean said that 302.16 would not apply because there is no exposure to public liability or public way involved in the development so there is nothing being started that the public would need to take over so the protections of the town are not warranted.

Motion that under 306.3, Final Plan Submission Requirements, that the applicant has met the required items so we can accept the submission requirements section as complete.

**By Susan DS/James M 2<sup>nd</sup>. Vote 4-0**

Susan DS asked who will write the findings of fact and Dean B said that it will get done and that the minutes will serve that purpose as well.

Craig K opened the Public Hearing at 6:30 pm

Seth Libby asked if anything was going to happen with Comins Lane. Al Belanger said that it is up to the Select Board because there is nothing that the Planning Board can do. Al B explained that he is not going to lay out any money until he can get a guarantee from the town that they will take the road over. Seth L then asked if he was going to fix the damage that the trucks have done to the road. Al B suggested he talk to Karen and he can find out what has been done. Seth L said he has a real concern about the road.

Dean B said that he thinks that it is important that people understand the situation. He explained that it is Al B's prerogative to build a town road or not build a town road. The issue of the acceptance of the roadways comes down to the structure of the government of Eddington. Eddington has a Town Meeting form of Government. The Town Meeting form of government is the one that accepts roads, spends money and raises money in the function of the Town Meeting in which you go and vote for the budget for the year. The Selectmen do not have the authority to raise money or spend money except what was approved in the Budget voted on at Town Meeting. If a Town is going to take on a road they take on the commitment to maintain the road, plowing, culverts, etc. and it becomes a burden for the taxpayers. So it puts any developer in a quandary of: Do I put the money into fixing this road and risk who will happen to come to the Town Meeting and decide whether to vote for it or not? There is no mechanism right now in which the Selectmen or Town Meeting can guarantee that the next Town Meeting would accept that road. The hope is that at some point with legal advice and guidance there is a means by which a Town Meeting can in some way commit more strongly to the future acceptance of a road given the conditions of it being built to Town specs. Al Belanger said that he has spoken with Mark Carreira of the Select Board and he has said that maybe he can do something with the Board to help the process. Dean B agreed that it would have to start with the Select Board and that there is nothing that the Planning Board can do in regards to the road.

Karen MacDonald explained that the concern of the residents up there now is the heavy traffic during the development and the damage it has done and may do to the roads. They do not have any means to repair them constantly. She asked how that will get taken care of? Al B said he does not have an answer for that. He explained that it is an older road and some of it is normal wear and tear. Heather Leclerc said they have been babying the road and they have photos of the road before the new damage. Al will speak to David of the logging company about the damage to the road they feel has not been addressed. They asked if he was planning on harvesting any more wood and Al B said he has no plans to right now. He is building his road to town specs but it cannot be taken over because Comins Lane is not to specs. Dean said it is state law that you cannot take public equipment and expose tax payer liability over private property. Dean explained that the Selectmen need to find out if there is a legal way that a Town Meeting Form of government can commit to accepting roads without the actual approval of a town meeting. He continued that one town meeting cannot make decisions for the next town meeting. The town is trying to accommodate development but they cannot do it at a liability to the tax payer. Susan DS has spoken with the City of Brewer and verified the extensive process that they go through before a road is approved. Al B said that Russell Smith told him that there are records here that the road has already been checked by engineers that it was up to specs underneath. Al had

said that doing the resurface and shimming would be \$100,000.00. Town Council form of government can make the commitment to accept a road if it is brought up to specs. Roger Wood asked if the Town can take over Comins Land and not Grandview and Sprucewood? Al B said he believed they could.

Craig K closed the Public Hearing at 6:50 pm.

The Board will now review Chapter 4, Performance Standards. For the record, Craig said he didn't see why they can't go through this by numeric order as found to be compliant rather than read them all and Kristen agreed.

Move that for 401, General Lot Requirements, the applicant has met the requirements of that section.

**By Susan DS/James M 2<sup>nd</sup>. All in favor**

I move that the applicant has met 402, Monuments, fully.

**By Kristen W/Susan DS 2<sup>nd</sup>. All in favor**

I move that the application has met the standards of 403, Environmental Standards.

**By Susan DS/Kristen W 2<sup>nd</sup>.**

Discussion: Susan DS is not satisfied with the trash estimates. Fred M said the town does not have any standards for the amount of trash allowed from a residence.

**All in favor.**

I move that Section 404, Fire Protection, all standards have been provided and met by the applicant.

**By Susan DS/Kristen W 2<sup>nd</sup>. All in favor**

I move that Section 405, Ground Water, standards are met by the applicant.

**By Kristen W/Susan DS 2<sup>nd</sup>. All in favor**

Move that in 406, Financial and Technical Capacity, I find that the application has provided information to meet this review standard.

**By Susan DS/Kristen W 2<sup>nd</sup>. All in favor**

I move that for Section 407, Conformity with all other Applicable Local Ordinances, the applicant has met the standards fully.

**By Kristen W/James M 2<sup>nd</sup>. All in favor**

408 move that we find upon review that applicant has provided what is needed and met the standards for Road and Traffic Access Standards.

**By Susan DS/James M 2<sup>nd</sup>. All in favor.**

Move that Section 409, Recreations Access Standards, has been waived for this subdivision as it is not applicable in this situation.

**By Kristen W/James M 2<sup>nd</sup>. All in favor**

410, Agricultural, Forest and Rural Resources, I move that the Board accepts the presentation of information by the applicant.

**By Susan DS/Kristen W 2<sup>nd</sup>. All in favor.**

411, Rural Design and Landscape Standards, I move that the applicant has met the requirements fully.

**By Kristen W/James M 2<sup>nd</sup>. All in favor.**

I move that for 412, Maintenance of Roads and Public Improvements and Homeowner Associations that the applicant has provided the required information and it is complete.

**By Susan DS/Kristen W 2<sup>nd</sup>.**

Discussion: Susan DS noted that under Section 2.B of the Home Owners Association Road Association draft, it says "If after a meeting of the property owners it is voted to continue the association for an additional year and . . ." She questioned what happens if they don't vote to continue? Fred M answered "The road doesn't get maintained". Susan DS pointed out that the Ordinance states that a subdivision must have a road association until the road is accepted by the

Town. Al B said they are going to form a Road Association, but it is going to be part of the Comins Lane Road Association. Dean B explained that it is the responsibility of the Planning Board to act in the public's interest. The process is designed so that if someone builds a road and sells houses on it, the town as a precautionary measure asks if it is going to be built to town standards because then they know it will be taken care of. In lieu of, if it is going to be private, then the town, as a responsible posture, says then you need to form a Homeowners Association and include that information on the deeds of those parcels. The purpose is to insure that there is a plan in place at the time of acceptance of a Subdivision Plan that there is an entity responsible for the maintenance and upkeep of the road. Because if it does fold and those people come to the Town and say we need our road taken care of; that is when the town says, find your developer because your obligation in your deed was to form a Homeowners Association and to maintain that association and your road. It has nothing to do with the Town. Dean continued that they cannot hold developments hostage for a guarantee of a future activity. They just have to make sure that the approved plan includes verbiage that the association must be formed. Susan DS read that the Homeowners Association Agreement should be included or legally referenced on all property deeds and on the final subdivision plan.

**Vote: All in favor**

413, Storm Water Improvement, I move that the application has met the requirements for this to be complete fully.  
**By Kristen W/James M 2<sup>nd</sup>. All in favor**

414, Subdivision Public Improvement Completion Deadline, I would move that based on the design of this application, and its location, beyond the purview of any public improvement, that we waive Section 414.  
**By Susan DS/Kristen W 2<sup>nd</sup>.**

Susan withdrew her motion.

I move that Section 414, Subdivision Public Improvement Completion Deadline, is not applicable.  
**By Susan DS/Kristen W 2<sup>nd</sup>. All in favor**

Motion that the application meets the Performance Standards of Chapter 4 of the Subdivision Ordinance.  
**By Kristen W/ James M 2<sup>nd</sup>. All in favor**

I move to make an amendment to the motion made by Kristen W that the application meets the Performance Standards of Chapter 4 of the Subdivision Ordinance adding a condition of approval making reference to document: Meadow Brook Estates Subdivision Homeowners and Road Association.  
**By Susan DS/James M 2<sup>nd</sup>. All in favor.**

I move to accept the Meadow Brook Estates Final Plan with the conditions as previously stated by Susan.  
**By Kristen W/ James M 2<sup>nd</sup>. All in favor.**

**UNFINISHED BUSINESS:** Motion to table Finalize Shoreland Zoning 2015 update.  
**By Susan DS/Kristen W 2<sup>nd</sup>. All in favor.**

**AGENDA FOR FUTURE MEETINGS – HOUSEKEEPING:**

**DATE OF NEXT MEETING:** October 27, 2020

**PUBLIC ACCESS:**

**ADJOURNMENT:** Motion to adjourn at 7:38 pm. **By Craig K/James M 2<sup>nd</sup>. All in favor**

Respectfully Submitted,

Denise M. Knowles