



Town of Windham, Maine

Code Enforcement Department
8 School Road

Town Hall- Second Floor

Zoning - Building Inspect ions

Tel: (207) 894-5960 ext. 1

Fax: (207) 892-1916

www.windhammaine.us

Code Enforcement

**Draft Minutes
Town of Windham
Board of Appeals
Town Hall- Council Chambers
September 15, 2022**

Roll Call and Declaration of Quorum:

Chuck Fleck, Chair called the meeting to order at 6:36pm.

Members Present: Raymond Batchelder, Chuck Fleck, Chair, Jim Cobb, and Christopher McDonald, Vice Chair,

Staff Present: Jonathan Rioux, Code Enforcement Director

Attorney for Board Members is Zachary Brandwein and Attorney for CEO is Kristin Collins

Approval of minutes for April 7, 2022

Motion to accept meeting minutes of April 7, 2022, by Christopher McDonald, Vice Chair, seconded by Board Member Raymond Batchelder

Motion Carried: 4-0

Case # 22-006

Dana Lampron- Administrative Appeal for the Notice of Violation Dated June 17, 2022/Mystic Woods Subdivision at Meredith Dr.- Map 6 Lot 38D (RM Zone)

Zachary Brandwein, Attorney for the Board Members spoke about the ZBA process with the Board Members.

Joseph Siviski Attorney at Perkins Thompson for Applicant Dana Lampron, spoke for the applicant. In 2016 there was an approved subdivision off Barnes Road called Meredith Dr. which involves a 50-foot easement where the activity took place, and it is access to a parcel of land that is not part of the approved subdivision and the lot is owned by Mr. Hawkes.

Indicates that Mr. Lampron and Mr. Hawkes are at the meeting to answer any questions. What happened in the 50-foot easement to the abutting land Mr. Hawkes did construction in the access way to get to his property which is located outside the subdivision, no permits were issued, and a stop work order was issued for this violation. Mr. Lampron was included as a party on the notice because of the ownership of land in the subdivision. This easement is held by Mr. Hawkes, Mr. Lampron owns the underlying land.

There are two violations listed in the notice of violation. 1. Construction of an access road without the proper permitting and did not involve Mr. Lampron it was done by Mr. Hawkes and the reason I am here tonight is the second item listed on the notice; what's required to rectify the construction activity. What type of permit is needed? Says the issue can be addressed by Mr. Hawkes and the Town with a driveway permit or a building permit or whatever type is required. The issue has very little, to do with Mr. Lampron except for merely owning the property that is burdened by this easement(where the construction took place).

There was some confusion with the construction concerning the open space, the requirement in the Farm District area 7.38 acres had to be set aside for open space.(Refers to NOV) (see attached). They had an engineer/surveyor review the size of the open space to see if it was included in the right of way, it does not include any of the open space, so there is no reduction in the size of the open space. (See supplemental submission dated).

There was also another question whether or not the construction of the road would require DEP approval because the subdivision has stormwater management. We received two written determinations from Robert Green that it does not need DEP approval. Read quote from Mr. Green (dated 5.19.2022)(see attached).This concludes what Mr. Siviski had to discuss.

Chuck Fleck (board member spoke) refers to exhibit C (see attached) asked what relationship Anita Lampron was to Dana Lampron. Dana Lampron answered it was his wife. Asked Applicants Attorney, questions of the property that Mr. Hawkes owned. Chuck asked for a timeline on the property that was sold. Mr. Hawkes bought the land June 2022 (previously owned by Dana Lampron). Dana Lampron purchase land from Susan Duchaine. Chuck is asking Mr. Hawkes questions about his property. Mr. Hawkes indicated he bought the property June of 2022 and installed the driveway in July or August of 2022

Chuck Fleck indicates some of the timeline on the documentation refers back to May 2022. Mr. Hawkes indicated that DEP was asked about the construction before he purchased the property. What interest does Susan Duchaine have in the property? Mr. Hawkes indicated her company Gorham Sand and Gravel did the construction work.

Jim Cobb asked Mr. Hawkes why he did not get a permit before the construction started. Mr. Hawkes responded he did not know that he needed a permit. Wanted to know who was accountable for the construction.

Dana Lampron spoke and explained when he received the NOV he called Susan Duchaine and asked for the phone number of the new owner (Mr. Hawkes) and he emailed him and asked that he stop work.

Mr. Lampron explained that Susan Duchaine had asked Mr. Hawkes to do his construction before the paving was done as she didn't want her pavement damaged after it was completed.

Mr. Lampron discussed when he first met Mr. Hawkes and about the violation on site without a permit.

He also discussed about what he had spoken to the Town Planner about and what was required through the Planning Department.

Question was asked of Mr. Lampron when the sale date was to Susan Duchaine and Dana Lampron couldn't recall the date of sale.

Chris McDonald (ZBA Board Member) was asking questions to Mr. Lampron about the NOV Dates.

Steve Puleo Town Planner wanted clarification of when the property was purchased and discussed about the inspections on site (when Planning hadn't requested any). There was a new curb cut being installed on site without a permit plus stormwater review for the new construction.

Mr. Lampron indicated he didn't know what the Town Planner was talking about because it was nothing but a goat path.

Joseph Siviski ,Attorney for Dana Lampron indicated that it clearly needs a permit to do the construction.

Jim Cobb asked further questions about amending the Mystic Woods subdivision, and wanted to know why the amendment wasn't done?

Joseph Siviski ,Attorney for Dana Lampron indicated they did not do the amendment because they did not agree. That is why they went to Board of Appeals. He also indicated that the activity happened in an easement and Mr. Lampron had no control about what happened in the easement.

Jim Cobb again indicted what the Town Planner indicated what they had to do and wanted to know why they did not follow those instructions? Attorney for Dana Lampron had no response to this.

Joseph Siviski ,Attorney for Dana Lampron read quotes from the notice of violation . (see attached)

Jon Rioux Director Code Enforcement and spoke about the notice of violation and why it was issued, referred to subdivision plan on the Board highlighted in yellow and green. On the Mystic Wood subdivision, refers to any variation or change needs to go back to Planning Board. Also discussed the meeting that was held with everyone in reference to the violation.

Zachary Brandwein, Attorney for Board Members explained to the Members why they were there and their purpose about what should be done for the appeal.

The Board makes the following Conclusions of Law:

1. The Notice of Violation was properly issued to Mr. Lampron as the developer of record of the Subdivision.
2. The Notice of Violation correctly identified that Mr. Hawkes' unpermitted construction of the road violated Town Code and Subdivision Plan Condition of Approval #2.
3. Construction of the road did not violate Subdivision Plan Note #20.
4. The Notice of Violation correctly noted that an after-the-fact permit and Planning Board approval of an amendment to the Subdivision Plan are required for construction of the road.

The Notice of Violation was correctly issued to Mr. Lampron because he remains responsible for amendments to the plan as developer of record

Motioned: Chris McDonald **Seconded** Raymond Batchelder

All in Favor 4-0

New Business:

None

Adjournment:

Motion to Adjourn by Raymond Batchelder, seconded by Board Member Jim Cobb

Motion Carried 4-0.

Meeting Adjourned: 8:40PM