

Union Planning Board Minutes
Thursday, August 11, 2022, 6:30 p.m.
William L. Pullen Municipal Building Downstairs Meeting Room

Present: Gerald S. Brooks, Jr. (“Jerry,” Chair), Michael Johnson, Dale Flint, John Mountainland, Glenn Taylor

Others Present: CEO Grant Watmough, Walter Butler, Mrs. Butler, Marcia Smith, Tim Fortune

- 1. Meeting called to order:** 6:30 p.m. by Jerry Brooks

- 2. Minor subdivision on Feyler Road – Walter Butler – Map 10 Lot 19:**

Jerry asked if any conflict or bias. John said his brother is one of the abutters, but he himself has nothing financially to gain or lose in the deal. Jerry then established a quorum, jurisdiction, standing to apply, all fees and applications submitted.

Summary of application: Walter Butler proposes to divide a portion of land located on Feyler Road, Map 10 Lot 19, into four lots with frontage on Feyler Road. The remainder of the land will stay as one parcel.

Walter (from Standish, Maine) acquired the property in May 2020 and has been working to rejuvenate the blueberry fields on Sidelinger Road. Recently they sold one lot at the back to his wife’s brother, so the plan shows five lots, but he understands from Grant that the first lot to brother-in-law/brother is excluded from the subdivision rules; so, they just came asking for four lots. Frankly the intention when they first started this process, and it may still be, was the first couple lots are to her brother’s children, his niece and nephew. Since they had to come before the board for any subdivision, he guessed four was a good number for a minor subdivision. It’s all surveyed, soils tested, and board members have a plan in front of them.

In answer to Jerry, Walter said the plan is individual septic systems for each lot. He noted that, though there are four lots, they did eight test pit locations. There will also be individual wells.

Also in answer to Jerry, Walter said power is all above ground now and goes all the way up Feyler Road to the very end at the Waldoboro line.

Glenn correctly assumed Parcel 1 was deeded to Joseph Cormier, Walter’s brother-in-law.

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Jerry asked about individual driveways off Feyler Road. Mrs. Butler said she thought Joe thought one of them wanted to share; they just wanted their children to buy them. Walter said on the plan they reserved a ROW between Lots 1 and 2, to be reserved to gain access to the interior. It would be landlocked otherwise, so he set aside an appropriate 60' wide ROW. He thinks as she said Lots 1 and 2 will be father and son with their driveways coming off that proposed ROW left and right, but they would develop their driveways as part of that ROW. They would not actually be putting in additional roadways.

In answer to Jerry, Walter said no streetlights are planned, and none are there now.

Walter apologized for the delay in getting this application to the board. There were issues with contractors and schedules.

Glenn asked, where Walter is planning on keeping that 60' ROW, is he eventually planning on selling all the frontage? He has frontage on Sidelinger Road and Feyler Road, quite a lot of frontage, so he really doesn't need a ROW but is just doing that in case he wants to be in this (points to plan) area or somebody in the future? Walter pointed out if for some reason he needed to get to this land (points to plan), he would either have to go behind all these lots or save that ROW. Walter added he has no larger plans for development other than this at this point. Mrs. Butler said the whole idea is they are trying to maintain the land, which is why they kept it in the family.

Walter said Grant told him minimum lot size is 60,000 SF, and the smallest lot here is 2.12 acres.

Marcia Smith of 34 Feyler Road was curious if it is a true ROW on Feyler Road. Tim Fortune, who has land up there, said it's not a town road it's a discontinued town road at some point; he is not sure about legal ROW. Glenn asked who maintains it. Marcia said we do, current residents on Feyler (Charlie Burgess, George Baggett, David Vohringer). They all chip in and have over the years. She added when someone refinances the bank always has them sign off saying they give access to people that have lots on that road. She doesn't know if townspeople know what the deal is, or should it be in writing?

Grant explained what happens with a discontinued town road: when it gets discontinued, it reverts to abutting property owners, to the center line of the road. If the owner is on both sides, s/he owns the whole road. Anyone who owns land on a discontinued town road has legal access to use it. There are some issues usually with utilities – unless it's spelled out about utilities, that becomes a question -- but utilities in this case are already there now so it's not a question. If this is approved, whoever buys these lots will have a legal right to use Feyler Road as a ROW. But also, the property owners in there have a

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right to set up a road association and assess each property owner to help maintain the road. If this is approved, he'll have four lots, so he'll have four votes. Mrs. Butler said they own half of the whole road now. Grant has found Mr. Butler to be very obliging throughout this process and expects he will be going forward.

Addressing Marcia, Walter said his intention is that with every sale he makes, it's part of the agreement that they need to be aware that they have to participate in the road association and maintenance agreement. Even Joseph Cormier who's at the very end has already talked he believed with Mr. Burgess. The end result should be everyone spends less than they are today.

Marcia was always concerned about kind of a weird thing with banks and refinancing and why we have to sign off on it. Grant said they're being overprotective of themselves. Jerry said they could potentially lose access to the land in question.

John asked about a time frame: if it's been used for so many years, doesn't it become part of a public way? Grant said no, there is a time frame involved with when it was discontinued, and the wording when the article happened in town to discontinue it, and that's where that easement for utilities is – it can happen, or it might not happen, depends on how it's discontinued.

Jerry asked if there were ever a case where it would revert to being a town-maintained road. Grant said only by voters taking it back as a town road. Glen said it's happened a couple of times since he's been involved with the board of selectmen; he thinks somebody petitioned to bring a road back to a town road and it was voted down. Grant added the voters have the say about whether it becomes a town road or not.

Marcia said to be clear each lot is just going to be a single home, not a duplex or multiple unit type of thing. Walter did not know the answer. Grant said for a duplex you need 60,000 SF plus an additional 30,000 SF. Walter said so if they meet that requirement, whoever purchases it might be able to put a duplex. Grant said in addition a provision in our ordinance allows for an in-law apartment. It has to be a family member; it can't be rented to a non-relative – that counts as single family. He added Marcia could do that.

Marcia was more concerned about multiple units, more than a duplex. Grant said we'll be taking about a state law that might throw everything out the window, but we're not there yet and are going by what we have in this ordinance right now. He explained the state enacted a new law that allows for several homes on an existing lot. Jerry said it kind of defeats the purpose of home rule. Grant said it doesn't go into effect July next year and hopefully will get repealed. There was back and forth about it in Rockland.

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Dale asked who plows Feyler Road. Marcia said The Go-to Guy, Greg Tolman. It's all hired out. Grant said the town can't legally do it.

Walter said he bought this property from his deceased uncle's estate. His uncle had owned it for 60 years. They had never used Feyler Road so are not part currently of the associations maintaining the road at the moment, but after tonight he has a vision they should become part of the association to take care of the road even if just marketing property. In answer to Jerry, Marcia said there is no formal association in place.

Tim said when he bought land up there quite a while back, his attorney was concerned about access and did receive a signed-off ROW from everybody between him and the town road. He added some properties from one side go across the road, so the property lines don't go up the middle of the road, they kind of zigzag across the road.

Dale asked Grant if there is a difference between a discontinued town road and a town road that has been abandoned. Grant said they are treated pretty much the same. "Abandoned" means the road has had no town maintenance for 30 years. He believes the road here was officially discontinued. Walter said at one point Grant provided him with the minutes when it happened from 1965; that's how good he is.

Marcia mentioned enjoying walking rights through the Jackson Farm. At the end of Feyler it turns into a walking trail. Being excluded from that is a concern. Walter's understanding is Feyler Road continued all the way into Waldoboro, now discontinued so whoever owns the property – there is still access to the people who own it. Grant said there is no real public access; it's property owners that have the legal right. Barring no "No Trespassing" signs, in Maine you can go on other people's property as long as you do no damage and be legally ok. Marcia said it's access by permission only and he's given her permission.

Jerry led the board through the applicable sections of the Subdivision Ordinance.

Page 8, Section 6 Minor Subdivisions, C Submissions:

- 1) Proposed name - Sterlingtown acres.
- 2) Field survey – Yes.
- 3) Copy of deed restrictions – None planned.
- 4) Type of sewage disposal – Private.
- 5) Water supply – Independent wells.
- 6) Date plan prepared, north point, graphic map, etc. – Done.
- 7) Copy of portion of soil survey – Done.

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- 8) Contour lines showing elevations – Done.
- 9) Flood hazard areas – NA.

Page 21, Section 10 General Standards (Major and Minor):

- A) Conformance with Comprehensive Plan – Conforms.
 - B) Retention of open spaces and natural or historic features – Waived.
 - C) Lots
 - 1) Meet minimum requirements of Land Use Ordinance – Yes.
 - 2) Lots with multiple frontages avoided wherever possible – NA.
 - 3) Side lots perpendicular to street – Yes.
 - 4) Parcels more than twice the minimum size laid out in a manner to preclude future subdivision: will be recorded here and also at the Registry of Deeds. Grant said there is a state law that says once a subdivision plan is recorded at the Registry of Deeds, any change to that has to come before the Planning Board and be re-filed.
 - D) Utilities – Waived.
 - E) Required improvements
 - 1) Monuments – Pins indicated by survey; Walter thinks pins for the four lots are not in the ground yet pending approval. Grant said if the board approves this tonight, Walter must record that at the Registry of Deeds within 120 days, and before it's recorded at the Registry of Deeds the pins have to be placed.
- Walter asked a question: if someone wanted two lots, change to three lots instead of four? Grant said it would take another vote, or they could own them as two separate lots with setbacks taken into consideration.
- 2) Water supply – NA.
 - 3) Sewage disposal – Private, NA.
 - 4) Surface drainage – NA.
- F) Land features
 - 1) Topsoil – Fine.
 - 2) Vegetation – Waived.
 - G) Cluster Development – NA.
 - H) Common open spaces and services – NA.
 - I) Construction in flood hazard areas – NA.

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Page 27, Section 11 Street and Storm Drainage Design and Construction Standards:

- A) General requirements – Waived.
- B) Street design standards – Waived. Glenn said they should kick in on the road association.
- C) Street construction standards – Waived.
- D) Stormwater management design standards – Waived.
- E) Storm drainage construction standards – Waived.
- F) Additional improvements and requirements – Waived.
- G) Certification of construction – Waived.

Page 34, Section 12 Performance Guarantees: Waived.

Jerry asked for further questions from the board.

Dale brought up fire truck, etc. access. Grant said there are already houses in there, which was Glenn's feeling as well. It is narrower than a normal road. They could definitely get in, could not get in and come out at the same time. Minor subdivision does not require a cul-de-sac.

Grant figured two cars in each of these lots, eight cars, two or three trips a day so this is really adding minor traffic to the road.

Walter said another reason for the 60' ROW was a place to turn around. In answer to Dale he said the road dead-ends just before you get to the Waldoboro line in terms of common usage; that's right where the 60' ROW is, just opposite Charlie's driveway.

Glenn confirmed no need for a public hearing.

Motion to approve with the applicable or non-applicable requirements we've spoken of
by: Glenn Taylor
2nd by: John Mountainland
5-0

3. Accept minutes of April 14, 2022:

Motion by: Dale Flint
2nd by: Michael Johnson
4-0-1 abstention (Taylor)

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Accept minutes of June 9, 2022:

Motion by: Glenn Taylor
2nd by: Michael Johnson
5-0

Accept minutes of July 14, 2022: Tabled due to lack of quorum.

4. Any other business by the board: None.

5. Adjourn: 7:26 p.m.

Motion by: Dale Flint
2nd by: Glenn Taylor
5-0

Respectfully submitted,

Sherry Abaldo
Secretary