

**TOWN OF EATON
PLANNING BOARD
August 16, 2023**

The Planning Board held their regular meeting at the Eaton Town Hall on Wednesday, August 16, 2023. Present were Chairman Dennis Sullivan, Peter Klose, Stan Dudrick, Judy Wilson, and Selectmen's Representative Greg Grinnell. The meeting was called to order at 6:00 pm.

Review of Minutes

The Board reviewed and amended the Minutes of July 19, 2023. ***Peter Klose made a motion, seconded by Judy Wilson, to adopt the Minutes as amended. Motion unanimously carried by roll call vote.***

Selectmen's Report

Greg Grinnell gave an update on Building Permits issued for a solar system and an ADU.

Conservation Commission Report

Chairman Sullivan gave an update on the Conservation Commission and projects underway. Chairman Sullivan stated that the Commission voted to request that the Planning Board amend the Ridgeline Ordinance to protect the view from Conway Lake. Greg Grinnell noted that if property is buildable, the Board should be careful about limiting building in Town.

Public Hearing – Steep Slope/Ridgeline Protection Development - John Perrie

At 6:15 pm, Chairman Sullivan re-opened the Public Hearing on an application from John Perrie for development within the Steep Slope and Ridgeline Protection Zones on Lary Road (R06-008). Chairman Sullivan reviewed the procedures to be followed for the Public Hearing.

John Perrie, Jim Doucette, Atty. Matt Johnson and Engineer Ian MacKinnon were present for the application. Chairman Sullivan noted that correspondence has been received from abutter Ken Cargill and that the Board has reviewed the letter.

Chairman Sullivan explained that he consulted with Town Counsel regarding the existing access road through the easement with the following conclusions:

1. If the existing roadway is upgraded and/or dug up, the Steep Slope Ordinance would apply.

2. If no changes or utilities are placed in the access road, the road is to be considered grandfathered as it was constructed prior to the Ordinance.
3. If the utilities are within the right-of-way but not within the travel way, and utilities are within a trench which is then filled to existing grade, no approvals are required as vegetative cover is still intact.

Ian MacKinnon explained that the existing road is gravel and that the trench could be placed within the gravel area but outside of the travel lane. Ian MacKinnon noted that the end result is the same grade and road composition if the trench is on the outer portion of the gravel area. Chairman Sullivan noted that the question is whether the access road will be considered grandfathered depending on where the trench is placed. Ian MacKinnon stated that drainage ditches were part of the initial road construction and the roadway is dry and very stable. Ian MacKinnon stated that if required to submit before and after grading plans, they will have the exact same gravel levels. Chairman Sullivan noted that if the existing roadway is altered and subject to the Steep Slope Ordinance, a Variance would be required as the grade cannot meet the 10% requirement. Atty. Johnson stated that the easement pre-dates the Ordinance and that trenching for utilities will not alter the topography or drainage. Atty. Johnson stated that the grandfathering is not lost unless there is a change of use and that burying utilities does not alter the travel lane. Chairman Sullivan noted that the Board may want to consult with Town Counsel once again. Atty. Johnson stated that the access way is located on the subject property, not the road leading to the property which is located on someone else's property.

Peter Klose questioned whether the proposal is to lay the utilities to the side of the road. Ian MacKinnon explained that the gravel area is wider than a travel lane and that the trench could be placed outside of the travel way but still in the gravel material. Greg Grinnell questioned the width of the grandfathered travel way. Ian MacKinnon explained that the gravel would be removed and replaced to the same grade as exists currently. Greg Grinnell noted that the trench should be on the south side away from the abutter. Jim Doucette stated that the gravel is stable and that after 10 years, there have been no issues with the road or drainage.

Jim Doucette stated that a waiver could be submitted to address the grading plan. John Perrie noted that a waiver was granted to a prior applicant. Chairman Sullivan stated that the Board did waive that requirement and accepted a survey plan because adequate information was provided. Judy Wilson questioned the width of the travel way. Ian MacKinnon stated that a typical travel way is 12 feet. John Perrie noted that there is an extra 3 to 5 feet of gravel to bury the utilities without getting into the vegetation. Peter Klose stated that the trench should be to the side of the 12-foot travel way.

Ian MacKinnon reviewed the location of the house and garage and noted that State septic approval will be required prior to building. John Perrie submitted photos taken from a drone to show elevation views. Jim Doucette noted that one set of pictures is at 35 feet and the second at 49 feet, which shows that Route 153 cannot be seen from the proposed building height.

Chairman Sullivan opened the hearing for Public Comment. Jake Crabbs stated that he is representing Ken Cargill and expressed skepticism about the interpretation of the travel way and disturbance of the road surface. There being no further comment, Chairman Sullivan closed the Public Hearing.

The Board reviewed a Waiver Request to Section IV.C requesting the required area to be studied for hydrological, drainage and flooding analysis be reduced to the area within 200 feet of the proposed development area. **Stan Dudrick made a motion, seconded by Greg Grinnell, to grant the requested waiver. Motion carried by unanimous roll call vote.**

Finding of Facts:

1. The Board found that the existing travel way within the easement is grandfathered because it existed prior to the passage of the Steep Slope Ordinance; burying utility conduit along the side of the road next to the travel way will not change the grade of the road; there is no substantial change of use of the road.
2. Cuts and fills are minimized and grading of cuts and fills will not exceed a 2:1 ratio.
3. Existing natural and topographic features, including vegetative cover, will be preserved to the greatest extent possible. In the event that extensive amounts of vegetation are removed, the site will be replanted with indigenous vegetation and will replicate the original vegetation as much as possible.
4. No section of any newly-constructed driveway will exceed a 10-percent slope.
5. No structure will be built on a slope greater than 25 percent prior to site disturbance.
6. Best Management Practices will be met for stormwater management and erosion and sediment control as defined by NHDES.
7. No practical alternative exists to the proposal and all measures have been taken to minimize the impact that construction activities will have upon the steep slope.
8. No structures, parking areas or cleared areas will be directly visible from Route 153 in the Town of Eaton.
9. Exterior lighting will be less than 2000 lumens per fixture and shall be shielded to conceal the light and illuminated area from view.

Greg Grinnell stated that he would like to require an inspection report once construction has been completed. Ian MacKinnon stated that he will submit an as-built statement once the project has been completed. Chairman Sullivan proposed the condition that any future logging on the property retain a screen between the house and Route 153. It was noted that final plans will be required from the engineer.

Peter Klose made a motion, seconded by Stan Dudrick, to approve this application with conditions: 1. As-Built statement from the engineer after project completion; 2. Any future logging shall leave a screen between the house and Route 153 to shield visibility; 3. Submittal of final, stamped plans by the engineer. Motion carried by unanimous roll call vote.

Peter Klose made a motion, seconded by Greg Grinnell, to adjourn the meeting. Motion unanimously carried by roll call vote. The meeting was adjourned at 8:57 pm.

Respectfully submitted,

Lianne Boelzner

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