

Town of New Baltimore Planning Board
Public Hearing
Lands of Lisa Dippo – Minor Subdivision Application
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Location: 1202 Medway-Earlton Road
of lots - 2 - #3: 127.33 acres
#4: 128 acres

The Public Hearing was opened at 7:00 p.m. by Planning Board Chair Rob Van Etten. Other Board Members in attendance were Ann Marie Vadney; Bob Court; Frank Orlando, Michele Stefanik and Ken Finke. Lee Salisbury was absent. In attendance on behalf of the applicant was Surveyor Charles Holtz.

It was noted for the record that the green cards for this Public Hearing had been sent directly to the Planning Board rather than to the person representing for presentation at the Public Hearing which is not normal procedure.

Signed green cards from certified letters sent were received back from: Ferrer Trust; John Fox, Kevin Schultz, Kenneth Scarlatta; Kristopher Danko; Henry Lockwood; and Victor Heitzmann Trust.

White receipts that reflect that the certified letters were sent were presented for: Robert Aberlin; Gregory Birnbohm; Richard Kraft; Wilhelmina Morris-Neiss; Walter Way; Lawrence Giles; Ann Hansford-Haskell; Ian Powell; Marjorie McCoy; Alvera Mahnken; Edward Barber; Mary McLarnon; and Susan Raymond.

Mr. Van Etten questioned when the letters had been sent out. Noted for record that they were sent on November 29 which was less than two weeks ago. Ms. Vadney questioned if that was a problem. Mr. Holtz indicated that the instructions had said 10 to 14 days and further noted they had been sent out right down to the wire. Ms. Vadney questioned if the Hearing should be left open for like another week to see if more of the green cards are returned? It was clarified that the Hearing would have to be left open until the Board's next meeting. Ms. Vadney further expressed concern with the current mail service that perhaps some have not yet even received the letters, these people did not have time to respond. Question was then raised whether holding the Hearing open for another month would cause a problem. Mr. Holtz responded that it would.

Question was raised when you say "didn't give them time", [Rest of comment not understood. Person speaking believed to be Ms. Bates was too far back in room for the recorders to pick up her comment.]

Ms. Vadney questioned what is your name, person speaking responded Bates. Dan Ferrer asked to interject on her behalf too and for his sister. Two properties were sold within the last eight to eleven months. Ms. Bates commented closed on January 8, Ann Haskell's property was sold and she purchased it. Mr. Ferrer continued I am here verbally for my sister who purchased John Fox's land. That was closed; actually, I purchased the land in the beginning of April. My sister bought it from me the end of April and the tax maps were put in because there was a time limit. My question is due to COVID, how long has it been since the tax maps are updated from the County to the Town?

The Clerk explained it is March 1st of each year is taxable status day. Mr. Van Etten further explained if you purchased it in April, it probably has not come through yet to the Town.

Mr. Van Etten questioned do you definitely border this property? Ms. Bates responded yes. Mr. Orlando pointed out that it says Ann Hansford Haskell. Mr. Finke commented that was the old owner I take it. Ms. Bates responded no longer, we bought it, we closed January 8. It was noted so it was sent to 911 County Rte. 51. If it was in Ann's name, it would have been subsequent. So maybe it got forwarded because she probably put a forwarding on it.

Ms. Bates pointed out but we closed January 1. Ms. Vadney questioned it got forwarded but we have not received back from Haskell. It was noted it was not returned, we just have the white receipt that it was mailed. Further noted, the tax maps would have been updated as of March 1. The Clerk pointed out if the deeds were filed by then.

Mr. Ferrer questioned if we had a green receipt from John Fox. It was noted that we do, signed by John Fox but he does not own it. Mr. Ferrer again pointed out that it was purchased the beginning of April and noted since it was April, that would be the reason why. Mr. Ferrer further pointed out the address for that property was shown as Route 51. That address was just changed because there is no access to that property from County Route 51. The access is from Old Field Road so the 911 address which he had

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hunted down for my sister, with Marjorie's help, that is 147 Old Field Road. That was just changed sometime this spring, exact date unknown. I know for a fact that that property goes underneath the lake, across and is adjacent to Bilek or at this point ghost property. My property is adjacent almost to the Bilek's property. I am here for my sister [Several words not understood.]

Ms. Vadney questioned do you have a concern? I think that is the major issue, right? Mr. Van Etten responded that he was going to open it up to the public, which he did. He further commented that we may have to go with the recess. Copy of the map was laid out. It was commented just so you have an idea, there was an attempted delivery on the 6th. A notice was left so basically, it is still in limbo. It says they left a notice. Ms. Bates responded that there was no notice in the mailbox. Mr. Van Etten commented since you are here, do you have any concerns about this subdivision. Ms. Bates responded that she didn't know what it is; she didn't know anything about it. She was invited to take a look at the map. She came forward and Mr. Holtz explained the whole 255 acres is split by the Medway-Earlton Road. It is a natural subdivision, defacto subdivision. So that is all they are doing. They are making a 120-acre lot on one side and 120 acre on the other side of this. That is it. Nothing is changing.

Mr. Ferrer who had also come forward commented you see our concern is later in the future, I own property here and here that is dead headed from the other property. Being Beaver Dam Lake, this subdivision on this side, I know it is not this subdivision now but what is going to happen in the future? Ms. Bates questioned are we going to get notified? [Several spoke at once.] My concern has nothing to do with this. She owns over in here.

Mr. Van Etten pointed out we can't control what is down the road, what is going to happen. Mr. Ferrer responded I understand that. Mr. Van Etten continued whoever, the way the law reads, whoever is the adjoining property owner is notified. Unfortunately, with the change in the property sometimes, it has to catch up. Mr. Ferrer responded now the Town and the County is notified once a year on that? Mr. Ferrer continued that should be done as soon as the tax maps are filed. Mr. Van Etten, no, no. I tell you it is once a year; everything has to be done by; it may get done sooner but that is the deadline. Marjorie gets them throughout the year, I think, but the deadline is March 1.

Ms. Bates questioned where the lake is on the map. It was pointed out and she advised but it is bigger than that. We have quite a bit of lake frontage including the dam. It was explained it probably would not show on this map since it has nothing to do with the Dippo property. Ms. Bates questioned do they have lake front or do they not? Their lakefront property was pointed out as well as the Bates property.

Mr. Van Etten reiterated so basically it is simply splitting the property via the road. Ms. Bates continued that she was just curious is it being split so it can be sold off as two separate parcels, is that the plan? Mr. Holtz responded that that is it. She then questioned and we don't know anything more than that? Mr. Holtz responded that is the only plan that is there. Ms. Bates continued and in terms of the lake frontage, how many acres is that? Mr. Holtz responded that he did not have any idea. Mr. Ferrer commented there is approximately 1300 feet. Mr. Holtz responded that it is not 1300 feet of lake frontage up there; it is less than that. The 1300 feet is the whole line. Ms. Bates continued then this is the whole line of the property. Based on the drawing, it looks like it is probably 400 feet. [Conversation took place between Ms. Bates and Mr. Holtz which could not be understood.]

Mr. Van Etten commented now that you are here by the recorders, will you please state your names. Margaret Bates, Mary Ferrer, Dan Ferrer. There were no further questions.

Mr. Van Etten [His question could not be understood.] Mr. Holtz responded that he followed the rules. It is state that I had to submit them within ten days of the date and I did that. You can't recess this. Ms. Vadney explained but we can leave it open. Mr. Holtz continued that there is no reason to. I sent the notices out as required by the Town. If you recess this, it is going to mess up a closing. Mr. Orlando questioned do you know what part of the law it is in. Mr. Holtz responded that it is in the green sheet I was given. It said "10 to 14 days prior to the meeting". Ms. Vadney pointed out it was exactly ten days before the meeting but I don't think that is the only issue at stake here.

Mr. Holtz pointed out by State Law, this is a defacto subdivision by State Law. I don't know what the issue actually is. We are not creating; by the State Law, this is a defacto subdivision; and by the State, I don't even have to come here. That is the State law.

Mr. Ferrer questioned what is the Chapter and verse on the State Law on that? Mr. Holtz responded the

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State Law says if a lot is subdivided by a road, it is a defacto subdivision. Mr. Van Etten explained that means it is like a natural subdivision. Mr. Holtz continued natural subdivision because it was outside the control of the property owner. Mr. Van Etten responded I guess based on that point, we will move along if everyone is agreeable. Mr. Court advised he, himself, was in favorable of moving on. Mr. Van Etten responded if everyone is agreeable, let's move forward. Like I said, I am glad you are here.

Mr. Ferrer questioned how can I understand, every time I go to a meeting Fire company, Town Board, they sit there and say it is this law, this law, this law. How do I know it is the Law if you don't know what the Chapter or verse of that law is. Mr. Van Etten responded that we have worked with that law before on subdivisions. We are not lawyers but we have worked with it before. Mr. Ferrer responded that he understood, he was on the Planning Board 15 years ago. This is why I am bringing up the question. Mr. Van Etten continued we have had these cases before us before, so we are familiar with it. We are not Attorneys but we know it is as Chuck says. When we don't know and we think there is a legal issue, the Chairperson contacts the Town attorney but what Mr. Holtz is saying he is accurate, he is correct.

Ms. Bates questioned does this mean you didn't have to do this whole process at all? Since it was a defacto subdivision, you didn't have to do it. Mr. Van Etten responded it is better to do it this way because then everything falls into place when the maps are filed, etc.

Mr. Van Etten again questioned do you have any issues with the subdivision. Ms. Bates responded our main objective is [several words not understood.] it gets passed down and somebody buys 120 some acres, they subdivide again; and all of a sudden, you have 60 some houses across the lake. That is not what we want. Mr. Ferrer added so that is the question? Where do we go from here when the property owners are not notified on another subdivision in the Town or another Town in the County? Ms. Bates responded and he is right. This is a procedural issue between the Town and the County, not the surveyor. Ms. Vadney responded the Town has no jurisdiction over what the County's rules. Mr. Holtz commented the County only does it once a year. Ms. Vadney added if you really want to complain about this, I think you have to go to the County.

Mr. Court questioned do you have a copy of the paper you gave this gentleman? The Clerk responded the blue sheet. It says right on here that *"a letter should be sent out ten days to two weeks prior to the Public Hearing by certified mail, return receipt requested."* Mr. Van Etten again pointed out it is down to the wire.

Mr. Van Etten commented like I said, I am glad you are here. Mr. Ferrer commented it was just a question I had, I don't mean anything against Mr. Holtz but it is questions that we have. Ms. Bates added and I think it is also important to make sure that [Part of comment not understood.] It was noted that he met the criteria as currently spelled out. Mr. Van Etten pointed out we do not have too many problems with that.

Mrs. Ferrer commented well, maybe people figure it out, we figured it out because other family members own adjacent property and they were notified. If that didn't happen, we wouldn't have known.

Ms. Vadney commented you are Bates and you show up on the map. Ms. Bates responded I know. I didn't get it and it wasn't sent to me. Question was raised did you take his list from the last time here? The Clerk responded it was the same list, same year. The tax roll has not changed. That is changed in March. Ms. Vadney questioned do we have a white slip that Bates was sent to. The Clerk responded no. It was further noted that it was sent to the previous owner. Ms. Vadney pointed out on the map it says "Now or formerly Bates" and there is no Haskell on here. So that is where the problem is. Question was then raised, does it say Lauria on there? Ms. Vadney responded, yes. It was noted so they did not get one either. Mr. Ferrer pointed out that was his point. Question raised what address was that. Mr. Ferrer responded 147 Old Field Road. Ms. Vadney continued so when you did your work to create this map, you found documents that had this information on. Question was raised was it on the last map? Mr. Holtz responded I didn't do this [referring to list]. Maps didn't show it [Rest of comment not understood.]

Ms. Vadney continued so Bates and Laria are on here but they are not on the list. Mr. Ferrer continued with the tax map from the County, that is what would happen. He went by what was filed in the County so going by the tax time of April or March, he went by what he was supposed to. Ms. Vadney pointed out your names are on the maps. [Several spoke at once.] Mr. Van Etten responded well, you are here. You don't have any concerns with the actual subdivision, right? Mr. Ferrer responded no, go forward. [Ms. Bates comment not understood.] Ms. Vadney questioned do we have anything from the

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County on those two. The Clerk responded that would be March first.

Mr. Van Etten again questioned do you have any issues with the subdivision. Ms. Bates responded our main objective is somebody buys 120 some acres, they subdivide again and all of a sudden you have 60 some houses across the lake. That is not what we want. It was questioned where do we go from here when the property owners are not notified on another subdivision in the Town or another Town in the County?

He is right. This is a procedural issue between the Town and the County, not the surveyor. Ms. Vadney responded the Town has no jurisdiction over what the County's rules. Mr. Holtz commented the County only does it once a year. If you really want to complain about this, I think you have to go to the County. It was again questioned what the blue sheet provided to the gentleman said and noted "*a letter should be sent out ten days to two weeks prior to the Public Hearing by certified mail, return receipt requested.*" Mr. Holtz had met the criteria as currently spelled out.

At 7:25, it was moved by Vadney and seconded by Stefanik to close the Dippo Public Hearing.

Ayes: 6 Nays: 0 Abstained: 0 Absent: 1

Respectfully Submitted
Marjorie B. Loux, Clerk