

**Town of Orford Planning Board
Meeting Minutes – January 11, 2022**

Board Members & Staff Present: Jennifer Carter, Chair; Harry Osmer, Vice-Chair; Terry Straight, Member; Ann Green, Member; Fred Kidder, Select Board Representative (attending by phone as in quarantine); Victoria Davis, UVLSRPC (attending virtually); and Attorney Christine Fillmore, Town Counsel DrummondWoodsum Attorneys at Law

Board Members Absent: Faith Knapp, Member; John Adams, Select Board Representative Alternate; and Kenny King, Alternate

Public Attending Virtually: Mark Miller, Kenneth Miller, Susan Hild, Sabina McMahon, Ingrid Hale, Greg Miller, and Greg Gould *Public Attending in Person:* Attorney Bob Carey and Allison McGregor, Orr&Reno; Michael Dahlberg, TF Moran Land Surveying; P. Chase Kling; Charlotte Furstenberg; Barry Schuster, Schuster, Buttrey and Wing, P.A.; Gail Keefer; Thomas Steketee; Quentin Mack; Mary Chase, and Timothy Chase

Item 1: Review of Meeting Minutes: Jennifer called the meeting to order at 5:30 PM. The Board reviewed the minutes of the December 14, 2021 meeting. Ann made a motion to approve the minutes; Harry seconded the motion; and unanimous agreement followed.

Item 2: Informal Meeting with Tim and Mary Chase; Subdivision of 154-acre parcel (Tax Map I-93-9): Tim Chase presented a map of an earlier subdivision of their land showing eight lots which had been brought to the Planning Board around 2005. He said they would change this configuration as they only want to create about four six-to-seven-acre lots. He said a house and 2-1/2 acres had been subdivided off the lot 10-12 years ago. The current proposal would create a private access for the new lots. It was discussed that the access road would be maintained by the lot owners by an agreement the subdivider would create. Tim said the lot already has a pond that could potentially be used for a fire pond.

Item 3: Public Meeting: Mountain View Hideaway, LLC, Request for “Street Plat” approval for private road over right of way from Prettyman Road; (Tax Map I-91, Lot 49): Bob Carey, Orr&Reno representing Mountain View Hideaway, LLC (Mark Miller) presented the application for review. He provided additional copies of the waiver that had already been provided, dated December 13, 2021. He also displayed a map showing the property and right-of-way originally created in 1972 from Prettyman Road (Class VI) across adjoining property owned by Greg Gould (Tax Map 1-91-53). He elaborated that Mark Miller would like to use the 25’ right-of-way as access to reach his property where he would like to build a house. There is currently a logging road which appeared in very good shape from the presented photos. The road is 25’ wide and about ½ mile long.

Mr. Carey stated he came to the Planning Board as it was recommended by the Orford Select Board and Orford Town Counsel to apply for a “street plat” as provided in NH RSA 674:41. Although the current road over the right-of-way appears to be useable as it is, in order to obtain the right to build a home, the RSA requires that the house be accessed via a “street on a street plat approved by the Planning Board” under RSA 674:41, I(b)(3). The intent is to have a gravel accessway to one off-the-grid house only. Some history of the property was provided. Mr. Carey submitted a Subdivision Application amended for the purposes of requesting a street plat as the Town does not have a specific application for a street plat. He also outlined the seven

specific waivers requested from Section 5.13 of the Subdivision Regulations since the private road will essentially be a driveway to one house on one lot only:

1. Minimum right of way width: 50' (the existing right-of-way is 25')
2. Minimum travel surface width: 18' (the existing travel surface not provided except less than 18')
3. Minimum horizontal centerline curve radii: 100'
4. Minimum vertical curve radii: 100'
5. Maximum grade: 12% (applicant stated one short section exceeds the 12%)
6. Minimum grade: 0.5%
7. Minimum sight distance: 200'

Barry Schuster of Schuster, Buttrey and Wing, P.A. representing Greg Gould asked to speak and stated the Planning Board does not have jurisdiction over this request for a "street plat," and therefore they should not deem the application as complete. He used NH RSA 674:41 to make his case that there shall be no erection of building unless it goes to a public hearing. He added, the Subdivision Regulations do not reference a "street plat." Christine Fillmore suggested a short recess for a consultation between the Planning Board and herself as Town Counsel. The audio with telephone/virtual connections were muted and the Board and Town Counsel held a confidential consultation in the Town Clerk's office (Niles Room).

The public meeting was reconvened a few minutes later. Jennifer stated that the Planning Board believes they have jurisdiction over the application as it was a recommended action by the Town Select Board and Town Counsel. ? made a motion that the Planning Board has jurisdiction over the application. This was seconded by ?, and unanimous agreement followed. Jennifer asked Vickie Davis if the application was complete, and the response was affirmative. Ann made a motion to accept the application as complete; Harry seconded the motion; and unanimous approval followed.

Item 4: Public Hearing: Mountain View Hideaway, LLC, Request for "Street Plat" approval for private road over right of way from Prettyman Road; (Tax Map I-91, Lot 49):

Jennifer opened the public hearing at 7:04 PM and asked for public comment. Barry Schuster stated the proposed street violates the Master Plan and Subdivision Regulations as a premature and scattered subdivision. He listed several concerns: the need for emergency vehicle access and turnarounds; a lesser grade for access; Town fiscal responsibility; and conserving natural resources. He added that the logging trucks only used the accessway in the winter, and not in mud season. He also pointed out that the 25' rather than the required 50' right of way could impose an issue with maintenance. He also stated that a waiver is for a hardship and the owner knew what he was getting when he purchased the property; it did not qualify as a hardship. He alluded to the original right-of-way issued for use to a smaller 35-acre tract, not to other lands.

Chase Kling gave examples of properties that were accessed by a right-of-way indicating that a precedent had been established. Greg Gould thanked Barry Schuster for his representation and stated his grandfather, Alan Thorndike had felt the land there was sacred. He added if it is opened up to development, it will be a "carnival." He later added that there were a number of waiver requests that should raise a "red flag." Tom Steketee stated the terms of the conservation

easement had not been mentioned and the purpose of the easement was to keep the area pristine. Charlotte Thorndike Furstenberg questioned how a street plat approval would impact the right-of-way. She was opposed to any change in the status of the right-of-way. Gail Keefer stated she regularly uses the road for recreation such as walking, biking, and skiing as do others. Barry Schuster added that the Planning Board needs to consider the Master Plan, the Subdivision Regulations, and common sense. Mark Miller stated his family had been in the area since 1938, and his grandfather had been friends with Alan Thorndike. He certainly has an appreciation for the pristine nature of the property and area. He and his family have children's summer camps in Orford. His proposed home would be off the grid, and he felt many people in Orford have built homes on similar properties via a right-of-way without Town approval.

Jennifer asked if there were further comments from the public. There being none she closed the public hearing at 7:35 pm. Terry made a motion to continue the public meeting for deliberations to the next regular meeting on February 8, 2022 at 5:30 PM. Harry seconded the motion, and unanimous agreement followed.

Item 4: Other Business:

Jennifer stated she had talked with Kenny King about becoming a full member since Roberta Gray Hill resigned; and he agreed. Harry made a motion to make Kenny a full member. Terry seconded the motion, and unanimous agreement followed.

The Board reviewed the Planning Board openings over the next few years. They reviewed and approved invoices for payment.

Terry made a motion to adjourn the meeting at 7:50 PM. The motion was seconded by Jennifer, and unanimous agreement followed.

Respectfully Submitted,
Victoria Davis, UVLSRPC

Tentative Meeting Agenda for February 8, 2022, 5:30 PM, Town Offices

- Continued Public Hearing: Mountain Hide Away
- Review of Subdivision Regulations/Rules of Procedure (begin March?)