

**TOWN OF WESTFORD
DEVELOPMENT REVIEW BOARD MINUTES
Minutes for Monday, July 30, 2018
Approved on October 22, 2018**

Board Members Present: David Baczewski, Wayne Brown, William Cleary (Vice Chair) and Sara DeVico.

Board Members Absent: Dennis Angiono and Matt Wamsganz.

Also Present: Melissa Manka (Planning Coordinator), Brain Monaghan, Christian Cheba, Michael Gawne, LaLauni Rawls, John Roberts, Angela Bellizzi, William Allen, Kate Lalley and Earl Mongeon.

The meeting began at 7:16 p.m.

Amendments to Agenda

Bill MOVED to amend the agenda to place the Smith application first.

Sara SECONDED the motion.

The motion PASSED: 4 – 0.

CONTINUED: Site Plan Public Hearing – Owners: Joshua & Elisabeth Smith

Bill MOVED to continue the public hearing until September 24, 2018 at 7:15 pm at the Town Offices.

Sara SECONDED the motion.

The motion PASSED: 4 – 0.

Appeal of Administrative Officer Decision– Appellant: Holly Bartlett Appellee: John Roberts & Lalauni Rawls

Brain Monaghan (attorney), Christian Cheba (attorney), Michael Gawne (attorney), LaLauni Rawls and John Roberts were present.

Bill began by stating that the DRB received a legal opinion from the Town Attorney on this matter.

John Roberts provided his evidence of a historic access.

Michael Gawne said the roadway in question is an ancient road and provided legal arguments as to why his clients have a legal right to access their property over the existing roadway. He provided the DRB with case law on the matter.

Bill said Michael's testimony was beyond the scope of the hearing and the DRB would be working off of the Town Attorney's opinion. He asked the appellant's attorneys if they would like to speak.

Wayne asked if there was another way to access the property.

Michael said there isn't another access in his opinion.

Brian began by stating this is a zoning bylaw issue not a property rights issue. Brian added that

Holly Bartlett plans to retire here but is currently taking care of her elderly parents. Brian restated that it is not within the DRB's authority to decide whether Mr. Roberts and Ms. Rawls have a legal access over the Bartlett property, but rather was the Zoning Administrator correct in issuing a zoning permit to Mr. Roberts & Ms. Rawls. Brian said civil court case is forthcoming and the judge will decide on the legality of the access. He added that he does not believe the appellee provided sufficient evidence as sufficient evidence would take the form of a court decision, deed or easement by prescription or necessity. He further added that the ancient road is not on the state highway map and is therefore effectively discontinued.

Bill agreed that the DRB is only deciding whether to uphold Kate's decision. He said they have listened to both sides and will make a decision.

Brian said Holly objects to the use and/or creation of a driveway.

Wayne said the gravel didn't create the driveway, but rather improved something that was there. Wayne added that the driveway has been used for many years.

Brian said for these purposes it doesn't matter because it's in the court's authority to decide on the legality of the access.

Michael said until the court makes a determination the DRB has the right to act on the information presented. He added that he believes sufficient evidence was provided for the DRB to make a decision in favor of his client.

The hearing was opened to the public.

Earl Mongeon said the town asked to go on his property many years ago to locate the ancient road and the road is well established and evident on the Bartlett property until you reach the crest of the hill where the old camp was.

Bill MOVED to close the public hearing.

Sara SECONDED the motion.

The motion PASSED: 4 – 0.

Other Business, Citizens to be Heard & Announcements

None.

Minutes of the May 14, 2018 Meeting

Wayne MOVED to approve the minutes.

David SECONDED the motion.

The motion PASSED: 4 – 0.

The meeting adjourned at approximately 8:15 p.m.

Submitted by,

Melissa Manka, Planning Coordinator