

**LITCHFIELD PLANNING BOARD  
JUNE 15, 2010  
Minutes approved 7/20/2010**

**Members present:**

Edward Almeida, Acting Chairman  
Leon Barry  
Frank Byron, Selectmen's Representative  
Carlos Fuertes  
John Miller, Alternate

**Members not present:**

Jayson Brennen, Clerk

**Also present:**

Joan McKibben, Administrative Assistant  
Steve Wagner, Nashua Regional Planning Commission, Circuit Rider

**AGENDA**

**1. APPLICANT CUTLER & PAGE, LLC. PUBLIC HEARING PER NH RSA 676:4-a II TO CONSIDER THE REVOCATION OF THE SUBDIVISION PLAT ENTITLED ROLLING ACRES III TAX MAP 2 LOT 88.**

**2. APPLICANT CUTLER AND PAGE, LLC. THE BOARD TO DISCUSS CONDITIONAL APPROVAL OF ROLLING ACRES IV TAX MAP 2 LOT 88.**

**Any Other Business: Minutes 4/20/2010 (nonpublic); 5/12/2010 (site walk) and 5/18/2010.**

**Correspondence**

Acting Chairman Edward Almeida called the meeting to order at 7:04 p.m. Alternate John Miller was appointed as a voting member.

**ROLLING ACRES**

**1. Hearing - Rolling Acres III**

The Board to consider the revocation of the subdivision Rolling Acres III, Tax Map 2, Lot 88. The subdivision plan (7 residential lots) was conditionally approved on 11/1/05 and recorded at the Hillsborough Registry of Deeds on 3/29/06 Plan #34630. Mr. Vatche Manoukian, a member of Cutler & Page, and son came forward. There were abutters

present.

Mr. Manoukian requested that the Board grant a continuance of thirty days so that he can review the accounting documents he just received from the Town of Litchfield and also have his attorney, Andrew Prolman, present. He said if he owes the funds he would pay. Also, he said that one of the issues was a bond and there was an application for clearing for the roadway, the papers he has for the bond value was 0. He would like to discuss that in thirty days and clarify everything.

Mr. Byron: Just to clarify...what you saw 0 was a form for the timber harvest so in other words when people harvest timber there is, in some cases depending on the size of the harvest, there is a bond that is required for them to secure the payment of the timber harvesting tax. That is what was waived not the bonding of the construction needed for the subdivision.

Mr. Manoukian: We never intended to do the construction of the subdivision. All we did was harvesting of the roads for the subdivision. We didn't start the construction yet. Upon starting construction we will post the bond.

Mr. Byron: I think they are two separate things. My point is that the 0 that you saw on there, or the form that you saw, was a timber harvest.

Mr. Manoukian: So, I will clarify that with Joan within thirty days.

Mr. Manoukian mentioned that they got tangled with this Financial Resources Mortgage for financing of the 7 lots and they were forced into bankruptcy right now and they are trying to clarify that so they can put the roads in and post the bond. "The funds were available but we never got it". He told the Board that he just received the accounting information yesterday and needs a few days to review it but if he owes the money, he would pay it. He then pointed out that what is being charged by Lou Caron (engineer) is very excessive...\$15,000 for a four lot subdivision for Phase IV. He would address that also in thirty days. Mr. Almeida does not believe the engineering fees are negotiable. Mr. Manoukian said he is not negotiating that but meant going forward.

Mr. Leon Barry recused himself from the Board.

Mr. John Miller mentioned that there were different notices that went out and asked if any of those bills were challenged, or unclear, and what is confusing about the information now than before. Mrs. McKibben said the difference is he was provided all of the accounting from the start of the subdivision but not to say those bills had gone out in the past during construction process.

Acting Chairman opened the meeting to public comment. Mr. Tyler Matthews, 38 Page Road: If this is revoked, I have to live with this on a daily basis...in the winter there are

Three-inch ruts of mud getting to my driveway...there is no base course. This spring I needed to fill in potholes with whatever I could gather...what is my course of action. It has been four years now.

Mr. Wagner said if it is revoked it dissolves the subdivision...he has access to the proposed right of way. Mr. Matthews: If I remember from three years ago the plan is supposed to be all driveway access is supposed to be paved because this has been an ongoing situation. Knowing that, this is a calamity of errors and I am the only person along with my neighbor that is living with this. So, I ask that you guys (Board) think about that and the developer as well.

Resident of 50 Page Road, who moved in two months ago, mentioned the culvert in front of the property and it is eroding towards the road. This was discussed. He said that being new he does not know who owns the road and who plows the road, etc. He was told that it is not a Town road. Mr. Manoukian: My intention is to finish the subdivision. In the past three years the economy it wasn't a healthy economy and to finish the subdivision then was not economical and of course no builder was going to come in and if you tell them there is an impact fee and current use...it was not economical. So, I carried this parcel until the market starts turning and we tangled with Financial Resources Mortgage and it is costing a lot of money. So, to make the people who live in the neighborhood feel better, the road has to be paved and the detention pond has to be installed on the property and that is our intention and that is why we need thirty days to go over the accounting, pay our fees, and when we start installing the roads, we will post the bond for what is it \$75,000 or \$100,000, we will do that. We are not planning not to pay the bond.

He was told that the bond in question is a restoration bond. Talk ensued. Mr. Byron: So, your intention would be within that thirty day period you will have if your accounting shows that what the Town has presented you is correct, you will pay the outstanding fees? Mr. Manoukian: Yes. Absolutely.

Mr. Byron asked when he would start construction of the roads in terms of the people here. Mr. Manoukian: Our intention is before this winter comes to put a binder on the entrance and the road itself. I can't do nothing because of the bankruptcy court, the Financial Resource case...I have to get some kind of relief from the bankruptcy court to go ahead and do it. The Trustees are working with us now and we are victims of this, too.

Mr. Wagner: Do you realistically think that they will solve it before wintertime?

Mr. Manoukian: Yes, and I will tell you why because the Trustees right now they know that it is not a small case and they have to let people make deals with the lenders to solve this...now they are making deals, yes.

Mr. Byron: The fee issue is a separate issue than the road, why couldn't you put the roads

in now?

Mr. Manoukian: I can't. It is in bankruptcy. The investors have to grant me...what happens if you have a mortgage on the parcel of land right now and I have to borrow money to do the roads, the bank wants to be in first position...those mortgage holders have to give me some kind of waiver or something for me to borrow money and the bank would be in first position. The road is going to cost me ½ million dollars for Phase III and \$475,000 for Phase IV. The lots I am going to sell they are going to be \$90,000 a lot or \$80,000 so I am paying for the roads and improvements and what I get for the lots I am going to pay for the lots only.

Mr. Byron: If you have a bankruptcy problem...how are you going to pay the bills?

Mr. Manoukian: The bills have nothing to do with the bankruptcy case. These bills are my bills. I have to pay this. What I am saying I borrow money for the roads because I am building houses on one side of the road and not on both sides, only 7 lots and to sell 7 lots at \$80,000 it is what I am paying to do the roads.

Mr. Byron: So, before you can build the roads, you need to sell the lots?

Mr. Manoukian: The lots are spoken for and we now are making a deal with the bankruptcy court so we can pay these mortgages for a reduced amount...and buy the mortgages back and then it makes sense to do the roads...and everybody is negotiating with us right now. This is two different phases here. These over here are my bills to the town...for the people who live in this neighborhood...that is another issue.

Mr. Byron asked about some bounced checks. He told the Board that this was a bank error and there would be an apology. "I will copy you tomorrow with a letter I am sending to the bank...I apologize for that. It is a bank error but I am responsible for it".

Mr. Leon Barry, 17 Cutler Road, asked about the two lots on Page Road effecting the two gentleman's property, would that be done in priority to the rest of the roads that have to be built and take care of their needs before winter sets in.

Mr. Manoukian: I do not know the severity of the problem. I do not know what has to be done. I was not the builder when they built those houses...I will get in touch with them and see what it is and at my next hearing I will have this information...I will discuss with the abutters before I leave today and exchange phone numbers so I can meet them on the property and address with them what is happening and I will discuss it in front of the Board at the next hearing.

Mr. Matthews mentioned he had sent emails to the Board and he received no response. He then mentioned Land Use Laws and Regulations for construction requirements states crushed gravel base course and asked if that falls under an easement? Does an easement

deal with the regulations that a base course shall be laid a minimum of 6 inches of crushed gravel spread to the required width...because if that is the case...that was never done.

Mr. Almeida said that he would ask Kevin (Code Enforcement) to look at it. It was asked to include 50 Page Road as it is the same scenario. With respect to the emails, Mr. Almeida explained that all questions have to come before the Board. Mrs. McKibben said she never saw the emails that were sent last year. The Board would answer administrative questions only. Mr. Manoukian said when he meets with abutters he will make sure Kevin is with him. Mr. Joseph Bellino, 44 Page Road: As far as Cutler & Page LLC, was the balance ever contested or just not paid by Cutler & Page LLC?

Mr. Almeida: To the best of my knowledge, they just were not paid.

Mr. Bellino: If that is the case, I do not see how extending thirty 30 days when it is their responsibility to pay the bills. Now that they are being told the subdivision is being revoked now he wants to review it when he was supposed to pay before his company was in bankruptcy court.

Mr. Almeida responded that it happens quite often in financial times. It is very difficult and there is no good way out of this but to work together to get this done would be in everyone's best interest. Mr. Matthews mentioned his experience with the property, his home and living there, that it has been an ongoing disrespect to the people who live there by the people he has dealt with...drainage, flooding, buried stumps, etc.

Mr. Manoukian: I think the gentleman is confused between the developer and the builder. We had nothing to do with building the houses, we are not associated with the builders...we sold the land to Starter Homes and they built the houses. I apologize for their mistake...we do not build.

Mr. Timothy Wilson, 52 Page Road: As far as Phase IV what if he does not do Phase IV? Is the plan in place for residential properties or is it commercial/industrial?

Mr. Almeida: It is a residential subdivision as far as I can tell here. Mrs. McKibben said Rolling Acres III is recorded Rolling Acres IV is not recorded because there are conditions that need to be met and fees paid before it is recorded.

Mr. Wilson: So, are there stipulations in the building of Rolling Acres III subdivision to incorporate Rolling Acres IV to be buildable lots. Are there roads that have to be put in place to get access to Rolling Acres IV?

Mrs. McKibben: They stand alone.

Mr. Almeida: To the best of my knowledge the access roads are separate.

Talk ensued. Mr. Byron **MOTIONED** that the Litchfield Planning Board will set a date and time certain to July 20, 2010, 7:00 p.m. at Litchfield Town Hall for the consideration under RSA676:4a II revocation of the plat entitled Rolling Acres III Tax Map 2 Lot 88. Mr. Fuertes seconded. Motion carried 4-0-0. There will be no written notice to abutters. Mr. Byron told Mr. Manoukian that the Board needs action: pay the bills and also the Board to hear from him regarding his communications with the abutters.

**2. Hearing - Rolling Acres IV**

The Board to discuss conditional approval of Rolling Acres IV, Tax Map 2 Lot 88. The plan was conditionally approved May 6, 2008 for a four lot residential subdivision. The plan was not recorded at Hillsborough County Registry of Deeds. The applicant is Cutler & Page LLC. Mr. Vatche Manoukian and son were present. Mr. Manoukian said that it is the same situation as Rolling Acres III. He is asking for thirty days to review the information.

Chairman Almeida opened the hearing to public comment. There was no public comment. The plan has not been recorded but Mr. Miller pointed out the Board needs to go through the approval process again to make sure all the conditions are met. The Board needs plans for recording showing the conditions approved and bills paid.

Mr. Wilson: If one access road is part of Rolling Acres III and one access road to Rolling Acres IV and they are connected, how can Rolling Acres III be approved separately from Rolling Acres IV?

Mr. Almeida: The approval process and phasing has nothing to do with how the road structure goes; they are separate phases.

The plan was reviewed showing the phases. Rolling Acres III Plan is revoked at the moment. Mr. Barry suggested putting Phase IV on hold and address Phase III until one is done before approving drawings on the other one. Mr. Almedia: We could at least require roads.

Mr. Manoukian: For the neighbors who live on Page Road, Phase IV is going to have the same problem as Phase III coming in between the two houses. They should be addressed together...so the neighbors can be happy.

He will bring a set of plans with him July 20th to show what has to be done, the conditions. He mentioned getting approval from the State for subdivision approval. This was discussed.

Mr. Byron: You still are not going to have the conditions of the subdivision met even if we give you a thirty 30 day extension.

Mr. Manoukian: I did not say I would but I would bring my account up to date.

Mr. Byron: That is one criteria of the conditional approval; it is not all the conditions from what I am hearing. From what I was told, there are at least two conditions and there may be up to six.

Mr. Manoukian: Well, there was no time limit on the conditions. There was no time set.

Mr. Byron: The reason we are having the hearing is State statutes, I believe, says thirty 30 days for conditional approval.

Mr. Manoukian: I do not know that; I am not an attorney.

Mr. Byron: I can assure you it is not two years.

Mr. Manoukian: I have no idea. If there were anything in jeopardy, my attorney would advise me.

Mr. Barry expressed his concern with the people at 36 Page and 50 Page that “the roads have been a mess for a number of years and if their section of the roads were addressed first and the extension of that road on the 4 lots Rolling Acres IV was put on hold until III is done why does the road have to continue to go down there at this point. The concern I have is not your road but the neighbors. Why can’t that be first...what is best for them?” A resident expressed concern that when construction begins there will be trucks coming in and out on the unpaved roads...it will be a mess, etc. Mr. Manoukian responded that he plans to put on a binder. What they have right now is maybe 15 feet of driveway...

Mr. Matthews: You have not been there. You said that yourself twenty minutes ago.

Mr. Manoukian: I was there yesterday...what I am saying when we put the road in it is going to be much wider and we are going to put the gravel base and the binder. At that time, the property will be sold. I am not going to put the finish coat until the houses are done.

Mr. Matthews asked if he won the lottery could he pave it. He was told that he would have to construct an agreement with Mr. Manoukian. Mr. Matthews: It seems I do not have a lot of rights here. Mr. Byron: Well you are technically on a right of way that is still in possession of Mr. Manoukian. Mr. Wagner: If the subdivision were dissolved, you would have a driveway easement and within that driveway easement, you can pave.

Mr. Matthews: So, if this falls through, that is mine. Mrs. McKibben: No, the easement. The easement across the paper street is yours. Mr. Wagner: Whatever dimensions the easement is.

It was not certain what he could or could not do at this point without legal counsel. It was said that if the subdivision is gone, the road would go away but the easement would still stand between the developer. Mr. Manoukian said that finishing the road would be the best solution for everyone. Mr. Byron agreed that is the message.

Mr. Manoukian: That is my intention.

Mr. Byron: And pay the bills.

Residents of 50 Page talked about the culvert and asked whose responsibility it is. Mr. Byron will direct the Road Agent to take a look at it. They were told that it is not their responsibility.

Mr. Manoukian: If we built Horizon Drive...at the end of Phase IV we were supposed to build a big detention pond which would bring the water all the way back here from Page Road. So, we do not know what we would get on Page Road and that was the intention.

Mrs. McKibben: That culvert may be part of Phase I and could be tied in with the drainage for Phase III and or Phase IV.

Mr. Byron asked if other conditions could be added such as completing the front part before building the back of the roads. This would have to be reviewed with Town Counsel. It was suggested Mr. Manoukian speak with his lawyer. Mr. Manoukian: I will. If I can record the plans on Phase IV and hold the building permits until I meet all the conditions so we can build a road. We will do that.

Mr. Miller suggested checking to see if there can be time limits set on conditions. Talk shifted to the Subdivision Approval from the State. Mr. Manoukian explained that he did not apply for the approvals because the permit expires after a year.

Mr. Byron: There is a question even if the Board were to extend this for thirty days at the end of thirty days you are going to come back to us with what? You are basically telling us that you can't complete it within...

Mr. Wagner: You can't get initial approval without the State permit.

Mr. Byron: I guess that is my point.

Mr. Manoukian: The conditional approval...I never thought I was going to have to be prepared to answer those questions tonight. I thought I was coming tonight to address two issues - the payments and the bond. To the other questions, I am not prepared to answer intelligently right now so if you can tell me what you need for the next meeting, I will be prepared to answer any questions you have.



Mr. Wagner said the Board is looking for is some sort of resolution to both projects Phase III and IV. I am concerned when a month passes; we are going to be in the same place.

Mr. Manoukian: What was the question before that?

Mr. Almeida: The main question pertains to the roads. I think you hit it talking about finishing the roads and as you can see we have some of the residents here unhappy so anything you can do to facilitate completing those roads. Mr. Manoukian: If the Town can record the plan, I can finish the roads.

Mr. Byron: We can't record the plans until you meet the conditions of approval and you can't say you would complete the roads until we record the plans. So, somewhere there has to be a give and the only give I can see if you meet the conditions of approval.

Mr. Manoukian: Absolutely, I will give you those answers...give me time, I will get you answers within a week. I will have answers for you.

Mr. Wagner: Maybe what you would be doing would be to request amendments to both plans to prioritize the road and then we get payment.

Mr. Byron: My thought would be to make your payments on the bills that you have due, make your applications and if you would be willing to include on Phase IV the completion of the road for that entrance up to the back of the front lots Phase I.

Mr. Manoukian: From Phase I to Phase IV?

Mr. Byron: Complete the roads so the people who are already living in their homes have a road they can drive in on. What I am saying if you can commit to that as part of an amendment to Phase IV and I do not know if the Planning Board is amenable to it there is an opportunity that the Planning Board could continue its conditional approval provided all those things are done...and that we can have a strict solid time line when you are going to complete the road.

Mr. Manoukian: Well, I can commit to putting the proper base on the roads.

Mr. Byron: First off, the Town is not looking for a finished road. The Town is looking for a base coat...a base coat is more than sufficient for a road to go to their driveways. It gives you a layer of hot top...

Mr. Manoukian: If I can build like an apron coming in the width of the town's spec with the Town's permission...

Mr. Byron: You do not need the Town's permission...

Mr. Manoukian: I need the Town's permission to do that...it is going to be to the Town's specs. I do not know what is required.

Mr. Manoukian was told that the specs are in the ordinance. This was discussed.

Mr. Byron: The point I was trying to make is if you could have flexibility and commit to getting that road built.

Mr. Manoukian: The flexibility I will give the Town is the following: I can put a gravel road, put the base gravel there without the binder so they do not have puddles, or whatever, and come back in case I have to tear it back, tear this gravel when I put the roads in after I get my final approval, then I put the base coat on.

Mr. Byron: But on Phase IV if you have a final plan...Phase IV contingent upon septic approval, for the final approval on Phase IV, you should have had everything known that has to go into that road.

Mr. Manoukian: If there is nothing going under that entrance...I will do what you ask...I do not know if there is a culvert under...

Mr. Byron: But you are going to know that by the plans.

Mr. Byron: There are approved plans blessed by the Planning Board with the exception of you having to add to the plans the conditions of approval so there is no additional piping going under that road...so, I do not see any reason why you have to limit yourself to a compacted gravel road when you are going to know based upon those plans what goes in there.

Mr. Manoukian: I will do that. If there is nothing going under, I can do that.

Mr. Manoukian said he owns the property and he has title. Mr. Byron said that Mr. Manoukian can put hot top if he wants. Mr. Manoukian said the bankruptcy was just the financing... "We borrowed money from the bank"...

Mr. Almeida: I think the concerns are pretty clear. You intend to do the right thing?

Mr. Manoukian: Yes, sir.

Mr. Almeida **MOTIONED** to continue the Rolling Acres IV Tax Map 2 Lot 88 to the July 20<sup>th</sup> meeting at 7:00 p.m. in Town Hall. Mr. Byron seconded. Motion carried 4-0-0.  
Mr. Almeida: I think you are clear on what we are looking for? Mr. Manoukian: Absolutely.

**ANY OTHER BUSINESS**

Mr. Leon Barry returned to the Board. Mrs. McKibben provided the Board with a letter from Town Counsel regarding application acceptance. Mr. Byron explained this had been discussed at a meeting a few weeks ago having to do with exemptions. The letter talks about a new law effective July 17, 2010. This was discussed.

**Minutes** - Mr. Byron **MOTIONED** to accept the minutes of May 12, 2010 site walk as written Mr. Almeida seconded. Motion carried 2-0-3.

Mr. Byron **MOTIONED** to accept the nonpublic minutes of April 20, 2010 as written. Mr. Miller seconded. Motion carried 3-0-2.

Mr. Almeida **MOTIONED** to accept the May 18, 2010 minutes as documented. Mr. Miller seconded. Motion carried 2-0-3.

**Cell Tower** - For the record, it was said that the fees were not waived the second time.

**Blossom Court** - The subdivision is located off of Page Road and Town Counsel has been trying to collect on the insurance bond. Mrs. McKibben read the letter from Attorney Buckley dated May 7, 2010, to the attorneys for the insurance company and the attorney representing one of the builders. Mrs. McKibben mentioned a letter from the Association asking what is happening with the bond. She wrote back May 14, 2010. Then she received a letter from the Association expressing their disappointment and requested all correspondence from Town Counsel, the insurance company and Dandy Homes, etc. She has forwarded all information to Town Counsel.

**Heritage Park** - The bond was successfully pulled and the road completed but the subdivision is also in bankruptcy/receivership.

**Workforce Housing** - Mr. Barry said that he attended the meeting in Milford. He told the Board that a lot of the discussion was over his head. They had offered to spend time, one on one so he will pursue the offer with these people in order to get more information and have a better understanding of workforce housing. The charette that was scheduled is now scheduled for October.

**Cell Towers** - Mr. Barry said he had discussed cell towers in general with the Deputy Planning Manager in Nashua to be more informed. The gentleman is willing to come before the Board to talk about it. The Board discussed Mr. Barry's request and thought it might be something to discuss in the future but not at this time.

**Escrow** - Mrs. McKibben talked about a two lot subdivision to come before the Board and whether the Board wanted the full \$5,000 for escrow. She was told to follow the process which is \$5,000 is the required amount to be posted for the escrow account.

**Excavation Complaint** - Selectman Byron talked about a complaint the Selectmen received regarding possible excavation being performed at the end of Talent Road, property owned by Continental. He showed pictorial maps of the site. According to the residents Continental is doing excavation in Londonderry and bringing in his product to the site in Litchfield. It is not known if he is excavating or just bringing in dirt but according to the residents he has been cutting trees in the buffer. He may not be excavating. The Code Enforcement Officer is researching this matter. Mr. Byron just wanted to make the Board aware of the situation because excavation pits are regulated by the Planning Board. Mr. Byron further stated that he had mentioned it before that the Board should be reviewing excavation pits periodically making sure reclamation plans are in place, etc. It was noted there are only two pits at this time and they are bonded.

Mr. Byron mentioned another pit located on Hillcrest Road of which there has been a lot of activity with dump trucks going in and out, dirt being moved. It was said that the land is in current use. Code Enforcement will be notified. Back to the pit on Talent, Mr. Lynch will be speaking with Continental. It is believed that Continental has a permit in Londonderry but he is spilling over into Litchfield.

**Chairman** - Chairman Alison Douglas has relocated and therefore has resigned. Mr. Almeida told the Board that he is going to school but he does not think it will impact his attendance at the meetings. Mr. Barry **MOTIONED** to make Edward our Chairman of the Planning Board for this year. Mr. Miller seconded. Motion carried 4-0-1.

There being no further business, Mr. Almeida **MOTIONED** to adjourn the meeting. Mr. Fuertes seconded. Motion carried 5-0-0. The meeting adjourned at 9:25 p.m.

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Edward Almeida, Acting Chairman

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Leon Barry

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Carlos Fuertes

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Frank Byron, Selectman's Rep.

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John Miller, Alternate

Lorraine Dogopoulos  
Recording Secretary