

Town of Greenwood  
Planning Board Meeting Minutes  
Nov. 1, 2021  
5:30pm – Greenwood Town Office

Item 1: Call meeting to order – Tyler Bennett called the meeting to order at 5:30pm.

Item 2: Roll Call

Present:

Eva Mills, Secretary

Becky Secrest

Tyler Bennett

Brad Payne

David Newcomb

Joelle Corey, Codes Enforcement Officer

Item 3: Introduced new member, David Newcomb and Election of Officers

A. Chair – It was moved and seconded to appoint Becky Secrest as Chair. Becky stated that she was not able to be Chair. It was moved and seconded to appoint Eva Mills as Chair. Vote: 4-0. Eva is Chair.

B. Vice Chair – It was moved and seconded to appoint Becky Secrest as Vice Chair. Vote: 4-0. Becky is Vice Chair.

C. Secretary – It was moved and seconded to appoint David Newcomb as Secretary. Vote: 4-0. David is Secretary.

Item 4: Review Minutes of October 4, 2021

The Board reviewed the minutes of October 4, 2021. Eva asked if anyone had any changes or corrections. Brad motioned and Becky seconded to approve the minutes as presented. Vote: 4-0. Minutes are approved.

Item 5: Old Business

A. Gary Freeland, 115 East Twitchell Pond Rd., U18-12  
Build a 30' x 35' residence with 10' x 20' deck

Mr. & Mrs. Freeland participated via Zoom. Tyler explained that the Board reviewed and approved this back in 2019 and that permit has now expired. Tyler stated that they have been looking over the new submissions from the Freeland's and the board has some questions. Tyler asked if they determined what the high-water mark was. Tyler asked if a survey was submitted so they could determine the distances from the water. Joelle stated that there was no survey with the recent submissions. Tyler stated that a survey would be helpful but with the new regulations/ordinance that the Town has to follow puts the

maximum height of the structure as being 20 feet. Tyler asked if everyone else found that in their reading. Eva stated that she found the same. Tyler explained that this is found in the DEP Chapter 1000 that the Town is required to follow now. Tyler stated that it was on 5C1 where it explains that it reads that the maximum height of any structure may not be made greater than 20 feet or the height of the existing structure or whichever is greater. Tyler stated that Joelle had found out in her research that we could not use the peak of the chimney. Tyler stated that the next step would be 19.3 feet from bottom to top so 20 feet will be the maximum allowable for height. Tyler explained that looking at the plans submitted by the Freeland's it looks as if their proposed building has a height of 27 feet. Joelle stated that she calculates at least 26 feet in height. Tyler asked Mr. Freeland if the plans could be updated to the required height of 20 feet. Mr. Freeland stated that they had submitted a survey as part of their original plan in 2019. Kim stated that she would go pull the 2019 file and get the board a copy of that survey. Mr. Freeland stated that the survey was completed by Gary Inman, dated 30, Aug. 2019. Tyler stated that the survey will help with the application but they still have a structure height requirement of 20 feet.

Mrs. Freeland asked the Board to tell them the reason for the height restriction. Tyler explained that is the DEP's regulation. Tyler explained that these regulations had been in place by DEP in 2015 and that the Town had not been following them, and we were recently scolded by DEP. Tyler explained that the DEP regulation was not followed by the Board when they issued the permit in 2019 but the Board has to follow the DEP regulations that based on your distance from the water determines how high a structure you can have. Mrs. Freeland asked if we knew DEP's reason for it. Tyler explained that in 2015 we were following DEP's previous rules and we were informed by DEP several weeks ago that we have to follow their regulations. Joelle stated that we were notified back in July that we had to follow these regulations. Tyler apologized that he didn't realize it was back in July. Mrs. Freeland asked if the Board could issue a variance to this. Joelle stated that the Town doesn't have the authority to issue a variance. Tyler stated that would be beyond their authority to do that. Mr. Freeland stated that this was a previously approved application, they did let it lapse, and they resubmitted it on the 5<sup>th</sup> of August of 2021. Mr. Freeland asked if the DEP's regulations went into effect of July 31<sup>st</sup>. Tyler explained that the Board heard from the DEP in July but these regulations were from 2015. Mr. Freeland stated that they couldn't make it retroactive to 2015 so it had to take effect 31 of July, correct. Tyler stated he didn't have the exact date that they received the email from DEP. Joelle stated that she thought it was July 21<sup>st</sup> but would search for the email. Mr. Freeland stated that he thought Joelle had stated in a previous email that it was July 29<sup>th</sup>. Mr. Freeland stated that it was previously approved, that they resubmitted it five days after it went into effect or thereabouts that it has no bearing on this. Tyler answered no and explained it is out of the control of the Planning Board as we have been informed that we can no longer do it the way that we had been doing it. Tyler explained that there is nothing they can do about this as it is out of their hands.

Mrs. Freeland asked who could issue a variance. Joelle and Tyler stated that they would have to file that with the State of Maine. Tyler stated that in the back section of the Chapter 1000 it explains how to file a variance. Joelle explained that the appeals process works in the Shoreland Zone, one would appeal to the Town, the Board would have to deny the appeal, and then you could take it to Superior Court and that is when the DEP/State of Maine would be involved. Mr. Freeland questioned that they would take it to Superior Court. Mrs. Freeland asked if that was a lengthy process. Joelle stated that she has never seen anyone take an appeal to Superior Court. Mrs. Freeland stated that Towns do issue variances. Joelle explained that the Town doesn't have the authority to go against DEP – that is a State Law. Tyler stated that if it was a request for a variance against our own Ordinance then the Town could review it but this is the State Law and the Town has no authority to grant a variance for a State Law.

Mr. Freeland stated that his recourse is to resubmit this application. Tyler stated that they would need to have an application with a height of 20' from the lowest point. Mrs. Freeland stated that they just went outside the cabin and measured from where the bottom of the chimney is and to the height and obviously underneath the cabin there are gully's and could we have measured from there. Joelle explained that the Board is going from the survey that they had completed by Mr. Inman. Tyler stated that the lowest point noted on the survey is a deck post and we can't measure from the top of the chimney but can measure to the roof ridge. Mrs. Freeland stated that he didn't survey under the cabin. Joelle asked who was under the cabin. Tyler answered that the survey doesn't include measurements under the cabin. Tyler stated that the Board is using the survey that they submitted in 2019 that shows the lowest point is the bottom of your deck posts. Mr. Freeland stated ok. Tyler stated that he strongly encouraged them to review Chapter 1000 and that the first five or so pages will give them the most information. Mrs. Freeland stated that the proposed cabin is measured from the basement floor and if the basement wasn't as deep it wouldn't be as high. Joelle stated all the Board has to go on is what was submitted. Mr. Freeland stated that the Board is saying that the 20 feet is set in stone and there is no way around it. Tyler stated that is correct unless the State gives the Freeland's a variance. Mr. Freeland stated that if they don't then their only option is to take the State to court. Tyler stated that this will have to be tabled until different plans are submitted. Mr. Freeland stated that they were cooked.

Eva motioned and Brad seconded to table this item. Vote 5-0. Item tabled.

#### Item 6: New Business

- A. Earl Tyler, 256 Main St. Formerly Saunders Mill  
Discuss change of use permit for Metal Fabrication

Mr. Tyler introduced himself and explained that he was working on many options for different uses at the Mill. He introduced the Board to Jeff Cyr who was currently using a small portion of the mill for metal fabrication. Jeff

explained that he had been to the Board several years ago for a change of use permit but the owner at the time refused to complete any of the paperwork or meet with the Planning Board. Joelle gave Mr. Cyr a Site Plan application and asked that Mr. Cyr complete the paperwork and get it back to her for a future Planning Board review. Jeff stated that he would gladly do that. Mr. Tyler told the Board that he is working with the DEP and the Town to get the place cleaned up and ready for future business. Mr. Tyler invited the Planning Board over for a tour of the facility anytime. Jeff stated that he would contact Joelle once he finished the paperwork and Mr. Tyler stated they would both return to a future Planning Board meeting for the Site Plan Review. The Board thanked Mr. Tyler and Mr. Cyr for attending the meeting and giving the Board an update.

Item 7: Admin Issues - None

Item 8: Adjourn - Having no further business, Brad motioned and Eva seconded to adjourn the meeting at 6:20pm. Vote: 5-0.