

Calais Development Review Board  
Draft Minutes January 2, 2014

Board Members Present: Peg Bowen, Chair; Ruth Porter, Nedene Martin, Mike Loignon, Walt Amses, Barbara Weedon and Tim Scandale, Secretary.

Others Present: Scott Bassage, Calais Selectboard; David Ellenbogen, Shaun Fielder, Laurie Fielder, Peter Leonard, Kathy Leonard, and Rolf Mueller, Calais ZA.

**2013-41 Shaun and Laurie Fielder**

The applicants, Shaun and Laurie Fielder are applying for the construction of a drive for a grandfathered camp lot and modifications of an existing drive. The work for this application was already completed on November 11, 2013, following the September 9<sup>th</sup> Selectboard meeting. The applicants are also applying for a conditional use permit for the removal several trees that are within 50 feet of the shoreline, and the creation of a impervious surface (dirt driveway)- both of which were completed on 11/11/13.

The hearing started with the ZA reading the following letter to the applicants.

Statement by the Zoning Administrator to the application 2013-41-Fielder at the DRB Hearing on January 2, 2013

“On November 19, 2013 I became aware of a project that was done on 385 Nelson Pond Rd for which I did not receive any zoning application. What was done was that a driveway was cut into a steep hill. In the process trees were cut and stumps removed all in the 50' and 150' buffer and shoreland protection zone.

Upon investigation I found that the property is owned by Shaun and Laura Fielder who purchased the property (Tax Parcel ID No. NP0377) in August for \$ 8500.

I contacted the Fielders by phone and left a message to contact me about their project since it needed a zoning permit for development on a steep hill, disturbing the 50' buffer zone and the 150' “no development” zone.

Within a week Mr. Fielder returned my phone call when I explained to him that he needed a zoning permit. He told me that he had applied for a curb cut permit from the Selectboard on September 9, 2013 and was told that he didn't need one since the lot had a grandfathered curb cut. He said that he didn't know that he also needed a zoning permit but since I told him he will apply for one. I said our regulations require him to pay double the permit zoning fee since the work was already done. He asked what would happen next and I said that I will schedule a hearing with the Development Review Board who will make the decision to grant or not grant him a permit.

On December 2, 2013 I received the permit application with the proper permit fees.

In the application he states that he wants to construct a drive for a grandfathered camp lot and “modification of existing drive” that he states was completed on 11/11/2013.

Upon further research I could not ascertain that the lot was indeed a camp lot or had an existing drive.

To the contrary, in a decision by the DRB dated February 12, 2008 for an application (#07-59, Tax Parcel ID# NP0377) to construct a seasonal dwelling it was noted that “all the lot is wooded” and

that a curb cut approved by the Selectboard was needed. Also in the above mentioned decision it states: "The lot is currently undeveloped, without driveway, parking, structure or other improvement."

Rolf Mueller  
Zoning Administrator January 2, 2013

It was noted that the applicants paid the double zoning fee on 12/7/13. The applicants stated that they applied for a curb cut with the Selectboard on 9/9/13 and did not know that they had to get a permit from the ZA. It was noted that they have a copy of the minutes from the meeting and read the relevant information from the minutes to the DRB. The minutes stated that the applicants have an existing grandfathered curb cut and that they will install a driveway.

The applicants explained that they have additional notes that they took during the Selectboard meeting. They believe that the Selectboard gave them approval to proceed.

It was noted that on 11/11/13, trees were removed and the driveway was worked on. A member of the DRB stated that the Selectboard minutes do not show an approval for the driveway or removal of trees. The applicants stated that they did not know that they needed a permit.

Selectman, Scott Bassage, explained that he does not remember all of the details from the 9/9/13 meeting and that the meeting was not recorded. He does remember that the Selectboard did not need to act since there was a curb cut permit and that they were only talking about a curb cut. Since a curb cut permit was not needed, no paper work was given to the Fielders.

The applicants stated that they were not trying to hide anything and that believed that they had approval from the Selectboard to proceed. It was noted that the applicants had a title search for the property and that they have a copy of the Connor decision.

The applicants stated that their tax bill shows the property as a camp lot. The DRB chair commented that a grandfathered lot still needs a permit. The applicants admitted that they made a mistake.

It was noted that the applicants would like to eventually have a seasonal camp and that they are willing to create a Stormwater Management and Erosion Control Plan with an engineer. The pre-existing curb cut permit has not been located and the applicants have not looked for it at the Town Office.

Peter Leonard, who is a neighbor of the applicants, explained the history of the lot and his driveway situation. He asked about the definition of a curb cut, but the board was not able to locate one during the hearing. He stated that before the applicants did the work on the property, there were no trees on the Sillsby lot to prevent someone from backing into the lot.

It was noted that all development in the Shoreland District goes in front of the DRB.

The applicants stated that they did not read the Connor decision before the Selectboard meeting but have since read it. They explained that the Selectboard was aware of the tree removal from the curb cut application and that Denise Wheeler looked at the site and saw the trees flagged for removal.

Adjoining landowners, Peter and Kathy Leonard, stated that they discovered the driveway on Christmas Day and were surprised and disappointed. Mr. Leonard explained that he had an extensive

conversation with the applicants when he met them in August, and that they discussed driveways, the history of the property, the Connor decision and talked about trees. Mrs. Leonard stated that she is concerned with water quality and the cutting of trees. She explained that Mr. Leonard advised the applicants to talk to the DRB about creating a tree cutting plan.

David Ellenbogen, who is a member of the Lakes and Ponds Committee and a resident on Curtis Pond, was at the hearing. The DRB explained the Connor decision to him and Scott Bassage stated that it is possible that the Selectboard gave the applicants permission to build a driveway and that they did not notice that the applicants did not go to the DRB first. It was noted that the process was out of order.

The applicants explained that they knew they might not be able to build when they bought the property.

Scott Bassage explained that it is custom for two members of the Selectboard and the road commissioner to look at a site for distances and safety.

A member of the board stated a concern about the 60-foot clearing, the cut in the bank, removal of trees and water safety. The applicants described the open box culvert that's installed at the foot of the driveway and that the road commissioner was not concerned with runoff during the site visit. They explained that they would like to do some additional plantings and want to improve the runoff situation.

Mr. Leonard agreed that it is time to review the permit application for the curb cut and that the applicants are not released from the authority of local, state and regional agencies.

It was noted that the application was reviewed. Trees have been left on a ten-foot area of the driveway and almost  $\frac{3}{4}$  the driveway is in the 50-foot setback from the pond. The box culvert is in and is catching water. It is angled with the upper end open and has rocks to help with sheet flow.

It was noted that there is a 25-foot setback from the lot. The applicants are planning to park four vehicles and one is a self-contained camper.

The DRB chair read information about the zoning regulations and the Connor decision to the applicants. It was noted that the chair would write a letter to the Selectboard telling them to check with the DRB when a curb cut is brought up and to understand the process of a curb cut permit.

The applicants said that for the record, they were not trying to pull a fast one and that they were trying to do things right. They want to take ownership and rectify the problem.

It was noted that State Shoreland Regulations are coming soon. The DRB stated that the DRB would make a decision about the driveway, the creation of an impervious structure, and conditional use for tree removal.

Mr. Leonard stated that the Town should consider action against contractors who perform work without a permit. He requested that if the board approves a permit for the driveway, the decision should state how human waste is handled. Mr., Leonard also recommends that the DRB prescribe what is planted on the property.

The hearing will be closed at the deliberation meeting.

**Other Business**

- A motion was made, seconded and voted all in favor to approve the minutes from December 5, 2013.

There being no further business to discuss, the meeting was adjourned.

Respectfully Submitted,

Tim Scandale, DRB Secretary