

PRESENT: Mack, Chairman; Hawkins; Dever, Haley; Pelczar; Joslin; Edney, Code Enforcement Officer; Tivnan, Clerk

### PUBLIC HEARING

**2711: LEONARD A. TREMBLAY, JR.:** An appeal of the Board of Selectmen's decision to deny driveway access over Old Stanton Road, a Class VI road, in accordance with RSA 674:41, Tax Map No. R17, Lot No. 41, located on Chemung and Old Stanton Roads in the Forestry/Conservation District.

Mack - Mr. Tremblay is not present, but requested through email, that the Board hear his appeal. The main argument is about a ROW over a Town road. This doesn't necessarily allow them to get a permit to build on it. Dever- I don't understand how someone can grant someone else's ROW over a Town road. Mack – This was done way back when. Any comments from the Selectmen? Flanders – I am Chairman of the Board of Selectmen and I am on the Planning Board as well. I have seen this from a couple of different sides. The Planning Board has reviewed this and denied it. Old Stanton Road is very steep and intersects with Chemung Road at an oblique angle. Leaving the oblique angle would make a dangerous visibility situation. The Planning Board felt there was no reason to grant access across a Class VI road when the property has frontage on a Class V road. They do have a deeded easement that was granted at the time the Hamlin property was being purchased. That doesn't obligate us to allow them to create an unsafe driveway. The Board of Selectmen agreed with the Planning Board that they had more than enough frontage on Chemung Road. So for those reasons, plus we did not want to set a precedent of allowing access across a Class VI road, if the property has reasonable frontage on a Class V road. Mack - Questions from the Board? Questions or comments from the public? Ralph Pisapia (Conservation Commission) – We submitted a letter to the Board of Selectmen and the Planning Board and we recommended not having access on Old Stanton Road. We feel this would adversely affect the Hamlin Recreation. Kennedy – Could the Board, for the record, please describe in detail, how it has jurisdiction here? Specifically, what ordinance under the Meredith Zoning Ordinances is the ZBA hearing this case? Mack - For the record, RSA 674:41 says, if the Selectmen do not allow people to build on a Class VI road for access, then they have the right to appeal to the ZBA. There is nothing in the Meredith Zoning Ordinance, it is just RSA 674:41. Kennedy –You are not interpreting the Zoning Ordinance here? Mack – No I am not. Kennedy – You are interpreting RSA 674:41? Mack - No, we are interpreting the appeal of the Selectmen's decision on allowing a building permit on a Class VI road. Kennedy – So under RSA 674:41, I'm not sure which provision you are referring to. Do you have that in front of you? Mack – I have to look for it. Bob, do you know what section it is in? Flanders – I don't know what section it is in, but the

Board of Selectmen and the Town Manager sought an opinion from the Local Government Center and their opinion was the applicant does have the right to appeal the decision of the Board of Selectmen. We also sought an opinion from Town Counsel and his opinion was the same as the Local Government Center. They have the right to appeal under RSA 674:41. Dever - Because the building permit was denied. Mack – Right. Kennedy – So, are you saying your interpretation of the Statute here is that the Board has the jurisdiction to hear permits that are denied, but not the jurisdiction to hear permits that are approved? Mack - RSA 674:41 says that if a building permit is denied, they have the right to appeal. It does not speak to if a building permit is issued. Kennedy - So it's the Board's contention, that they have the authority to interpret RSA 674:41 because RSA 674:41 says that because there was a denial, they have a right to a hearing. Mack - We are not interpreting RSA 674:41. We are following RSA 674:41, which says they have the right to appeal the denial of a building permit? The State Statute says they have the right to come before the ZBA to appeal the denial of a building permit by the Board of Selectmen. Kennedy - Thank you. Haley – We have a document in front of us that says, “What does the applicant need to show “ I am to assume that's Mr. Tremblay? Mack – Right. Haley - I don't see how we can fish out those five items out of his certified mail letter. This is difficult without him being present on the petition he brought himself. Mack – His presentation to us is his letter. Haley –The second problem I have is, I will ask the Selectmen; he used the word driveway in relation to Old Stanton Road. I believe by reading from Mr. Tremblay he makes a point that he is not considering Old Stanton Road as a driveway. He wants it as a Town road that his driveway then goes to. What did Mr. Hamlin give him as a supposedly legal document that said he had the right to use a Town road? Flanders – The deed referred to a ROW running on top of Old Stanton Road for a certain distance. A Class VI road by definition is one that has not been maintained for a period of time. I think the requirement may be if the road has not been maintained for 5-6 years. The Town is not obligated to upgrade it in anyway. He wants to upgrade this and use it as his driveway. He has more frontage on Chemung Road. Haley – If he says, here is my deed and I am going to run a road on Old Stanton Road, it seems to me he is using your real estate, not his. Flanders – If we choose to allow access on a Class VI road, there would be a signed Class VI road agreement. Peter Miller (Selectmen and member of the Conservation Commission) - The Town acquired the Hamlin property in 1979. They purchased the land for primarily two reasons 1. Recreation and 2. Conservation. I am concerned that if a portion of Old Stanton Road were used to access a private residence the recreational & conservation values of the property would be compromised. People go to Hamlin to get away and to step back in time. To have a house on a trail brings civilization back into this natural area. It was purchased to get away from that. To reduce the grade from 20% to 10% will affect drainage and significantly interfere with the natural environment. The property was purchased in part with a Federal grant so the Federal people would have to be advised of this. This would be a complex process. There has been no

engineering study done. Flanders - It seems to be unnecessary, when a better access is off of Chemung Road.

### DELIBERATIVE SESSION

#### 2711: LEONARD A. TREMBLAY, JR.:

Mack - I don't see how you could upgrade that intersection to make it safe without a major effort. Haley – We need to decide, did they do right or wrong and then give an answer in writing for the reasons. We have many cases where we have to say to the party's there is a better alternative. Dever – Lets make a motion and then work on it. Mack – Go ahead. Dever - IN CASE # 2711, An appeal by Leonard A.Tremblay of the Board of Selectmen's decision to deny driveway access over Old Stanton Road, I MOVE THE APPEAL BE DENIED IN THAT IT IS EVIDENT THAT THE SELECTMEN'S DECISION WAS REASONABLE AND PRUDENT FOR ALL THE REASONS THAT WERE STATED BY THE PLANNING BOARD AND BY THE SELECTMEN. Mack – There is a statutory requirement for them to address the required criteria by RSA 674:41. Haley - I don't disagree with you. It is his problem to defend this. Not us. Maybe he does not know that he needs to speak to these issues. We need to be careful how we write this. Dever - I think I covered just about everything in my motion. Mack – I think his presentation is right here. His presentation does not address the five criteria. Haley – I would like a line in our motion that says, “ and he has not spoken to the criteria required “.

Dever moved, Haley seconded, IN CASE # 2711, AN APPEAL BY LEONARD A.TREMBLAY OF THE BOARD OF SELECTMEN'S DECISION TO DENY DRIVEWAY ACCESS OVER OLD STANTON ROAD, I MOVE THE APPEAL BE DENIED IN THAT IT IS EVIDENT THAT THE SELECTMEN'S DECISION WAS REASONABLE AND PRUDENT FOR ALL THE REASONS THAT WERE STATED BY THE PLANNING BOARD AND BY THE SELECTMEN; THE LETTER HE HAS SUBMITTED HAS NOT ADDRESSED ANY OF THE CRITERIA REQUIRED BY RSA 674:41 FOR GRANTING AN APPEAL AND THERE HAS BEEN NO NEW EVIDENCE. Voted 6-0 denied.

Meeting adjourned at 7:45 P.M.

Respectfully submitted,

Christine Tivnan  
Planning/Zoning Clerk

Approved by the Meredith Zoning Board on \_\_\_\_\_, 2005.

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John Mack, Chairman