

APPROVED

Minutes of Planning Board Meeting of September 22, 2009

Members Present: Tom Cottrill (Chairman), Jeff Hollinger (Vice Chairman), Michael Doheny (Secretary), Tina Helm (Selectmen's Representative), Emma Crane (Conservation Commission Representative), Karen Ebel, Michelle Holton, Deirdre Sheerr-Gross (Alternate)

Members Absent: John Tilley (Alternate)

Others Present: Peter Stanley (Zoning Board Administrator), Ken McWilliams (Town Planner)

Chair Cottrill called the MEETING TO ORDER at 7:30pm.

Chair Cottrill announced that the Planning Board Proposed Fee Schedule was the first item of discussion. He began to review the fee structure set up by Peter Stanley, Zoning Board Administrator, and Jessie Levine, Town Administrator.

Fees for a Minor Subdivision

Chair Cottrill started with the cost of notification to abutters. He said this fee applies to all of the various fees. He noted that the current mailing fee for certified letters to abutters was \$2.67. It is proposed to change this fee to the current US Postage rates at the time of the mailing. All agreed to the change.

IT WAS MOVED (Jeff Hollinger) **AND SECONDED** (Emma Crane) **to change the cost of postage rates for abutter notification for all types of application fees from \$2.67 per certified letter to published US Postal rates.**

THE MOTION WAS APPROVED UNANIMOUSLY.

Next discussed was the proposed new fee for a Minor Subdivision: Chair Cottrill said it is suggested to add a Conceptual Review fee of \$50.00. Mr. Doheny did not feel it was necessary to set a fee for a conceptual review. Mr. Stanley said that the fee would be charged to an applicant when the applicant wishes to have a conceptual review from the Planning Board (PB). With the conceptual review, a full department review would be required prior to appearing before the PB. If the applicant only speaks with Mr. Stanley or Mr. McWilliams without appearing at a hearing, there would be no charges. Ms. Ebel said that a lot of work is done during the conceptual review(s) and that it takes up a lot of time. She felt that the applicants should be charged a fee. Michelle Holton asked where the abutter's come into the mix in these reviews. She said that it didn't seem fair that the abutters have no warning of what is going on until the preliminary review when they are finally invited to participate.

Ms. Holton asked if they were allowed to decide, as a matter of policy, that anyone going through the PB would need to notify the abutters. Mr. McWilliams said that they would have to change the subdivision regulations and the site plan review regulations in order for this to become part of the requirement. He also pointed out that the conceptual review was an optional step in the process, which is available to the applicant and that it is not required. He referenced a recent applicant who came to the PB, even after working with himself and Mr. Stanley, to get further feedback from the PB before spending money on a project that may have had problems uncovered by the PB. Chair Cottrill suggested charging \$75 for a conceptual review and then waiving the filing fee of \$75 if the project proceeded to a final review and was approved. Mr. Stanley said that this plan could work.

Ms. Sheerr-Gross said that having a conceptual review is a great opportunity for property owners and has significant value. She felt that the charges requested were nominal and well worth the money.

Chair Cottrill noted that there are many town staff and advisors who must take time out of their regular tasks to meet with applicants and in most cases, the cost of their time greatly exceeds the amounts of the fees being proposed. Mr. Doheny asked where the funds go that are charged/collected by the PB. Ms. Helm reported that they go into the Town's general fund. Ms. Sheerr-Gross said the PB was spending about \$30,000 and taking in about \$9,500. She

opined that if the PB could show that they were generating revenue for the Town, it may be easier for the PB to better meet expenses come budget-time. Mr. Hollinger suggested increasing both the filing fee and the fee for conceptual to \$100 each, then waiving the filing fee should the applicant proceed to final approval.

Mr. Hollinger asked if they could change the requirements on having to notify abutters when there is a conceptual review being held. Ms. Holton strongly agreed. She suggested that it could be done through a small ad, or to ask the applicant to somehow notify the abutters of what was going on. Ms. Holton asked what the harm was in requiring applicants to call people to let them know what was going on. Mr. Doheny said that they should increase the transparency to extend a common courtesy to the townspeople. Mr. McWilliams suggested that they stick with the same method that is used with regular abutter's notices, which is notification by certified letters. He said that he would work to amend the subdivision review to include notifying the abutters.

IT WAS MOVED (Karen Ebel) AND SECONDED (Jeff Hollinger) that for any Minor Subdivision, to 1) add a fee of \$100 for a conceptual review, and 2) increase the filing fee to \$100.00 which shall be waived only if the applicant has already paid the conceptual review fee of \$100.
THE MOTION WAS APPROVED UNANIMOUSLY.

Fees for a Major Subdivision

Mr. McWilliams noted that a major subdivision is a lot division into four or more lots **or** any subdivision requiring new roads, utilities or other public improvements regardless of the number of lots.

Mr. Hollinger opined that major subdivisions are the sorts of projects that take up the most time. Applicants are generally looking for advice on the cheapest, legal way to subdivide. Chair Cottrill asked Mr. Stanley what other area towns charge for these types of hearings. Mr. Stanley said that fees charged cover quite a range... and that New London's proposed fees are comparable to many of them. Ms. Sheerr Gross said that a lot of money is spent on these reviews and felt that more should be charged to help the Town and the PB. Mr. McWilliams opined that the cost of the conceptual hearing should be less than the preliminary review because more of the work is done at the preliminary review. He suggested that if they charge \$200 for a conceptual review, \$300 should be charged for a preliminary review, and then \$200 for the filing fee could be credited to the applicant. He noted that from an effort standpoint, the most effort for staff involvement is during the preliminary review. Karen Ebel suggested charging \$200 for the conceptual review, \$200 for the preliminary review, and a \$200 filing fee with the \$200 filing fee to be waived should the applicant continue to a preliminary review. After some discussion, Mr. Hollinger proposed a charge of \$100 per subcommittee meeting.

Ms. Ebel said that she really wanted people to go through with the subcommittee meetings. She didn't want to deter people from having the meetings because there is so much good that comes from them. She noted that having applicants go to subcommittee meetings saves the PB a considerable amount of time during the hearing because they can come in to the regular PB meetings with all the recommendations in hand. Chair Cottrill noted all meetings have costs. At the very least, each meeting must have a recording secretary and in some cases, meetings may include the planner and the zoning administrator, among others. Occasionally, a third-party engineer might be needed, but that cost is usually covered by the applicant. Ms. Ebel didn't want to discourage applicants from going to subcommittee. She suggested maybe charging \$75 instead of \$50, but not \$100 for subcommittee meetings. Chair Cottrill suggested only charging enough to cover the recording secretary fee. Ms. Ebel suggested setting a base fee and then charging to reimburse for the secretary. Ms. Sheerr-Gross said that having an average flat fee would be easier. Mr. Doheny thought that \$50 per meeting would be better to start off. The members of the PB agreed.

Mr. McWilliams asked if the PB wanted it to be the case with major subdivisions to require the applicant(s) to notify the abutters at the conceptual review. Mr. Stanley said that some applicants like to come in to find out if a project is even possible without having to get abutters involved. Ms. Holton said that people get upset when they don't find out about things until 10 days before the preliminary review. Ms. Sheerr-Gross said that they usually get more time, especially if they do a preliminary. But, if they skip the preliminary and go straight to the final, it is not fair to the abutters to only get 10 days to prepare for the meeting. Ms. Ebel felt it was the right of the applicants to be able to meet with the PB before letting everyone know what they are planning.

Mr. Doheny said that the applicants should just go talk with Mr. Stanley to get their questions answered but not go straight to the PB. Ms. Sheerr-Gross reminded everyone that the conceptual is at the owner's request. She asked Mr. McWilliams if applicants go to a final review without first having a preliminary. Mr. McWilliams answered that they are required to do a preliminary review. He said that major subdivisions applicants are required to appear for a preliminary review with exception of a case where the PB would waive it. He stated that the normal process is a preliminary and a final review. He added that the abutters shall be mailed a notice in advance of the preliminary review and there must be at least two meetings before there is any approval. He said that this way, abutters attending the preliminary hearing become informed and can express their views and have a second chance for that at the final hearing. This makes it more acceptable that the conceptual review could go on without having to notify everyone. Ms Holton thought that it was still an issue that abutters are not notified up front.

Ms. Helm suggested talking about the fees on the schedule and then go back to talk about the issues regarding notification of abutters for conceptual reviews. The PB agreed to proceed with the review of the proposed fees.

IT WAS MOVED (Jeff Hollinger) AND SECONDED (Karen Ebel) that for any Major Subdivision, to 1) add a fee of \$200 for a conceptual review, 2) add a fee of \$200 for a preliminary review, 3) increase the filing fee to \$200 which shall be waived only if the applicant has already paid a fee of \$200 for a conceptual review, and 4) that each subcommittee meeting carry a fee of \$50. THE MOTION WAS APPROVED UNANIMOUSLY.

Fees for Site Plan Review: Multifamily and Non Residential

The proposal suggests changing the fees for this category by adding a \$50 fee for any conceptual site plan review and adding a fill/excavate fee of \$150 plus an additional \$100 per acre.

After some discussion, Chair Cottrill suggested adjusting the fees to \$200 for the conceptual review, increasing the filing fee to \$200, which would be waived if the applicant proceeds to a preliminary review, adding a fee of \$200 for a preliminary review and going with the suggested fill/excavate fee of \$150 plus \$100 per affected acre of site being disturbed. Mr. Doheny said that he was concerned about the calculations. Mr. Stanley said that the acreage would be calculated from the area impacted by the filling operation, which would include what was constructed to get to the site, drainage structures, and the smallest area used to contain it all. If the land were altered at all for filling/excavating, it would be considered, at the very least, a minimum of one acre. Mr. Stanley said that typical fill/excavate project would likely be comprised of about one acre.

Mr. Doheny asked if there was a difference between the up front applications and after-the-fact applications. Mr. Stanley said that there were none at this time. He said that the Town can only charge the applicants for administrative costs and cannot impose a fee beyond State law. He said an alternative is for the Town to take court action for after-the-fact applications, but that would be costly and the Town should avoid this action. Currently, Mr. Stanley sends the landowner a notice of the specific violation, which also includes a suggested action to remedy the violation. In his experience, he said that the landowner has always pursued that remedy.

After much discussion of the fees for the Site Plan Review for Multi Family and Non Residential, a motion was made.

IT WAS MOVED (Emma Crane) AND SECONDED (Michele Holton) that for any Multi-Family and Non-Residential Site Plan Review, to 1) add a fee of \$200 for a conceptual site plan review, 2) add a fee of \$200 for a preliminary site plan review, 3) increase the filing fee to \$200 which shall be waived only if the applicant has already paid a fee of \$200 for a conceptual site plan review, 4) add a fee of \$200 for fill/excavating for any amount of affected land including but not limited to access to the site and drainage structures, up to the first acre and then \$100 per acre thereafter, and 5) add a fee of \$50 to be charged per subcommittee meeting. THE MOTION WAS APPROVED UNANIMOUSLY.

Fees for Home Occupation

Mr. Stanley noted that the proposal is to change Site Plan Review “Home Occupation.” to “Home Business.” After some discussion the PB agreed and also decided to keep this fee at \$50.

IT WAS MOVED (Karen Ebel) AND SECONDED (Jeff Hollinger) to change the terminology from Site Plan Review – “Home Occupation” to “Home Business.”

THE MOTION WAS APPROVED UNANIMOUSLY.

Fees for Annexation/Lot Line Adjustment

Mr. Stanley opined that applicants should be charged for recording fees not only for Annexation/Lot Line Adjustment but for all other application types on the fee schedule. He said the PB should be reimbursed for those fees when the paperwork is filed with the State. After some discussion, the PB decided not to change the filing fee for Annexation/Lot Line Adjustments but generally agreed that recording fees should be covered by the applicant.

IT WAS MOVED (Michael Doheny) AND SECONDED (Jeff Hollinger) that for all application types (Minor, Major, Site Plan, Annexations/Lot Line Adjustments, Mergers) to charge applicants for any recording fees arising from the submission of such plans to the State.

THE MOTION WAS APPROVED UNANIMOUSLY.

Fees for Mergers

Mr. Hollinger asked if mergers were good for the Town. Mr. Stanley said that actually, the Town does bring in as much tax revenue if lots are merged. He said that he spends as much time on mergers. He suggested charging \$50 for the merging of two lots, plus \$25 for each additional lot, plus postage and recording fees (as agreed in prior motions of this meeting).

After some discussion, the PB agreed with Mr. Stanley’s proposed fee schedule for mergers.

IT WAS MOVED (Jeff Hollinger) AND SECONDED (Tina Helm) that for any Merger applications, applicants shall be charged \$50 for the merging of two lots, plus \$25 for each additional lot, plus postage and recording fees.

THE MOTION WAS APPROVED UNANIMOUSLY.

Fees for Change of Occupancy/Tenant

Mr. Stanley commented that this fee would apply only to commercial properties. The fee proposed was \$25 for each change of occupancy. Mr. Hollinger said that he felt like having this fee was “nickel and diming” the property owners and that if he was a landlord, he would be annoyed at this added cost. Ms. Ebel asked when this fee would be charged. Mr. Stanley said that the fee would be charged when one tenant changes from one site to another. Mr. Stanley said that he fills out the application for them and also locates the approved site plan from the file. He then looks at what was approved compared with what was being proposed within the space. Mr. Stanley then obtains appropriate department head review of the approved site plan and visits the site to conduct an inspection to make sure it meets current codes. He further stated that if something is not working properly or for example, doors have been moved or other changes to the interior that impedes egresses, or sprinkler systems not up to code, the Town can make sure these issues are addressed before a new tenant occupies the space. This helps with the overall safety of the community. Mr. Stanley remarked that of all the fees suggested, he doesn’t mind not charging a fee for this, as it is a safety issue for the community. He said that the important thing for him is to make an effort to keep the buildings in compliance with current requirements and to keep them within current fire codes. He stated that this

would be the one place he would advocate not charging for because it is a new fee, and could also be seen as an inconvenience. He stated that during these sorts of inspections they usually find things that need to be corrected.

Ms. Helm asked if some of the change of occupancy cases would have a site plan review. Mr. Stanley said that they all have to have a site plan review. He said that the site plan review is designed to be fast and is not intended to involve the PB unless it is a change of use. He went on to say that if there was no change in parking requirements or any other major issues involved, he is authorized to arrange for the appropriate meetings with department heads, do the inspection, and sign off on it. This protocol has been approved by the PB.

Mr. Hollinger said that from the perception of the landlord and the business community, instilling this fee would make it appear that the Town was not helping them at all. Mr. Stanley agreed to keep the Change of Occupancy at no charge for the next year or so and then revisit it. The PB agreed to look at the issue again in one year.

Mr. Doheny asked what the building permit fees were in New London. Mr. Stanley said that it was 30 cents per square foot. Mr. Doheny thought the occupancy permit should be part of the building permit. Mr. Stanley said that the idea behind the PB issuing a certificate of occupancy is that it gives the PB some insight on how the applicant has kept to the building permit. Ms. Sheerr-Gross opined that there should be a fee charged for the certificate of occupancy. Mr. Hollinger agreed with the \$50 proposed amount for the certificate.

IT WAS MOVED (Karen Ebel) AND SECONDED (Emma Crane) to approve the amount of \$50 to be charged for the issuance of a certificate of occupancy. THE MOTION WAS APPROVED. The motion was opposed by Michael Doheny.

Ms. Helm commented that the Board of Selectmen not only raised fees to help enhance revenue, but also because the current fees were considered low in comparison to surrounding towns, so they felt it was a good time to raise them.

Chair Cottrill asked what the next thing was that had to be done with the fee updates. Mr. Stanley said that they needed to be published and that the PB would need to hold a public hearing on them. Mr. Stanley said that this would probably happen at the end of October.

At this time, Peter Stanley gave a brief overview of some of the zoning amendments he was working on for the 2010 Town Meeting.

1. *Language used by the state that the Town should adopt in their own zoning regulations.*
The PB felt that they would need some time to review the proposed language so that they could feel comfortable commenting on it. Mr. Stanley said that there was no rush and that they could discuss this at the next meeting. New Zoning Regulation booklets were made available to PB members who needed them.
2. *Definition of "structure."*
There were several exclusions that Mr. Stanley wanted to add to the regulations that have not traditionally been considered as structures, but that he felt should be stated in the regulation. These include: public utility equipment (cabinets for switching, telephone cable and fiber optics), wells, accessory structures 80 sq' or under, propane tanks, landscaped patios, landscaped steps, landscaped walkways.
3. *Inconsistency in a regulation regarding nonconforming buildings and structures.*
Mr. Stanley noted the issue of altering a non-conforming structure was discovered by a property owner. Mr. Stanley said he would need to go through the regulations to figure out what would make sense. Mr. Stanley suggested that the PB read through the regulation as well, to understand the issue that was causing some confusion.

Mr. McWilliams stated that he did not have any suggestions for zoning amendments.. He stated there was only one thing that had been requested, and that was to change the criteria for hardship on a variance. Ms. Ebel asked if they had received an extension for the applicability of the Workforce Housing District. Mr. McWilliams said that it was to go into effect January 1, 2010. Ms. Ebel said that this extension could give them time to revisit the regulations that they had to put together rather hastily (when an earlier date of applicability was set) to see if they want to change it in any way. She felt it was worth a second look. If they see something that they want to change, it would go into effect in March at Town Meeting. Mr. McWilliams suggested that the PB members look at the regulations to see if there is anything there that should be changed. He noted that the regulations are located in the Zoning

Ordinance. Mr. Stanley said that until the workforce housing has become law and it is applied, planning boards won't likely realize what things need to be included and/or changed.

Approval of minutes from August 25, 2009

Karen Ebel noted that the company that was referred to as "KIMKO" should actually be spelled "KIMCO."

There were no further amendments and so Chair Cottrill asked for a motion to accept.

IT WAS MOVED (Jeff Hollinger) AND SECONDED (Michael Doheny) to approve the minutes from August 25, 2009, as amended. THE MOTION WAS APPROVED UNANIMOUSLY.

Approval of minutes from Sept 8, 2009

There were no amendments to these minutes and so Chair Cottrill asked for a motion to accept.

IT WAS MOVED (Karen Ebel) AND SECONDED (Emma Crane) to accept the minutes from September 8, 2009, as circulated. THE MOTION WAS APPROVED UNANIMOUSLY.

Mr. McWilliams asked that the PB sign off on the Site Plan Review Regulation Adoption. He said that the Amendments that they agreed upon had now been incorporated and so they needed to sign the document to make them final.

With no further discussion, Chair Cottrill asked for a motion to adjourn the meeting.

IT WAS MOVED (Karen Ebel) AND SECONDED (Emma Crane) to adjourn the September 22 meeting of the Planning Board. THE MOTION WAS APPROVED UNANIMOUSLY.

The meeting adjourned at 9:15pm

Respectfully Submitted,

Kristy Heath, Recording Secretary
Town of New London

Date of Approval: _____

Chairman: _____