

**BOARD OF SELECTMEN
MEETING MINUTES**

August 1, 2005

PRESENT:

Mark Kaplan, Chair, Board of Selectmen
Ruth I. Clough, Selectman
Douglas W. Lyon, Selectman
Jessie Levine, Town Administrator

OTHERS PRESENT:

Lawrence & Jane Armstrong, New London residents
Michael Todd, New London resident
Peter Stanley, Zoning Administrator
DJ & Bob Lavoie, new London residents
Cheryl Devoe, New London resident
Larry Ballin, Chair, Zoning Board of Adjustment
Carolyn Dube, Argus Champion
Debbie Cross, Intertown Record

Chair Kaplan called the meeting to order at 8:00 AM.

Meeting Minutes: Ms. Clough moved to approve the minutes of July 16 and 18, 2005. Second Mr. Lyon. Approved 3-0.

New Office Assistant: Ms. Levine said that Connie McBride of New London starts today as the new part-time office assistant in the Selectmen's Office. Her hours will be 9-3, Monday-Friday.

Elkins Planning Study: Ms. Levine said that due to a scheduling conflict, the Elkins Planning Study will be discussed at 10:00 on August 8, not 9:00 as previously announced.

Assessing Update: Ms. Levine said that she will be meeting with Norm Bernaiche, the new joint assessor, this afternoon. He has reviewed the contract with Municipal Resources, Inc., regarding the statistical update and has some comments. Mr. Bernaiche's employment contract with the three towns has been signed and he will start on September 6, 2005.

Michael Todd Zoning Issue: At 8:10 AM, Chair Kaplan welcomed Lawrence and Jane Armstrong and Michael Todd to the meeting. Chair Kaplan referred to a letter that the Board of Selectmen received from Mr. Todd's neighbors on Old Main Street, and asked Mr. Armstrong to summarize the neighbors' complaints. Mr. Armstrong said that their primary concern is the location of the electrical box along the side of the road. He said that he has no dispute with Mr. Todd and is appreciative of the work he has done to his mother's home. However, the electrical box draws attention to the fact that the property has a rental unit and, he believes, violates the intent of the Accessory Dwelling Unit ordinance. He said that the electrical box detracts from the neighborhood, and he asked the Selectmen to review the situation and decide whether they agree or disagree.

Ms. Clough asked Mr. Armstrong whether he thought the Zoning Ordinance was being violated, and he replied that it is up to the Board of Selectmen to make that interpretation. He said that he understands that [the Accessory Dwelling Unit ordinance] is a new ordinance, and although he thinks that it is a great idea,

the Selectmen have to look at each permit [for an ADU] that is issued and make sure that the ordinance is being followed.

Ms. Levine said that this is more than a question of whether the electrical box violated the ADU ordinance; if the Board of Selectmen think that the box meets the definition of "structure" under the Zoning Ordinance, then the box was also erected without a building permit and would not meet the front yard setback requirements. The Selectmen asked Peter Stanley to read the provisions of the ADU ordinance that applied to this situation. Mr. Stanley read Article II, Section 18.c.1 & 2, "Requirements & Limitations":

1. Accessory Dwelling Units are intended to be secondary to a principal Single-Family Dwelling Unit. In granting a permit, the Board of Selectmen must find that the Accessory Dwelling Unit is developed in a manner which does not alter the character or appearance of the principal Dwelling Unit as a single-Family residence. Only one Accessory Dwelling Unit shall be allowed per principal Dwelling Unit and/or Lot.
2. There shall be no exterior modifications of the Structure that will alter its character or appearance as a single-Family residence. If any entrances or exits must be added to accommodate an Accessory Dwelling Unit, they shall be located to the side or rear of the Building.

Chair Kaplan asked Mr. Stanley for his opinion. Mr. Stanley said that he believes that the definition of structure would include the electrical box, and therefore a permit was required before it was erected. Chair Kaplan asked Mr. Stanley for the ordinance that would require a permit. Mr. Stanley referred to Article XXV, Section 3, which requires a building permit prior to erecting, relocating, or altering any structure. He then read the Zoning Ordinance definition of "Structure":

Anything constructed, placed or erected on the ground, or attached to something already existing on the ground, with or without a durable foundation, whether temporary or permanent. Among other things, Structures include Buildings (as defined in this regulation), Manufactured Homes, Presite Built Housing, walls, decks or platforms, temporary carports and storage Structures, sheds, greenhouses and other accessory Structures (including Dish Antennas or satellite earth stations that are over 3 feet in diameter). Fences, stone walls, animal shelters under 15 square feet, children's swingsets, dumpsters, flagpoles, sandboxes, playhouses and other playground equipment, Signs and Sign installation devices (see Article II, 10), tents for camping and temporary tent Structures used for functions and gatherings are excluded from the definition of a Structure. For Floodplain management purposes only, Structure means a walled and roofed Building, including a gas or liquid storage tank, as well as a Manufactured Home.

Ms. Levine said that if the Selectmen determined that this was a structure, then Mr. Todd had to deal with the permitting issues. However the structure question is resolved, the Selectmen will still need to decide whether the placement of the electrical box violates the provisions of the ADU ordinance regarding the character or appearance of the primary dwelling.

Mr. Lyon asked Mr. Todd why the electrical box was placed alongside the road, and whether it was for underground service. Mr. Todd said that the electrician put it there because Mr. Todd told him to and, per PSNH requirements, it cannot be any closer than ten feet to the nearest pole. Chair Kaplan asked if the box could have been placed on the house. Mr. Todd said that it had been on the house, but that with the additional meter [for the accessory apartment], it no longer fit where it was. He said that in his attempts to make the lot neater and preserve the home, he did not want to put the electrical box in the center of the

gable end of the house, which would have been hideous and unsightly. He agrees that the box is unsightly, but said that the project is not finished and he intends to put up a fence and bushes.

Ms. Levine asked the Board of Selectmen whether they thought the electrical box is a structure and therefore has to meet the setback requirements. Mr. Todd asked how the setback was determined. Mr. Stanley said that the property is in the "R-2" zone, which requires a 25-foot front yard. He referred to Article V, Section C and the definition of "Front Yard": "A space extending the full width of the Lot and lying between the nearest part of the Structure and the Lot Line bordering the nearest Right-of-Way. Front Yard depth shall be measured at right angles to the Lot Line bordering on the nearest Right-of-Way." Mr. Todd asked how the front property line was located or determined, and this led to a discussion about the roadway and right-of-way. Mr. Stanley said that generally bounds can be located that indicate the property boundaries, but in some cases the front yard has to be measured from the edge of the right-of-way.

Chair Kaplan said that in any event, if the Selectmen determine that the electrical panel is a structure, then it must be 25 feet from the right-of-way. Ms. Clough asked Mr. Stanley to reread the definition of structure, which he did. Mr. Lyon asked Mr. Todd to explain his ultimate plan if the electrical box were to remain in its place. Mr. Todd said that he intends to restore the picket fence that had been alongside the road, and the fence will be 48" high. He said that when he started work on the driveway, he relocated a lilac bush that will be moved back by the electrical panel. Mr. Lyon asked how tall the panel was, and Mr. Todd answered that the meter has to be five feet off the ground by regulation.

Chair Kaplan said that the question comes down to whether it is a structure, because if it is, the Selectmen will have to go in one direction, and if it is not then they will go in another. He said that the definition is rather broad and inclusive, and he is leaning towards a determination that the panel is a structure and should have a permit, and if it can't meet the permit requirements, then it needs redress by the Zoning Board of Adjustment. Mr. Lyon agreed that the panel is a structure and should be permitted. He said that he also heard the Armstrongs' concern about appearance, and acknowledged that Mr. Todd will find a way to make it less obtrusive.

Ms. Levine said that there is still the issue of whether the panel violates the ADU ordinance, and referred to Section 18.c.1 & 2, which Mr. Stanley had read earlier. She asked the Selectmen whether they thought the panel changed the appearance of the residence, and added that Mr. Todd or the neighbors could appeal the Selectmen's decision to the ZBA.

Mr. Armstrong said that it would be much easier to disguise an electric panel on the house, and he does not agree that there is not enough room on the gable end of the house. He said that this type of installation is attractive to homeowners because of the expense: it is more expensive to bring the meter to the house. He said that the electrical box can fit on the side of the house, that it is easier to shield when it is on the side of the house than the side of the road, and it is his understanding that it is cheaper to bring service to this type of board than to the house itself. Mr. Stanley said that if the board is erected out front, he believes that the electrician has more leeway in the manner in which the electric lines are brought to the house (within code requirements).

Ms. Clough asked if the board would still be an issue if the structure were moved to meet the setback requirements. Ms. Levine said that she believes the question of changing the appearance of the residence would still be an issue. Mr. Lyon asked if there were any other requirements in the Zoning Ordinance regarding changing the appearance of a structure. Ms. Levine said that there were no others, and in fact if this type of panel were erected in front of a single-family residence, there would be no aesthetic requirement and the only issue would be the need for a permit to meet setback requirements.

Chair Kaplan said that there are two facets to this discussion: 1) whether the electric panel is a structure, and 2) whether it violates the change in appearance provision, even if it is set back 25 feet. He said that the Selectmen seem to be in agreement that it is a structure, and therefore a permit is needed and the structure must meet the requirements of the Zoning Ordinance. Mr. Lyon said that he is struggling with the change of character provision, because if the house did not have an accessory dwelling unit, then the Selectmen would not be dealing with that question. He said that this is clearly an aesthetic issue, and the regulations don't deal with "purple fences." He added that six neighbors wrote to the Board of Selectmen because they think it alters the character of the home and the neighborhood.

Ms. Clough asked if the placement mattered, and if the panel would be an issue if it were in another place. Mr. Armstrong said that its location along the street certainly got attention, and that Mr. Todd had initially said that the utility company had told him he had to put it there. Mr. Armstrong agreed that if the panel complied with the setback, then it would not be as offensive. He said that with any new ordinance, it is important that challenges be raised, and he appreciates the time that the Selectmen are dedicating to this discussion.

Mr. Lyon said that the ADU ordinance is general, but there appears to be evidence that the panel changes the character of the building. Mr. Stanley said that the panel did not come up during the application process for the ADU, and it is unfortunate that the Selectmen could not evaluate the question before it was erected. Mr. Lyon said that the language of the ordinance did not foresee this kind of installation, and it is up to the Board of Selectmen to interpret what was written. He said that he is comfortable with the decision that the panel is a structure, but thinks that the other question is in the eye of the beholder. He said that there is significant neighbor concern, and he is leaning towards believing that the character has been changed.

Ms. Clough agreed that it is a structure and needs permitting. She is less convinced that an accessory structure to a building with an accessory dwelling unit is a "change." She asked at what point do changes to a residential property actually change the use, and said that she is concerned about placing more restrictions on houses with accessory dwelling units than houses without. Mr. Lyon said that is what the ordinance intends to do, and asked Mr. Stanley to read it again, which he did. Mr. Kaplan said that it appears that the Town is trying to prevent changes to appearance, and the neighbors think that the appearance has been changed.

Mr. Lyon said that the ordinance says that one cannot change the character and appearance of the primary structure as a "single-family residence," and he asked whether the electric panel does that. Ms. Armstrong said that she believes it does, because there are no single-family houses with a large electrical panel in their front yards. Mr. Lyon agreed that he cannot think of one single-family dwelling with such a panel, which pushes him towards a conclusion that it is a change. Ms. Armstrong said that Mr. Todd himself said that the electrical box is larger because of the second unit. Chair Kaplan said that if the ADU was not there, then this panel would not be there. He said that he thinks that the panel does violate the intent of the Zoning Ordinance. He asked if we would be having this discussion if the panel were moved to the side of the house or hidden by lilac bushes.

Mr. Lyon said that he is in agreement that the panel is a structure and that it violates the character and appearance provision of the Zoning Ordinance because there are no other single-family homes with this appearance. Ms. Clough said that she agrees that it is a structure, but is concerned about the subjective nature of making a decision about the appearance. Ms. Levine said that she and Mr. Stanley will go back to the Planning Board and ask them to refine the ordinance to remove subjectivity as much as possible, and added that Mr. Todd could appeal the Selectmen's decision to the ZBA.

Chair Kaplan said that it sounds like the Selectmen believe that both provisions of the Zoning Ordinance have been violated. Ms. Levine said that she will send a letter to Mr. Todd summarizing the discussion

this morning. He should also apply for a permit for the electric panel and may appeal any Selectmen's decision to the ZBA.

Mr. Todd said that there had been a suggestion earlier this morning to put the electric panel on the house and shield it, but PUC Section 350 precludes property owners from covering meters, so it cannot be shielded. Mr. Stanley agreed that it has to be accessible to PSNH and cannot be placed under the drip edge of the room. Ms. Levine asked whether the Selectmen would consider it a change of appearance if there were an existing meter attached to a home and a second meter were added, and the Selectmen were unanimous that it would not be a change.

Mr. Todd said that as more and more houses upgrade their electrical needs, the Town may see more and more of these panels. Mr. Stanley replied that based on the Selectmen's decision this morning, they would all need a permit.

Ms. Levine said that there is a remaining issue that needs to be addressed. She referred to her letter to Mr. Todd dated February 11, 2005, reminding him that both his home business approval and accessory dwelling unit approval required the owner to occupy one of the dwelling units of the home. She said that issue remains unresolved, and asked Mr. Todd whether he is living in the home now. He replied that he is not and that he will move in when the renovations are completed. Ms. Levine suggested that the Selectmen set a time limit to review Mr. Todd's residential status, and the Selectmen set a six-month timeline.

Mr. Lyon said that he appreciates Mr. Todd's efforts to beautify the building and operate within the Town's regulations. Mr. Todd, Mr. Stanley, and the Armstrongs departed at 9:20 AM.

Personnel Policy: Ms. Levine said that per the Selectmen's request, she had drafted three options for a leave policy, and had discussed the options with the Department Heads on Tuesday, July 26. The Department Heads worked out a leave time proposal similar to what had been discussed when they met with the Selectmen earlier in the month.

Currently, employees with the Town of New London received the following vacation benefits:

1-5 years: 10 Days
6-15 years: 15 days
After 15 years: 20 days

In addition, all employees, regardless of length of service, accrue 1¼ days per month of sick time, totaling 15 days per year, and could store a maximum of 90 days (720 hours) of sick time.

The proposal would reduce the number of sick days to 7, and add 7 days to the current vacation plan. Ms. Levine said that currently, employees must use their annual vacation by the following March 31 or they will lose it. This plan allows employees to accrue leave days up to a maximum amount. This proposal also includes buyout provisions for sick time (after maximum 30-day accrual has been reached) and a buyout at the transition point. For the most part, only longer-term employees would receive any buyout at transition, since those employees are the only ones who have accumulated over 30 days of sick time.

Years of Service	Annual Leave Time	Monthly Accrual	Maximum Accrual	Annual Sick Time
0-5 years	17 days	1.42 days/month	30 days	7 days (56 hours)
6-10 years	22 days	1.83 days/month	45 days	7 days (56 hours)
11-14 years	27 days	2.25 days/month	60 days	7 days (56 hours)
15+ years	32 days	2.67 days/month	60 days	7 days (56 hours)

The Board of Selectmen discussed the Department Heads' proposal. Chair Kaplan said that it has become evident that the Town should be more generous in leave time, and he does not object to the buyout provisions. However, he is concerned about 32 days of leave. Mr. Lyon said that he thinks 32 days goes a bit overboard and would be hard to defend before the Budget Committee and Town Meeting. He suggested that leave time be capped at 27 days, which still allows for employees to accumulate and use up to 60 days of leave time. Chair Kaplan and Ms. Clough agreed.

Ms. Levine asked if all other provisions of the proposal were acceptable, including the buyout. She said that at the transition, if all employees who qualify choose to take a buyout rather than convert sick time to leave time, then the Town will have about \$17,000 in exposure. She said that she will include this figure in the 2006 budget once she knows the employees' intentions. The Selectmen were unanimous that since part of the goal of the new leave policy is to recognize employees who have not used sick time, the buyout provision is worthwhile and they support it.

Proposed ZBA Member: At 10:15 AM, the Selectmen were joined by Larry Ballin, Chair of the Zoning Board of Adjustment, and Cheryl Devoe, who has been proposed as a new member of the ZBA. The Selectmen briefly interviewed Ms. Devoe and discussed their philosophies about the duties of the ZBA and role (or lack thereof) of the Selectmen. Chair Kaplan said that the two boards are entirely separate and distinct. Ms. Clough said that once the appointment process is complete, the Selectmen are not involved with the ZBA's activities, other than to send them occasional zoning violations. After further discussion, Ms. Clough moved to approve Cheryl Devoe as a member of the ZBA for a 3-year term. Mr. Lyon seconded and the appointment was approved 3-0. Ms. Devoe thanked the Selectmen and said that she looks forward to serving the Town in this manner. Mr. Ballin and Ms. Devoe departed at 10:40 AM.

Anne Ponder Celebration: Ms. Levine said that she is meeting that afternoon with Dick Cavallaro, Thelma Kaplan, and Beth Cahill to go over a plan for a ceremony in September marking the relationship between the Town and College and Colby-Sawyer President Anne Ponder's departure. Mr. Lyon said that he is concerned about the scope and budget of the event. He said that the Selectmen had no specific authorization from Town Meeting to devote town funds to such an event, and the Town should be cautious given public concern over the perception of conflict of interest between the Town and College. Ms. Levine said that she thinks the Town's exposure for the event will be limited to a tree planting and dedication plaque, that the College has agreed to pay for refreshments, and the remainder will be discussed this afternoon.

Whitney Brook Road: Ms. Clough said that the town of Wilmot intends to perform some work on the Wilmot side of Whitney Brook Road, and said that she is concerned that construction vehicles will use Whitney Brook Road to access building sites in Wilmot. She said that she thought Whitney Brook Road had been posted "No Through Trucking." Ms. Levine said that she did not think that no trucking provisions would preclude construction vehicles that are accessing property on the road, but she would check. Ms. Clough said that there is possibly an agreement with Wilmot about the use of New London's roads.

Solid Waste: Chair Kaplan said that he had met with some towns in the NH Waste District over planning for waste disposal after the NH/VT Solid Waste Project contract with Wheelabrator ends in July 2007. He gave a brief summary of attendees at the meeting and the planning discussion, but no decisions were made.

SIGNATURES:

Building Permits:

- New London-Springfield Water Precinct, 619 Main Street (Map 96, Lot 3), permit to install new underground water storage tank and placement of 8' x 32' on-site work office trailer – Approved (05-078)
- Townsend & Ann Marie Thomas, 838 Route 103A (Map 103, Lot 18), permit to construct a new home – Approved (05-079)
- Stephen Jesseman, 134 Hastings Landing Road (Map 103, Lot 10), permit to enclose a portion of the existing deck to continue screened porch space (12' x 16' to be enclosed) – Approved (05-080)
- Michael & Rebecca Reeve, 84 Todd Farm Lane (Map 130, Lot 21), permit to finish basement as per plan – Approved (05-081)
- James E.C. Walker Jr., 58 Blueberry Lane (Map 98, Lot 4), permit to add 1st floor master suite addition – Approved (05-082)
- Peter & Deborah Stanley, 638 Burpee Hill Road (Map 056, Lot 6), permit to erect a 24' x 36' detached garage – Approved (05-083)
- Donald & Susan Elliott, 337 Shaker Street (Map 111, Lot 15), permit to take down existing garage – Approved (05-084)
- John & Carol Filbin, 137 Knollwood Road (Map 35, Lot 30), permit to construct a 24 x 21 2-bay garage and 10 x 9' screened porch off dining room – Approved (05-085)

Sign Permit Applications:

- New London Shopping Center, sign for Hannaford, 277 Newport Road, for permanent building-mounted sign (109.3 SF) – Approved
- New London Shopping Center, sign for Hannaford, 277 Newport Road, for permanent free-standing sign (14.75 SF) – Approved
- Diane Rosewood at the New London Inn, 353 Main Street, for permanent free-standing sign (5 SF) – Approved

Other Items for Signature:

- Disbursement & Payroll Voucher for the week of July 25, 2005
- Disbursement Voucher for the week of August 1, 2005
- Application for Use of Whipple Memorial Town Hall by the New London Barn Playhouse for Monday, July 25, 2005 – Approved
- Application for Use of Whipple Memorial Town Hall by the New London Bandstand Committee, Inc. for Friday evenings on June 23 & 30; July 7, 14, 28; and August 11, 18, 25 for the year 2006 – Approved

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- Application for Use of the New London Town Commons by the New London Bandstand Committee, Inc. for Friday evenings on June 23 & 30; July 7, 14, 28; and August 11, 18, 25 for the year 2006 – Approved
- Application for Use of the New London Town Commons by the David DiLorenzo Band on July 29, 2005 from 7-9 PM - Approved
- Application for Use of the New London Town Commons by the Pack 71 Cub Scouts on Saturday, August 27 from 10 AM – 3 PM - Approved
- Application for Use of the New London Town Office Rooms by the State of New Hampshire, Department of Safety for Boating Education classes on August 20, October 22, November 12 and December 3, 2005 – Approved
- Notice of Intent to Cut Wood or Timber, by Robert Ewing Jr., for property on Main Street – Approved
- Abatement for Michael & Ludmilla James, 48 Snow Lane (Map 55, Lot 12-7) – Approved
- Abatement for William & Gabi Wilson Trust, 89 Sunset Shores Road (Map 103, Lot 25) – Approved
- Warrant to allow the Tax Collector to issue civil forfeiture notices for any unlicensed dogs – Approved
- 2004 representation letter for Plodzik & Sanderson, Professional Association – Approved
- Tax Abatement for Stephen & Shawn Heffron (Map 76, Lot 8) – Approved

There being no further business, the meeting adjourned at 11:05 AM.

Respectfully submitted,

Jessie Levine
Town Administrator