

APPROVED Minutes of the Planning Board Meeting of June 22, 2010

Members Present: Tom Cottrill (Chair), Jeff Hollinger (Vice Chair), Michael Doheny (Secretary), Peter Bianchi (Board of Selectmen Representative), Emma Crane (Conservation Commission Representative)

Members Absent: Paul Gorman (Alternate), Michele Holton, John Tilley, Deirdre Sheerr-Gross (Alternate)

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

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

Colby-Sawyer College – Voluntary Merger of Lots of Record (TM 84, Lots 5 and 16)

Mr. McWilliams said that no one was present from Colby-Sawyer College for this first item on the agenda. He offered that it is customary for the issue to be brought up for approval only and that applicants do not generally attend the meeting. He explained that the lot that the maintenance facility was currently on is bisected by the zoning and commercial districts. The portion of use that extends into the residential zone is non-conforming in that district. Mr. McWilliams said that they should make it clear that any expansion of the use further into the residential district would require a use variance from the Zoning Board of Adjustments, and a Planning Board meeting for a Site Plan Review. He explained that the College is aware of this condition.

Mr. Stanley noted that even a driveway would be an example of an expansion of the non-conforming use. He explained that this merger would change the College's tax liability to some degree but does not afford them the opportunity to use the Residential site as a Commercial site.

Mr. Bianchi asked if they would be able to use the lots for residential use. Mr. Stanley said that they would not be able to get a residence on the lot, nor did the College apply to the Town for residential use of the lot. Mr. Bianchi asked if this merger would increase the value of the surrounding lots. Mr. Stanley said that an increase in value is possible. Mr. Hollinger felt it would be good for the neighborhood.

IT WAS MOVED (Michael Doheny) **AND SECONDED** (Emma Crane) **to approve Voluntary Merger for Lots of Record, Tax Map 84, Lots 5 and 16 for Colby-Sawyer College.**
THE MOTION WAS APPROVED UNANIMOUSLY.

Ledyard Bank – Request to Install an Emergency Generator on a Small pad.

Mr. McWilliams explained that when Ledyard Bank developed the site, the standard in the site plan review regulations for open space was 25%, which Ledyard Bank exceeded at that time by having open space of +/-28%. Since the original development of the site, the Town's requirements for open space in the commercial zone have changed to 35%. Now, Ledyard does not meet the new requirement. By adding a new generator they will be at 28-29% of open space on the lot. He explained that this generator is for emergency backup to enable them to keep onsite capabilities during power outages. He said that it was not a zoning issue, and that the Planning Board, as part of the Site Plan Review Regulations, has the

ability to waive the open space requirement if they wish. Mr. Stanley said that the folks from Ledyard want to know if they need to go through the entire Site Plan Review process for this addition. He explained that the generator would be placed on a 4' x 8' cement pad.

Chair Cottrill asked if they were in an area that was generally used for snow storage. Mr. Stanley said that he wasn't sure but offered that anywhere off the driveway where nothing is growing would be considered snow storage and this would impact the storage to some degree. He added that the area the pad is proposed is several thousand square feet, which is plenty of room for snow storage. Mr. Adam Cole of Cole Electric shared that the 40KW generator would be located 15' off the curbing of the driveway and would be surrounded by a white enclosure. He said that the surrounding area would be restored to its current condition. Mr. Darcy Rogers of Ledyard National Bank was also present at the meeting.

Mr. Stanley explained that they would also like to enlarge the electrical meter cabinet on the side of the building from 2' x 3' to 2' x 6' for a transfer switch which is a necessary part of the generator. A conduit will go under the driveway from the generator pad to the electrical cabinet.

Chair Cottrill asked if the Planning Board had ever waived the open space requirement before. Mr. McWilliams said that they had. Mr. Stanley said this request is for something that is a normal operating necessity for most businesses around this area where the power is often unreliable.

IT WAS MOVED (Peter Bianchi) AND SECONDED (Michael Doheny) to waive the open space requirement and to waive the need for a full Site Plan Review for the 4' x 8' slab, and expansion of outside cabinet to 2' x 6', necessary for the installation of an emergency backup generator and transfer switch at the Ledyard National Bank. THE MOTION WAS APPROVED UNANIMOUSLY.

Dave Cahill – The Point Cottages

Mr. McWilliams explained that Mr. Cahill had previously agreed with the Planning Board to have completed the removal of cottages and septic systems, and to have implemented a landscaping plan by July 1, 2010. Currently, he has removed 9 septic tanks and seven buildings, but has not finished installation of a new septic system, thus has not started landscaping. Mr. Cahill noted that he just got septic approval for the one building that remained on his side of the property, and they had started digging that day. He anticipated having the project completed by the following Monday, but felt that a one-month extension on his letter of credit would give him ample time to make sure everything required had been completed. He asked that the letter of credit be extended until August 1, 2010. Mr. Doheny asked Mr. Cahill if one month would be enough time. Mr. Cahill said that it would.

IT WAS MOVED (Jeff Hollinger) AND SECONDED (Michael Doheny) to extend the letter or credit for Dave Cahill, The Point Cottages, to August 1, 2010 to ensure enough time to complete landscaping of the property, as agreed to on November 24, 2009. THE MOTION WAS APPROVED UNANIMOUSLY.

Discussion of allowing improvements for handicapped accessibility within setbacks of non-conforming structures

Mr. McWilliams said he raises this issue to see how the PB feels in making an exception for handicap accessibility improvements within setback requirements for non-conforming buildings.

Mr. Stanley explained that the former pharmacy building, which now holds “Aesthetics” and some other businesses had received approval several years ago to add an exterior door to re-arrange the inside of the building. His assumption was that they would landscape some access to that door but instead, they had built an unattractive ramp, landing and deck within the setback requirements. They requested a variance and after knowing that they would not receive the variance, changed their mind, withdrew the request and ultimately removed the ramp, landing and deck. They asked to come back a year later and were denied for the variance. At that time, they were given other suggestions for landscaped ramps.

Mr. Stanley said that he was approached by a Representative from the United States Attorney General’s Office because there was no handicapped accessibility to that building. He opined that the representative did not understand that there were alternatives available other than the ramp that was put there.

Mr. Stanley thought he had some responsibility to bring this issue up to the Planning Board. He didn’t like how some places force people to make the ugliest accommodations where they are most visible instead of a creative approach with a landscaped ramp that would look good. He wanted to know if the Planning Board members were comfortable with the way the current rules work. He said that this hasn’t happened a lot but thought it may happen more as more and more pressure is applied for businesses becoming ADA required. Right now the only way they can do this is with a Zoning Variance. Mr. Stanley noted that he was not an advocate for any position on the matter, but wanted to bring this issue up just for discussion.

Mr. Stanley said the owners of the building were given a suggested alternative to put in a retaining wall, raise the grade and make an entrance right into the building. Mr. Hollinger asked if the owner was allowed to do it the way the Zoning Board suggested, would he do it. Mr. Stanley replied that the owners claimed it would cost too much so they didn’t do it thus, the ZBA required the ramp be removed. Since then, there has been no change in the situation, thus no ramp and now, the Attorney General’s Office is pursuing the matter.

Chair Cottrill noted that the ZBA would consider the “hardship” issue. Mr. Stanley said that they may be forced to something in the future, but right now that is not happening. It could, however, become an issue at some point.

Chair Cottrill asked if the certificate of occupancy requires ADA accessibility and compliance. Mr. Stanley said that it does not as it was not a code they must follow right now. Chair Cottrill suggested that perhaps when someone has a change of use, the Planning Board should make some recommendations to them regarding including ADA accessibility, or at least consider potential land use for ADA issues. Mr.

Stanley said that they could actually make it a requirement to include such compliance to ADA accessibility requirements.

Mr. McWilliams confirmed, and read from the Zoning Ordinance, noting that the only handicapped accessibility referenced was regarding Parking (Page 37, i).

Mr. Stanley explained that New London does not enforce State building codes and that handicapped accessibility is a State requirement. He also said that the Town has never had a building code. He said that the Town does require compliance with fire code requirements, but they do not require basic access requirements to be met.

Chair Cottrill asked if in some towns, any change to the building requires ADA compliance. Mr. Doheny said that this would be hard for some of the businesses in Town to make the requirements fit. Mr. Hollinger wondered if they would have to make the entire building handicapped accessible. Mr. Stanley said that he wasn't sure. He added that if businesses have requirements for handicapped parking, it would be the logical extension to require the buildings to comply with ADA handicapped accessibility requirements. He thought that perhaps during the Site Plan Review process, the Planning Board could steer the applicants into the right direction regarding ADA requirements.

Mr. Bianchi said that it is important to recognize the demographics of the people who live in the Town, referencing the large population of elderly living in New London.

Mr. McWilliams said that there could be a requirement in the Site Plan Review Regulations to make applicants comply with ADA access to the building, but that still would not allow someone to make handicapped access to a building within the setback requirements. He said that the PB would also need to address what is allowed within those setbacks within the Zoning Ordinance. He likened the scenario to the height requirements included in the ordinance, which are waived for some things, such as church steeples and farming buildings.

Mr. Stanley said that the Site Plan Review regulations could be changed by having a public hearing by the Planning Board where a majority vote is taken. He said that similarly, the regulation can be allowed for in the Zoning Ordinance subject to a Site Plan Review by the Planning Board.

Chair Cottrill said that if the PB would opt to proceed to remedy the situation, the easier step could be to get the requirement into the Site Plan Review between now and December. Then work on the Zoning part before the next Town Meeting. Mr. Stanley said that he would work on this with Fire Chief Jay Lyon as he is well-versed about the requirements. He added that he would check and see what other towns do with this issue.

Mr. Hollinger cautioned that sometimes things of this nature can take on a life of its own. He opined that if he owned an older building and wanted to do some work with it and found out he had to make the whole building ADA compliant, it would be very difficult. He agrees that it is crazy to require handicapped parking spaces and then give no ability for the handicapped to get into the building. Mr. Stanley reiterated that if they don't plan for this scenario on their own, they may be forced to do something that doesn't look very nice.

Mr. Stanley said that they have to find out if there are acceptable ways to achieve regulations without an owner having to be confronted with a huge expense. Mr Stanley said one person across the street was said to have an estimate of about \$16,000 to create a landscaped entry which seemed very high.,

Discussion of adding definitions of “Yard Sale” and “Footprint” to the Zoning Ordinance

Yard Sale

Mr. Stanley said that the reasoning behind this request is that there are many different types of yard sales. There are yard sales where items for sale in someone’s yard. Then there are yard sales where someone repeatedly (weekly) puts items “for free” or for sale at the end of their driveway. A yard sale is considered “offered goods on the front yard.” Compensation may be nothing more than removal of the item(s) from the yard, or maybe money. He said that they don’t define “yard sale” anywhere in their regulations. Mr. Stanley said that it would help him when he is discussing the matter with a taxpayer to have a definition to reference. He said that it was not a huge problem but he is seeing more confusion. He felt recurring yard sales is not in the spirit of the current intention for allowing yard sales... and that such recurring sales might not be attractive in neighborhoods.

Mr. Doheny asked if there was a limit to the number of yard sales allowed each year by an individual taxpayer. Mr. Stanley said that the limit was one yard sale per year, with a maximum duration of two days. He said they don’t have a problem with the definition of a yard sale, but felt they needed to define a limitation. He is interested in limiting the piecemeal-type of selling. Mr. Stanley explained that offering any goods from one’s property is considered a yard sale. Mr. Doheny said he liked scenarios where people sell or give away things such as old windows that they have replaced in their homes. Mr. Stanley said that there were some people continually have items for sale in their yard.

Mr. Hollinger asked if people could sell a car in their yard. Mr. Stanley said that if it is a car owned by and registered to the owner of the property, and is parked on the property, that is fine. If it is not registered and the car is for sale, it is not legal. He shared that off of Exit 12 where there is a lot of traffic, some people park their cars for sale there. He said that this is against the law and has to call the owners to tell the people to move their cars. Sometimes the State has to intervene.

Mr. Bianchi said he didn’t see a problem with people selling things from their yards. In the scale of things he opined that it wasn’t a major issue. They could make rules for every little thing and he thought they were opening a can of worms with this. Mr. Stanley said that it wasn’t a new rule, but just a definition of an existing one. Mr. Stanley said that occasionally, some people want to put things for sale or for free at the end of their driveway. The neighbors complain periodically. Chair Cottrill said that while some regulation is helpful, he did not want to hassle people who are putting some things out on their yard for free. Mr. Bianchi agreed. Mr. Hollinger said that he has had a positive experience with actually purchasing something useful from someone’s yard, but understands how it can become annoying if a homeowner is doing it continually.

Chair Cottrill said they should focus those who do yard sales as a business venture. Mr. Doheny said that they should focus on the people who are abusing the intention of yard sales. Chair Cottrill noted that the stump dump has an area for useful items that people want to discard. Similarly, Mr. Doheny thought these

people could be forwarded to the website: www.newlondonmhfreecycle@yahoo.com where people can list items they are looking to get rid of for free, or can request items that people may want to give away that are no longer of use to them.

Mr. Stanley said that they used to require a permit for a yard sale but not any longer.

Mr. Doheny said that this was food for thought and that the Planning Board members should think about it more on their own.

Footprint

Mr. Stanley said that they currently determine the footprint of a building by its side yard and front yard setbacks to the nearest part of the building which suggests the drip line. He said that this is the industry standard of what is considered a “footprint.” He felt they should state the definition of “footprint” right up front as the drip line of the building, be it roof, deck, etc.

Mr. Hollinger and Chair Cottrill liked the idea of using the drip line. Chair Cottrill asked Mr. Stanley to write up a paragraph for them to review at a future meeting.

Mr. Doheny asked if a deck was counted in the footprint. Mr. Stanley said that it was. Mr. Doheny gathered that someone could put a foundation where a deck was if they had to rebuild a home. Mr. Stanley answered in the affirmative. Mr. Doheny suggested defining “drip line.” Mr. Stanley said a building could be rebuilt as long as it wasn’t made any more non-conforming than what it already was in the previous footprint. Mr. Bianchi said he didn’t see the big deal over a 2’ drip line. Mr. Stanley said that it is a big deal if it hangs over the property line. Defining footprint as the drip line is the industry standard and he felt it was the way to go.

Mr. Doheny said the problem he has with drip line is how they will find it after a disaster such as fire. Mr. Stanley said that generally the building is not gone. He said they will have the assessor’s sketch of the outside of the building, and a photograph of the building and can scale the drip line with no problem at all. He said finding where to put the building has not been a problem. One problem in the past is that the ordinance said “nearest part of the building.” He said that the previous Board of Selectmen have measured “footprint” to the foundation instead of the building and this can cause issues for houses like split-level houses.

Mr. Stanley summarized that “drip line” is the outer edge of the building including decks and stairways, as far out as anything can drip from the building.

Two appointments to the CIP Committee

Mr. Hollinger and Ms. Crane agreed to serve on the CIP Committee as representatives from the Planning Board.

Minutes of May 25, 2010

Mr. Doheny noted that on Page 5 it should be written “infirm” instead of “in fern.”

IT WAS MOVED (Emma Crane) AND SECONDED (Jeff Hollinger) to approve the minutes of May 25, 2010, as amended. THE MOTION WAS APPROVED UNANIMOUSLY.

Other Business

Mr. McWilliams asked the Planning Board to sign the Lot Merger Form for Colby-Sawyer College.

He noted that the next meeting would be a Master Plan Work Session on July 13 at 7pm, where the Utilities Chapter would be reviewed.

IT WAS MOVED (Emma Crane) AND SECONDED (Michael Doheny) to adjourn the Planning Board meeting of June 22, 2010. THE MOTION WAS APPROVED UNANIMOUSLY.

The meeting **ADJOURNED** at 8:42pm

Respectfully Submitted,

Kristy Heath, Recording Secretary
Town of New London