



# TOWN OF NEW LONDON, NEW HAMPSHIRE

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## PLANNING BOARD DRAFT MINUTES November 18, 2014

**MEMBERS PRESENT:** Bill Helm (Chair), Paul Gorman (Vice Chair), Jeremy Bonin, Bill Deitrich, Elizabeth Meller, Peter Bianchi (Board of Selectmen's Representative), Michele Holton (Secretary), Emma Crane

**MEMBERS ABSENT:** None

**STAFF:** Lucy St. John (Planning and Zoning Administrator), Kristy Heath (Recording Secretary)

Chair Helm called the meeting to order at 7:00pm.

### Review of Minutes

**IT WAS MOVED (Peter Bianchi) AND SECONDED (Emma Crane) to approve minutes from October 23 and 28, 2014, as circulated. THE MOTION WAS APPROVED UNANIMOUSLY.**

### Public Comment

David and Janet Kidder owners of the Kidder building located at 11 Pleasant Street, Tax Map 084-073-000 asked to address the Board. Ms. St. John said Ms. Kidder had asked if she could come in and address the Board regarding the need to go through Site Plan Review.

Ms. Kidder explained they have a new tenant who would be using an office in the same manner as it was used by the last tenant. She said the office would be used as an office and remarked that over the years they had submitted many plans for what they have done in the building. The abutters of the Kidder Building consist of COA, Tracy Library, and a dentist's office; she didn't believe any of these abutters would have a problem with this change in occupancy. She added that another person is interested in renting another office in the building and she wondered how many times they would have to go through this process. She didn't see that they should go through the Site Plan process because the use hadn't changed. Per a discussion with the Planning and Zoning Administrator she was informed that this would be considered a change in use and would require Site Plan Review, per the provisions of the Site Plan Regulations, Article I, (D). Ms. St. John noted that the former "Fast Track Process" is no longer used, and the Town has required others to go through the process, as the Planning Board has not had an opportunity to change the provisions in the regulations.

Selectman Bianchi said he didn't feel comfortable making a decision on this issue without seeing any information from the applicant; they had just heard about the issue that evening. Ms. Kidder said it was a change of occupant, not a change of use. Selectman Bianchi said while he didn't see anything wrong with what the Kidders were asking, he didn't feel comfortable making a decision without seeing some details down on paper, submitted to the Planning Board. Ms. St. John read a letter from the Kidders dated November 11, 2014 explaining the proposed used of the 2<sup>nd</sup> floor space, approximately 275 square feet to be rented to Brian Armentrout.

Mr. Gorman didn't think that this issue could be considered "public comment" but rather it was asking that the Planning Board take action. The other Planning Board members agreed with Mr. Gorman's comments. Mr.

Bonin said this is now something that Ms. St. John should determine the next course of action depending on what has been done in the past. It also gives them a discussion point as to why the “fast track option” was no longer able to be used.

Ms. Kidder inquired if this could be included on the Dec 9<sup>th</sup> agenda for a conceptual discussion.

Ms. Kidder suggested that the Planning Board review the Site Plan Regulations, and address how to make the regulations more helpful to businesses and improve the Site Plan process. Chair Helm said it is a matter of consistency at this time and Town Counsel advised them to stop using the Fast Track application and treat every application the same.

There were no other public comments brought forth from the floor.

**Dan Schimberg Tree Cutting. Property located at 196 Pike Brook Road. Tax Map 135-004-000.**

The Chair provided a brief history, including the August 26<sup>th</sup> approval to cut one tree, and the subsequent discussion at the Planning Board and Conservation Commission meetings. Ms. Schimberg was asked to address the Board.

Mr. Schimberg explained that his family has been enjoying the lake for several generations. They currently own property in Newbury and are the new owners of the property at 196 Pike Brook Road. He noted that his family has been philanthropic to local organizations in the area, such as the Historical Societies of both New London and Newbury, Ausbon Sargent, and The Fells, among others. They deeply appreciate the preservation of the lakes and the shoreland. They purchased the property because it is heavily treed and has 600’ of frontage.

He provided a brief history noting the property includes an old fish hatchery building from the 1880’s which has been used as a guest cottage and the main house. The hatchery is right on Pike Brook and so they have a lot of constraints considering the brook and the wetlands in the area. He worked with Hogg Hill Designs to come up with a tree-cutting plan and even so, he made an error and cut one additional tree that he was not supposed to cut. The tree he cut was a Red Pine and it was coming up at an angle and he thought it was one of the trees they were supposed to cut. He said some of the sections of their property have more points than they needed and he made a mistake. Mr. Schimberg asked for leniency from the board and added that they are currently talking to Ausbon Sargent about a placing a conservation easement on part of their property because they are interested in conservation.

Ms. St. John said that she has visited the site, with the permission from Mr. Schimberg and some additional vegetation and more than one tree had been cut. She noted she does not have any historical reference to what the property looked like in the past in term of the amount of vegetation, but it was obvious that vegetation had been cut. She explained that the key issues in this discussion is the high water mark and where the 50’ waterfront buffer was measured from, and thusly if vegetation and trees were removed without approval of the Planning Board. Ms. St. John read into the record an email received from Robert Wood, Associate Director of the Lake Sunapee Protection Association dated October 30, 2014 regarding the normal high water mark and reference line for Lake Sunapee.

June Fichter, President of the Lake Sunapee Protective Association (LSPA) was present at the meeting and acknowledged the concerns identified. Ms. Fichter said 1093.15 is the number that has to be used to calculate the high water mark, and then 50’ back from that begins the buffer zone. The points for the trees are counted 50’ either way along the shore land.

Mr. Schimberg said they had permission to cut trees in front of their home. Ms. St. John said New London gave permission for the Schimberg’s to cut one tree within the 50’ zone. Mr. Schimberg said there were additional trees he had permission to cut that were outside of the 50’ mark.

Mr. Schimberg referred to a photograph of old the fish hatchery building (now a guest cottage), which was sitting atop a cesspool. He explained they received both State and Town approval to amend the septic system, in doing so they needed to dig out the existing cesspool and do whatever necessary to keep sewage from going into Pike Brook. He commented that they were trying to do what is right and received all the necessary local and state approvals to work on addressing the septic issues.

Selectman Bianchi noted that no one was present to represent the Schimberg tree cutting application to cut the 1 tree within the 50' setback when it was presented to the Planning Board at the August 26<sup>th</sup> meeting, and the Board granted approval to cut only one tree.

Mr. Bonin wondered if the cutting of the second tree within the 50' setback made any of the sections of the property have less than the 50 point tree count the Town requires. Mr. Schimberg said he didn't really know but knew there were a lot of trees on his property. Ms. St. John said there were plenty of trees on the property; the issue at hand was whether the 50' setback had been calculated correctly. Mr. Bonin said if there are an abundance of trees in that one section, the cutting of the second tree which was cut in error may have been permitted for cutting and so the recourse for cutting the second tree may not need to be as harsh comparatively so if they were decreasing the points for that one section to under 50.

Mr. Schimberg said they have wetlands, Pike Brook and the lake, which are all reviewed by different jurisdictions. It is a difficult to do any work on the land with all of these constraints. Chair Helm said this is not a new hardship that they have seen in New London. Mr. Schimberg said he has the upmost respect for the lakes and LSPA and the Town but he has received an approval from the State to remove the cesspool and make the whole situation right. He said the cesspool is about 90' from the lake and about 120' from Pike Brook. He said they have all the wetlands and state permits acquired by Hogg Hill Designs,

Ms. St. John was asked how the high water mark and or reference line is defined. She referred to the Zoning Ordinance, and read several definitions from Article III, # 104 Normal High Water; # 107 Ordinary High Water Mark; and # 126 Reference Line. She noted there are several other definitions the Board may want to review including regarding protection of the natural resources, including but not limited to # 136 Shore Frontage.

Ms. Fichter said 1093.15 is the number that has to be used for Lake Sunapee and it is stated in an RSA. She hoped Hogg Hill used this number. Where the water touches the land is where all of the buffers are calculated from. From here, the tree points can also be counted. They have to determine if the high water mark was calculated correctly as it impacts each of the buffers.

Mr. Schimberg was confident that the high water mark was correct because they had to go through the Federal Emergency Management Agency (FEMA) process because they were in a flood plain and received a Letter of Map Amendment (LOMA) to remove some structures on the property from the Flood Zone.

Chair Helm referenced the Zoning Ordinance, Article XVI, Shoreland Overlay District, item (F), Stormwater and Erosion Control for Construction and inquired if these provisions have been met. Mr. Schimberg expressed that he had received all local and State approvals for the building permit and septic system upgrades. Ms. St. John said she couldn't recall at this moment the details of the building permit he received, but would look into the details of that approval.

Mr. Gorman commented that what they were being asked to discuss at that meeting was a tree cutting. He felt there were more issues that needed to be attended to, but this was not the time or place to discuss those things. They should just be discussing the tree cutting. Chair Helm agreed and asked Ms. St. John to work with Mr. Schimberg about the remaining issues and have them be present on the next meeting on December 9<sup>th</sup>.

Selectman Bianchi asked how the Planning Board wanted to proceed with the issue of the tree cutting. He felt that at some point they needed to require applicants who made errors such as these to do something more than plant blueberry bushes.

Mr. Bonin explained that if the 50 foot shoreland segment where the trees were cut included more than the required 50 points, this issue may not be as pressing, however if the cutting reduced the required points to less than 50 this is another issue.

The Board then reviewed the details of the tree cutting application from the August 26<sup>th</sup> meeting. Staff noted that the table identifies the tree count in each grid. Grid 1 is shown to have 31 point, Grid 2 with 50 points, Grid 3 with 25 points, Grid 4 with 25 points.

Mr. Bonin said that this error should be corrected and suggested perhaps two 5” trees could be planted to increase the points in the segment it was cut from.

**IT WAS MOVED (Jeremy Bonin) AND SECONDED (Emma Crane) to refer this matter to the Board of Selectmen for enforcement. THE MOTION WAS APPROVED UNANIMOUSLY.**

Chair Helm said the tree issue was no longer in the hands of the Planning Board. Mr. Schimberg would work with Ms. St. John on gathering the appropriate information, measurements and plans to present to the Planning Board for their meeting on December 9<sup>th</sup>, when they would discuss the activities that had been initiated within the 250’ buffer of the lake.

Mr. Schimberg said he would like to attend the Selectmen’s meeting and would fly in from Cincinnati, OH to do so. Selectman Bianchi said he would speak with the Town Administrator to see when this issue could be put on the Board of Selectmen agenda. It was noted that this was not a time-sensitive issue.

**New England Wood Products Site Plan. Located at 1554 King Hill Road. Tax Map 129-015-000. Property owned by Dean and Pamela Larpenter.**

Ms. St. John conveyed that the Larpenters are on the November 20<sup>th</sup> ZBA agenda, and asked that the public hearing be continued to the December 9<sup>th</sup> meeting.

**IT WAS MOVED (Peter Bianchi) AND SECONDED (Jeremy Bonin) to continue the public hearing to December 9, 2014. THE MOTION WAS APPROVED UNANIMOUSLY.**

**Home Business Site Plan Application for Colonial Armory. Located at 879 Main Street. Tax Map 109-001-000. Property owned by Gregory & Collen Holmes. Applicant, Steven Walker “tenant”.**

Mr. Walker said he is a licensed firearms dealer and works with law enforcement agencies, government agencies and other dealers. No one would be coming into the home to purchase firearms but rather he works to outfit people with what they need through a wholesaler and things are sent through FedEx or UPS. The dealers he works with do the background checks on those purchasing firearms.

Mr. Walker said he has four children and recognizes safety as being paramount. He served for 10 years in the army and respects firearms. There would be no discharging of firearms at the property as doing so could result in him losing his license to sell firearms. He indicated that his business consists of himself at a computer and a phone. He requires no additional power, lighting, traffic, signage or parking areas. He has one safe to secure weapons he is working on and this is required by the ATF. About once a week he would receive or send out a package from FedEx or UPS.

Chair Helm asked Ms. St. John for any comments, she referred to the staff report, and noted that waivers would be requested as only a sketch is included of the area of the garage which would be used for the home business. She also explained that the Police, Public Works and Fire Department have no issues or concerns, as noted in the staff report. The Board decided this is not a project of regional impact and a site visit would not be required. Chair Helm said that many waivers were requested as is customary with home businesses.

Chair Helm opened the public hearing.

Selectman Bianchi wondered about how many firearms would be present on the property and would these firearms be susceptible to being stolen.

Mr. Walker said he has three firearms in his safe right now that are for sale. He said he also has personal firearms but did not wish to disclose how many he had. All of the firearms he has are secured and are not vulnerable to theft.

Jay Lyon, Fire Chief commented that there may be residents in Town who have firearms in their homes and people just don't know about them.

Ms. St. John noted that prior to the meeting an abutter, Stephen Hoyt of 896 Main Street had called with questions and concerns. He sent an email this afternoon, in short it conveys he would not be opposed to this home business. Ms. St. John noted that just prior to the meeting Mr. Walker provided her with several letters of support from: 1) Dr. Andrew T. Watson, M. D. of SC Sutherland Cardiology Clinic dated November 9, 2014 of Germantown, Tennessee; 2) Ilya Miller, Special Agent United States Secret Service and 3) email from David Cleveland, an abutter, dated November 18 stating no objections to Mr. Walker' home business.

Mr. Walker also provided a copy of his current Federal Firearms License

Public Hearing Closed.

**IT WAS MOVED (Michele Holton) AND SECONDED (Paul Gorman) to grant the waivers requested. THE MOTION WAS APPROVED UNANIMOUSLY.**

**IT WAS MOVED (Jeremy Bonin) AND SECONDED (Paul Gorman) to approve the home business site plan application for Colonial Armory contingent upon receiving Alcohol, Tobacco, Firearms (ATF) license for this location and any other State and Federal permits required. THE MOTION WAS APPROVED UNANIMOUSLY.**

### **Capital Improvements Program (CIP) – Public Hearing**

Chair Helm provided a brief review of the process under taken this year, and summarized the draft report and recommendations.

Public Hearing Opened. No comments received. Public Hearing closed.

**IT WAS MOVED (Emma Crane) AND SECONDED (Bill Deitrich) to approve the Capital Improvements Program as drafted and submit it to the Board of Selectmen and the Budget Committee. THE MOTION WAS APPROVED UNANIMOUSLY.**

### **High Pine Pump Station-Other Business**

Ms. St. John said for safety reasons, the pump station was moved above ground. It had to be done quickly and is complete. By statute, the Planning Board needs to be notified.

**Feins Harborview Subdivision, Sutton Planning Board- Proposed location accessed from Stonehouse Road in New London- Other Business**

Chair Helm commented that staff has been contacted by Jonathan Feins and the Town of Sutton. The Sutton Planning Board denied the subdivision application, and thusly this item would be removed from the agenda. Therefore, no action is needed by the Town of New London at this time.

**Zoning Amendments Discussion**

**Definition of Family**

Chair Helm recalled that they had discussed deleting the reference to “domestic servant” and changing the number of unrelated persons from five (5) to three (3), and if including a provision for a special exception if more than three (3) unrelated person, for example if someone had a large house and wanted to rent it.

Fire Chief Jay Lyon explained that the Life Safety Code provisions are applicable for when more than three (3) unrelated persons reside in a structure. He commented that if special exception provisions were included in the zoning ordinance this would further allow an opportunity to educate landlords on safety regulations when renting to students and others. For example, the rentals on Cottage Lane (Harry Snow properties) and other off-campus housing used in town for students. He noted that safety is paramount, as we don’t want to have a situation like the recent fire in Maine.

Chair Helm referred to the Hanover, NH Rental Housing Ordinance, and several other reference materials provided by staff and suggested that the Town may want to consider a similar Town Ordinance.

**Definition of Accessory**

Chair Helm referred to the email from staff to the Planning Board dated November 14 regarding other issues to discuss relative “accessory” including should it be based on size; what types of structures should be considered accessory- shed, tree house, private gymnasium, etc.; solar panels; setbacks; attached or detached; how many and etc. He also referred to the current definitions, # 2- accessory building; # 3 accessory dwelling unit; # 4- accessory use and # 5 – accessory use of structure.

Chair Helm suggested that #2 should be changed to “accessory structure”; #3 should be reaffirmed that detached accessory dwelling units not be allowed; #4 delete clarification language of accessory use and #5 delete.

Chair Helm said that at a later time they should add solar panels and generators to the list of “structure.” He thought they should have a discussion about there being size limitations on an accessory structure.

Selectman Bianchi didn’t think they should have size limits on accessory structures. Mr. Gorman said if they did not imply size limitations, people could build accessory structures larger than their homes, which could be aesthetically displeasing. Selectman Bianchi said this would limit the size of a barn and if someone wanted to build a barn for their horses and they happened to have a small house, they wouldn’t be permitted to build a very big barn. Mr. Gorman suggested they could legislate the square footage depending on the size of the home.

Chair Helm wondered how the Board felt about the detached accessory dwelling units not being allowed. Ms. St. John commented that detached accessory dwelling units do exist, and the Town continues to permit them. She noted that this section is very confusing to many people, and that she solicited input from others on Plan Link, their comments reflect how confusing the language is.

Selectman Bianchi commented that detached guest houses and detached accessory dwelling units have been permitted for many years. A “guest house” is used for overflow. Ms. Holton thought there were a lot of people who have guest houses and accessory dwellings and felt it would be a hardship to not have them allowed. Mr. Bonin commented that the real issue is if it has a kitchen.

Mr. Gorman commented that the language needs to be clarified. Mr. Deitrich thought the Planning Board should conceptualize how the placement of accessory dwelling units would look like if allowed in the various zoning district. He suggested that the Town may want to allow them in some zoning districts, but not others. He wouldn't be concerned with large accessory buildings in a rural area, but not so much in a more-populated area. Mr. Deitrich saw an accessory dwelling as an in-law suite but it could be construed as a completely separate home.

Ms. St. John commented that allowing them in the more compact village area may be more appropriate as in New London they may be utilized by students, or others, including an aging population base. She noted that typically if someone is living in an accessory dwelling unit, proximity to services, having sidewalk infrastructure and other issues are important. She also noted that the village area is already served by sewer and water services, and increased density is an opportunity to utilize this existing infrastructure. Ms. St. John said the Master Plan encourages in-law apartments. She noted that the Planning Board couldn't discriminate against who would actually live in any accessory dwelling unit, it could be students, it could be an aging parent, and it could be anyone else.

Ms. Holton said in the R1 district someone could put up 4 condos on one acre (density is 1 family/10,000 square feet). She asked if the Planning Board could decide who lived there by saying the condos have to be sold individually and not rented out. Ms. St. John said the Planning Board doesn't determine ownership or rentership, however if the units are condominium, this required Planning Board action. Ms. St. John commented that the Planning Board may want to review the current zoning district boundaries and the permitted uses allowed in each district.

Chair Helm suggested that the subject of accessory dwelling unit could be addresses in another section of the Zoning Ordinance. It was noted that Accessory Dwelling Units are currently discussed as # 18 on pages 17-19.

Chair Helm asked the Planning Board to review the current definition on “accessory”, the other provisions in the Ordinance, and to think about what really is “accessory”. He cited an example of his experience in another community, is a private natatorium (swimming pool building complex), an accessory use, and or accessory structure. Should it be permitted as such?

Mr. Deitrich said in a past town he lived in, they struggled with this concept. He noted that one is a use issue and one is what is done with the structure.

Chair Helm wondered if they should limit the number of accessory structures on a lot. Selectman Bianchi said he didn't think they should limit this.

### **Signs**

Chair Helm went over a handout created by Ms. St. John regarding the sign ordinance. It is an attempt at making a new ordinance that is less confusing. He asked that the Planning Board review the document before the next meeting and bring forth their suggestions. The document would be shared with the other two Selectmen for consideration. Chair Helm thought Ms. St. John did a good thing by starting fresh instead of trying to cut and paste within the current ordinance. He suggested that Chief Lyon and Chief Andersen want to weigh in on this issue at some point.

### **Other Business**

**Kitten Rescue – Kristin Hubbard. Property located at 102 Bunker Road. Tax Map 061-011-000.**

Ms. St. John provided an update, noting that Ms. Hubbard had attended the September 23<sup>rd</sup> meeting. Ms. St. John noted that she had received an email dated November 18, 2014 from Ms. Hubbard explaining that the kittens will be fostered in small groups by volunteers in their homes all over the area (New London, Newbury, Warner, Sunapee, Wilmot, Andover and Sutton). She would not coming in for Site Plan Review, or going to the ZBA.

**Gary Anderson. Property located at 750 Little Sunapee Road. Tax Map 021-001-000.**

Ms. St. John provided an update, noting that Gary Anderson had come before the Planning Board at the September 23<sup>rd</sup> meeting to work in the waterfront buffer. He submitted an email dated November stating that he was not able to dig out the cove area this Fall, and thusly he will not be able to meet the replanting schedule of May 1, 2015. He will advise the Planning Board of his replanting when the work is completed.

**Gary Surprenant Email – Clean Energy with Regulation**

Ms. St. John noted that she had received an email from Gary Surprenant dated November 10. He is an abutter to the Flying Goose (Tax Map 122-001-000). The email discussed the implications that may arise from solar panels being allowed without consideration from the Planning Board. In the email he commented that while he is a proponent of clean energy, his home is situated very close to the large array of panels at the Flying Goose Pub, which has impacted him and his family. He said a wind farm could bankrupt an abutter and greatly reduce property values. He is concerned about where solar panels and other alternative energy infrastructure could be placed on a lot, and would like to be involved in those discussions.

**Sodexo at Colby Sawyer College- Lethbridge Lodge. Requesting letter from Town regarding a Liquor License**

Ms. St. John said she received an email from Sodexo regarding obtaining a letter from the Town for a liquor license for the pub. The letter also referenced allowing entertainment. Ms. St. John noted the pub was discussed at the June 24 and August 26<sup>th</sup> meeting, and the College received a Special Exception from the ZBA on July 28<sup>th</sup>.

There was some question as to what kind of liquor license was going to be obtained. Chief Lyon, who was in attendance said the president of Colby-Sawyer College had noted at a recent gathering that beer and wine would be served at the pub. Planning Board members and staff didn't recall the specific details of the discussion from June, July and August meetings. There was no recollection of allowing entertainment. Chief Lyon said that if having a live band in a restaurant/dwelling, it is required to be sprinkled. This is probably the rationale behind the Liquor Commissioner's request to get permission about entertainment in the pub.

Chair Helm suggested that that Colby-Sawyer College should appear again before the Planning Board to discuss their long-term plan for the campus. He noted that last spring the College provided a brief overview of the Campus Master Plan, however all of the projects submitted to the Planning Board since that time, have not been what was discussed in their Master Plan. Chair Helm said the college and businesses in town are an important part of the infrastructure in the Town, and it is important to keep an open dialogue to keep abreast of issues of concern to the College, residents, and the Town.

Ms. St. John noted she had spoken to representatives of the College about the zoning amendment schedule. The discussion was general however several topics were discussed including the possibility of lights on the playing fields, addressing student housing issues and parking, minimizing how often College appears before the Planning Board for review of plans; the need for sidewalks and etc.

Selectman Bianchi commented that it was tough to balance being fair to the college and the rest of the town.

**Motion to Adjourn**

**IT WAS MOVED (Emma Crane) AND SECONDED (Jeremy Bonin) to adjourn the meeting.  
THE MOTION WAS APPROVED UNANIMOUSLY.**

The meeting adjourned at 8:50pm.

Respectfully submitted,

Kristy Heath, Recording Secretary  
Town of New London