



# TOWN OF NEW LONDON, NEW HAMPSHIRE

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## PLANNING BOARD APPROVED MEETING MINUTES November 13, 2012

**MEMBERS PRESENT:** Tom Cottrill (Chair), Paul Gorman (Secretary), Tina Helm (Board of Selectmen's Representative), Michele Holton

**MEMBERS ABSENT:** Jeff Hollinger (Vice-Chair), John Tilley, Emma Crane (Conservation Commission Representative), Deirdre Sheerr-Gross (Alternate), Michael Doheny (Alternate)

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

Chair Cottrill called the meeting to order at 7:02pm.

### Messer – Minor Subdivision and Lot Line Adjustment

Ms. St. John provided a brief history of the plan approved by the Planning Board on February 22, 2011 and referred to the memo from Kim Hallquist, Town Administrator dated October 22, 2012. This was also discussed at the Oct 23, 2012 Planning Board meeting. The board had asked staff to invite Peter Messer and his surveyor to the next meeting to provide insight into the issues. Peter Messer said that he subdivided the property so he could gift a lot to his daughter. He said there was a boundary line that went through the shed. Peter Messer explained that at the time he, Peter Stanley and the surveyor agreed that it would be best to give Joe Messer some of Peter's land so the lot line wouldn't go through the shed. Peter Messer this was all verbal conversations and that Peter Stanley agreed with this process, so they thought all was in order. Peter Messer explained that now Joe Messer feels that boundary line should be put back through the shed as it was.

Chair Cottrill wondered why the former lot lines were not shown on the subdivision plan. He also commented on the hand drawn plan and unofficial document drawing attached to the letter dated March 21, 2011 addressed to the Planning Board from Joe Messer's attorney, Robert R. Howard. Also, that Joe Messer submitted a map of his lot where he has drawn in three boundary lines that would return his lot to the original size and dimension before the subdivision of Peter Messer. Clifford Richerer, surveyor for Peter Messer, said he did the survey on the property. Joe Messer's property has distances all the way around on all four sides. He explained that when trying to survey the property it called for a couple of monuments on the southerly side, which is the side towards the shed. The shed was, as Joe told him, something that was part of the First Baptist Church and had been the old carriage shed. When they placed the shed on the property, they knew they put it right on the lot line. To remedy the problem of having a lot line go through a building, Peter Messer offered to change the lot line further to the south, about 3 feet. It was his thought that this would be amicable to both parties.

Mr. Richerer said that for the rest of the lot lines there were no monuments represented from the original deed but there were distances. There was a line of Maple trees that Joe Messer said was the line, and when they take the edge of what was once King Hill Road (now Stone House Road) the distances worked out. The row of trees was on the easterly line. Mr. Richerer said that he can't adjust a line without the landowners agreeing on where the adjustment is going to be; he needs to follow the deed. He commented that Joe Messer feels that the northerly line needs to be more towards the present-day King Hill Road but Mr. Richerer didn't think this was possible. Peter Messer commented that he didn't know what Joe Messer wanted to do but said he was willing to do anything to rectify the situation. Peter commented that the only line they moved was the one through the shed and the other lines have been where they are for the last 100 years, since his grandfather owned the land.

Ms. St. John noted that Joe Messer sent a letter to the Town dated November 6, 2012 explaining that he retained Hank Amsden, Land Surveyor, to do some survey work for him, review the plan and submit a report. Ms. St. John noted that no report has been received yet. Peter Messer said he wants to work with Joe Messer to

resolve this. He said that a deed was being prepared so that his daughter Kate and her husband can have the property. This problem should be resolved before the deed is completed.

Ms. St. John commented that if the Planning Board wanted to wait until the next meeting to make a decision they could however she didn't know when the report from Joe Messer would be received and this doesn't change the fact the without Joe Messer's agreement that the plan would still need to be revoked in part or whole. She said that a mistake was made which needs to be rectified. Ms. St. John asked the surveyor to comment on why both parties (Joe and Peter Messer) had not signed off on this lot line adjustment, as this is common practice and required when submitting a subdivision/lot line plan. Chair Cottrill asked if Joe Messer had been in favor of moving the line. Mr. Richerer said that there was a lot of dialogue with Joe Messer, he was aware of the situation and it seemed that Joe Messer was in agreement of the lot line moving at that time. Peter Messer said his brother was in agreement and both he and Peter Stanley bent over backwards to make it work.

Kate Messer said she didn't understand where the mistake was made. Ms. St. John said the error was made by failing to get a signature from Joe Messer to submit the application, as his land is part of the plan in question and that the plan was recorded without his signature and the deed being recorded. There is no signature from Joe Messer to be found. The process wasn't followed as it should have been and now they either have to revoke the plan or get Joe Messer to agree to the deed.

Ms. St. John was asked to comment on what Joe Messer's concerns were. She said that she hasn't been Joe Messer and has only talked to him on the phone but he is disputing three lot lines and if it doesn't get resolved to his liking, he wants to "go for damages." Ms. Holton said this felt one-sided. The people who made a mistake are the people who are looking to remedy it and now they are being forced to wait to know what they should do. Peter Messer said they wanted to get the gifting of land done before the end of the year as they could do so without a penalty. He wasn't sure if this would be possible after the New Year.

Chair Cottrill asked if the Planning Board should revoke the plan even if Peter Messer brings back the old lot lines. Ms. St. John said they would have to go through a public hearing and notice the abutters per the statute. She referred to the memo from Kim Hallquist which outlines the possible resolution process for this situation. Peter Messer said he would be fine to put the line back through the shed. Ms. St. John asked Mr. Richer if moving the line back through the shed would do anything detrimental to the land Peter Messer wanted to gift to his daughter. Mr. Richer said it wouldn't.

Mr. Richer said that if Joe Messer didn't agree with his survey, he would need his own surveyor to come in and see if they see anything different. The only line he is able to move is the one through the shed.

Peter Messer said Joe Messer should be contacted somehow to let him know what they were considering. Chair Cottrill said they should do this as quickly as possible to get the issue taken care of by the December meeting. If they could, they might have a completed plan before the end of the year. Ms. St. John asked the surveyor to comment on why the granite bounds were set in September, 2010 as shown on the plan. She wondered why they were set at that time. Mr. Richer opined that on a final hearing, the bounds would be set before the plan is approved. He commented that he had nothing to do with submitting the application, Peter Messer submitted the application. He prepared the plan and spoke with Peter Stanley probably two times. Mr. Richer said he came into Peter Stanley's office and talked about the plan and made adjustments that Mr. Stanley thought would make it easier for everyone to understand. He then gave the plans to the Planning Board along with a Mylar for recording.

Chair Cottrill thought they should either go through a revocation now, in part or in whole, or wait until the next meeting when it could possibly be worked out with Joe Messer. Ms. St. John said the deed would need to be signed and recorded. She didn't foresee this being taken care of within the 2012 calendar year considering the noticing requirements for a revocation, RSA 676:4-a, I (s).

Ms. Holton asked if Peter Messer had any rights as this was posing a hardship upon him and his family. Ms St John said there are no additional rights in this situation. Ms. St. John said when they submit an application they need approval of both parties involved. There was an oversight on this and technically, by law, the board should not have approved the plan.

Ms. St. John thought the partial revocation would only include the portion they want to change back. Chair Cottrill suggested the Board should delay this to the next meeting to allow time for possible resolution between Peter Messer and Joe Messer and since it couldn't be expedited without Joe Messer's approval.

**IT WAS MOVED (Michele Holton) AND SECONDED (Paul Gorman) to table the Messer lot line adjustment issue until the next meeting on December 11, 2012.  
THE MOTION WAS APPROVED UNANIMOUSLY.**

Mountain View Shopping Center

Kerry McCormack, architect, and John Heuber, founder of Crosspoint Associates, attended the meeting. Mr. McCormack said they met with the Board of Selectmen a couple weeks ago to discuss their plans for the shopping center, which they purchased two years ago.

Mr. McCormack said they are looking to make the shopping center have more of a New England look, starting with the liquor store. Currently they do not have good signage for the store and it would be nice to dress up that corner. They are proposing a canopy design and will use the same materials and design used on the Hannaford building. It will be constructed of steel structures and columns and would mimic the Hannaford entry that is currently there. The peak will allow for some additional signage which will be addressed later on to coincide with the town's ordinances. They are looking for a waiver of a site plan review. There will be no additional drainage issues or impervious area added.

Ms. St. John said referred to her staff report, noting the recommendation from the Fire Chief, her questions about parking and signage and the provision in the Site Plan Regulations that allows for a waiver of a site plan review. Mr. McCormack said that if they can get the foundation in before the frost, the remainder of the construction can be completed throughout the winter.

**IT WAS MOVED (Paul Gorman) AND SECONDED (Michele Holton) to waive the Site Plan Review for Crosspoint Associates to move forward with the addition of a canopy at the liquor store.  
THE MOTION WAS APPROVED UNANIMOUSLY.**

Mr. Heuber said that for smaller things that go on within the shopping center, it would be nice to keep a dialogue open with Ms. St. John to get things done on a fast-track manner. They don't want to have to wait a month to do little things that don't change parking, etc. Chair Cottrill said to be sure to keep in communication with Ms St John as she can assist and determine proper procedure with expediency in mind.

Colby-Sawyer College- Preliminary Site Plan Application – Free-Standing Wind Turbine

Steve Jesseman, from Jesseman Associates, representing Colby-Sawyer College was present along with Doug Atkins from Colby-Sawyer College, and Jeff Goodman from Windguys USA. Mr. Jesseman began by noting that a letter he sent to the town previously may have been confusing; he wanted it known that the height of the turbine would be about 52' high, which is 30' lower than the radio tower located atop the Hogan Center on campus.

Ms. St. John said the College had addressed 99.9% of the questions presented from the staff report and expressed that the board could consider the application complete.

**IT WAS MOVED (Michele Holton) AND SECONDED (Paul Gorman) to consider the application complete. THE MOTION WAS APPROVED UNANIMOUSLY.**

Ms. St. John explained that board should make a determination per RSA 36:54-58, Determination of Potential Regional Impact, as should be done for all applications presented to the Planning Board. She was asked what factors are typically considered in making such determination. She referred to other information she had provided to the Board on the RSA and citing an example of a large residential development of 100 lots, and how this could potentially have traffic, school and other impacts. This was just an example in terms of the wind turbine is could be more of a visual impact.

Jeff Goodman from Windguys, USA said that if driving down Main Street, the turbine will be located between the buildings and he didn't think it would be visible. Mr. Jesseman noted the turbine would be between the library and the sugar house. He felt the library would conceal the turbine from Main Street. A glimpse of it may be possible if someone is really looking for it. He specified that it would be 200' from the residential area.

Chair Cottrill felt the turbine could impose a local impact but not a regional one. Ms. Holton said she had read about concerns with noise generation where residential areas are within 1,000' – 1,800' from the turbine. She wondered how this particular turbine would affect the residences. Mr. Goodman said the reading Ms. Holton had done was likely about the 100' - 150' turbine with blades that are 100' long. The turbine they are discussing for the college is made for residential areas and is used for teaching purposes. The blades are only 12' in diameter. He showed a picture of the turbine to show the scale of the unit they would be putting up.

**IT WAS MOVED (Paul Gorman) AND SECONDED (Tina Helm) to agree that the erection of the wind turbine in question would not pose a regional impact.**

**THE MOTION PASSED. Paul Gorman: Yes, Tina Helm: Yes, Tom Cottrill: Yes, Michele Holton: No. Motion carried.**

Ms. Holton felt it had an affect regionally because it was the first one ever in this area and they did not yet know how it would affect the town and beyond.

Kathy Monroe, a resident who lives at 675 Main Street, shared Ms. Holton's concern. Mr. Goodman explained that large turbines do make a lot of noise but the sound from this particular turbine won't leave campus. The blade is down wind and the unit makes a whirring sound which is just above the ambient sound. Mr. Jesseman said the flicker shadow was something people were concerned with but it was noted that that this won't leave the campus either. He noted there were two of these turbines currently in Newbury.

Mr. Goodman said wind speed has to be at least eight miles/hour for the turbine to move. Between eight and 10 mph it will spin without noise. When the alternator connects, sound can be heard and will increase with the wind speed. Within 50' the turbine will make 55 decibels and it will dissipate as they move beyond the 50' threshold. The decibel level meets the ordinance which is 55 decibels from the property line.

Ms. Mary "Cissy" Wastcoat, an abutter who lives at 623 Main Street, asked if they could get an example somehow of the noise the turbine would create. She would like to go somewhere so she could look and hear a comparable windmill and get some feeling of what it will be like. She felt that it would be almost in her backyard. Hers is the nearest property to the turbine.

Bill Gundy of 618 Main Street lives across the street from the library and from Ms. Wastcoat. He wondered what the highest elevation of the library rooftop is because that was the structure that would be separating him from the wind turbine. Mr. Jesseman said Mr. Gundy would be looking slightly up-hill to the library. He explained they took photographs around the area to make sure the windmill couldn't be seen from Main Street. He was confident the buildings would obstruct the view of the windmill.

Chair Cottrill wondered about doing a helium balloon test to check height and visibility. Mr. Goodman said he hasn't done this before in the 4 ½ years he has been in business. He is confident that no one would be able to

hear or see the turbine. Mr. Jesseman said they should ask if people could see the radio tower as this is aligned with the turbine.

Ms. Wastcoat wondered if anyone had applied for a wind tower in the past in New London. She wondered about any zoning ordinances for such a thing. Ms. St. John said that it is allowed, referring to the Article XXV, Small Wind Systems. She added felt that a balloon test was a reasonable request. Mr. Goodman has suggested a small single balloon. Ms. St. John commented that a larger balloon or a clump of balloons should be used in conducting the wind test.

It was asked when the provisions of the ordinance were adopted. Ms. St. John commented that the State Office of Energy and Planning has likely provided a model ordinance for towns to consider. She explained that she had reviewed a couple other nearby town's small wind ordinance and they were very similar to New London's.

The abutters who were present at the meeting asked to be notified when the balloon test would be done.

Ms. Holton asked why they picked the location they did for the turbine. Mr. Atkins said it was chosen because of its proximity to the science center and it is meant to be part of the educational program and be a visible demonstration to the college's commitment to treating our environment sustainably.

Ms. Wastcoat said she appreciated what was being said but was wondering if there couldn't be another location. The campus has plenty of places but they don't realize how a turbine will impact her. Mr. Atkins said he didn't think it would impact her visually or audibly. When they do the balloon test she will see this and if she is willing to travel to Newbury to visit the other turbine, she will see that it is not going to impact her audibly. He felt their proposal met the standards of the ordinance. They won't go through with the turbine project if the ordinances' standards are not met.

Mr. Jesseman said it is a permitted use and within the regulations. They have taken measures to take care of the sound and flicker. The ordinance allows turbines up to 150' in height but this is a scaled-down version. Ms. Holton recalled that the Planning Board has reviewed a wind tower application in the past and at the time it was denied to her recollection. Ms. St. John said she wasn't aware of any past wind tower application but would review additional files and report back to the board.

Ms. St. John said she would find out when the town adopted the ordinance and would check the history of what went on in town with regard to other turbines. The college will return for the final review on December 11<sup>th</sup>. They will submit all necessary paperwork by November 26<sup>th</sup>.

It was decided that a balloon test would be conducted Friday at 10am and the balloons would be left up through Saturday.

Ms. St. John asked what the impact extremely cold temperatures or strong winds would have on the turbine structure and operations. Mr. Goodman said if the turbine hits 56 mph it will automatically stop. The sound will not even be heard at the maximum speed. Ms. St. John asked if they would need special considerations for delivery, such as the need for traffic control. Mr. Goodman said that the turbine comes on a pallet on a semi-truck. It will be similar to other shipments the college receives. Mr. Goodman said they welcome the public to come watch them put the turbine together as it is quite interesting. It will be done in half a day.

Mr. Jesseman added that the location of the turbine poses no impact with regard to snow plowing or snow storage.

Bill Helm, resident at 651 Main Street, said those on Main Street were familiar with a chiller that was put outside of Ivey that emanates a certain amount of noise. He would like to know the decibels of the chiller to use as a comparison. Mr. Goodman noted the chiller is on all the time; the turbine will only come on when the

wind blows. Mr. Jesseman said he would try to have the requested information ready for the next meeting. Ms. St. John noted that a continued discussion of this issue would not require that a new application be submitted, as the discussion and public hearing can be continued to a specific date.

**IT WAS MOVED (Tina Helm) AND SECONDED (Paul Gorman) to continue the hearing and discussion of the wind tower application until December 11<sup>th</sup>. THE MOTION WAS APPROVED UNANIMOUSLY.**

A letter from Ms. Wastcoat was submitted to the board for the record.

Colby-Sawyer College – Outdoor Classroom Discussion

Mr. Jesseman said that they were not prepared to discuss the outdoor classroom and respectfully requested to table the discussion until the next meeting on December 11, 2012.

**IT WAS MOVED (Michele Holton) AND SECONDED (Tina Helm) to table the application and public hearing discussion of the outdoor classroom for Colby-Sawyer College until the next meeting on December 11, 2012. THE MOTION WAS APPROVED UNANIMOUSLY.**

Tree-Cutting Request

Chair Cottrill noted the Elizabeth Kent tree cutting request was tabled at the last meeting. Ms. St. John referred to her staff report and the most recent correspondence from Elizabeth Kent dated November 12, 2012. She explained that Cal Felicetti, was not pleased that the request was tabled, and hadn't submitted a new diagram. His emails conveyed his professional assessment of the tree, as a trained arborist, noting the tree was unsafe and should be removed. They are willing to comply with the staff recommendation.

**IT WAS MOVED (Michele Holton) AND SECONDED (Paul Gorman) to approve the tree cutting request for the Kent property with the conditions as noted in the staff report. THE MOTION WAS APPROVED UNANIMOUSLY.**

CIP

There was some discussion of the CIP, which spans 38 pages. Chair Cottrill had some considerations for a few of the graphs with regard to the 18-month fiscal year change-over. It was decided that the CIP report would be reviewed at the December 11<sup>th</sup> meeting when more members would hopefully be present to discuss.

Approval of Minutes

**IT WAS MOVED (Tina Helm) AND SECONDED (Michele Holton) to approve the minutes of October 23, 2012 as amended. THE MOTION WAS APPROVED UNANIMOUSLY.**

Other Business

Mr. Gorman asked about how the town's tree-cutting requirements were established. Ms. St. John referred to several sections of the ordinance, which had been voted on at town meeting. She commented since she has only been with the town since late August, that there have been many questions and concerns expressed to her about the lack of clarification in the ordinance language. She noted it really needs to be amended. Mr. Gorman said there seem to be two kinds of requests: ones that are for trees that are completely dead and prompt a simple decision. The other sorts of requests are those that may offer some dispute or may warrant some further discussion. For those, the parties should definitely come to the Planning Board to discuss their request.

Mr. Gorman thought it was a waste of time to bring people in to discuss dead trees that are obviously dead. Ms. St. John said part of the issue is some of the trees are dying and are not completely dead, how the trees are counted and if trees need to be planted to compensate for the removal of the dead or dying trees She is not a tree arborist. . Some people believe dead trees should be left alone, and some trees are dying and are not dead or even look dead or dying. There is also the issue of a tree may look healthy but actually have a decaying core

or insect infestation. The other part of this is a Planning Board function, not a staff function. She commented that the tree cutting provisions need to be amended and clarified. She clarified that some people believe that the town's shoreland provisions, which incorporate some of the tree cutting regulations are stricter than the State's provision. This is not necessarily true and the ambiguous language in the Town Ordinance needs to be corrected and understandable in layman's terms.

With no further business, Chair Cottrill asked for a motion to adjourn.

**IT WAS MOVED (Tina Helm) AND SECONDED (Paul Gorman) to adjourn the meeting.  
THE MOTION WAS APPROVED UNANIMOUSLY.**

The meeting adjourned at 9:17pm.

Respectfully submitted,

Kristy Heath, Recording Secretary  
Town of New London