



TOWN OF NEW LONDON, NEW HAMPSHIRE

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NEW LONDON PLANNING BOARD MEETING MINUTES Tuesday, March 22, 2016

Sydney Crook Conference Room
Town Offices, 2nd floor
6:30 p.m.

PRESENT: Paul Gorman (Chair), Bill Dietrich (Vice Chair), Michelle Holton, Jeremy Bonin, Tim Paradis, Liz Meller, and Janet Kidder (Selectmen's Representative).

ABSENT: Marianne McEnrue

OTHERS IN ATTENDANCE: Todd Emmons, Vice President for Finance and Treasurer of Colby-Sawyer College; Attorneys Bobbie Hantz and Jocelyn Wiese of Sheehan Phinney Bass & Green PA for Colby-Sawyer College; Will Davis, Horizons Engineering for Colby-Sawyer College; Bob Vachon, Senior Director of Facilities for Colby-Sawyer College; Georgiann and Michael Fallon of 634 Main Street; Matt and Karen Conway of Matthew T. Conway, LLC

CALL TO ORDER:

APPROVAL OF THE MINUTES OF FEBRUARY 23, 2016

- ✓ **MOTION TO APPROVE THE PLANNING BOARD MEETING MINUTES OF FEBRUARY 23, 2016. IT WAS MOVED (MICHELLE HOLTON) AND SECONDED (ELIZABETH MELLER) AND THE MOTION WAS APPROVED UNANIMOUSLY.**

Update on Board of Selectmen Appointments

Janet Kidder noted that at the Board of Selectmen meeting of March 21, 2016 the Board reappointed Paul Gorman for a three (3) year term and Liz Meller was appointed to full member. She also noted that if anyone is interested in serving on the Board or other boards to submit a volunteer application to the Town.

Janet Kidder also explained that Nancy Rollins is currently one of the Town's representatives to the Upper Valley Lake Sunapee Regional Planning Commission (RPC) and does not want to be reappointed due to her many other obligations. She asked if any of the Planning Board members would consider this position, and if so to let her know. The RPC meetings are held in Lebanon every other month, and there may also be subcommittee meetings for the RPC representative.

Public Comment: No public comment.

Colby-Sawyer College Fine and Performing Arts Center (F &PAC) Site Plan Application and Public Hearing. Tax Map 085-033-000. The proposed project includes the construction of a new Fine & Performing Arts Center building on the campus between the Windy Hill School and the Curtis L. Ivey Science Center on the site of the Colby Farm building. Zoned Institutional. Public Hearing continued from the February 23, 2016 meeting.

Will Davis of Horizon Engineering, representing Colby-Sawyer College proceeded to provide an overview of the Feb 23rd meeting and address concerns raised at that meeting. He then referred to his letter dated March 4, 2016 which is part of the record, noting changes made to the plans and specifically discussed each item including- screening, construction hours and deliveries, fire access and hydrants, sewer department notes included on the plan, the Water Precinct easement shown on the plan, the Art Yard, tennis court parking lot landscaping, fence around the stormwater pond, mechanical equipment, and the Storm Water Prevention Plan (SWPPP).

Will Davis outlined their plan for the entrance and exit on Main Street, noting that it would only be used during the week and not on weekends. Large deliveries will use the Chargers Road access, and overall construction circulation will be the responsibility of the construction superintendent. The storm water pond will be enclosed by fence (entire perimeter) for safety concerns due to the proximity to the Windy Hill School. The Stormwater Pollution Prevention Plan (SWPPP) is in the works and not available at this time. Mr. Davis stated intended compliance with all EPA regulations and expects to have before construction is started.

Chair Gorman noted that the Public Hearing is open as it was continued from the Feb 23rd Public Hearing.

Michael Fallon of 634 Main Street noted he has several comments and concerns.

- ✓ He reiterated his concerns per his email provided to the Board for the Feb 23rd meeting.
- ✓ He asked about the exit/entrance to occur on the weekends and stated use of this exit/entrance approval must be granted by the NHDOT even though this is a temporary use.
- ✓ Stated that previous minutes of the Planning Board from several years ago will reflect the original intended use of the driveway next to the Westcott property.
- ✓ Stated he had spoken with David Flynn of NHDOT, District 2 and was told a curb cut does not mean the access road can be used for anything other than what was originally intended and that if the use is going to change, an additional curb cut must be filed.
- ✓ Added that discussion should not be about weekend traffic use but whether the driveway can be used at all.
- ✓ Stated the use should not be for anything other than it was originally intended and negotiated with the adjacent property owner. The approval of a building permit (with conditions) signifies the Town's favoring view for the construction process over the preferences of the surrounding property owners.
- ✓ Asked that no construction access be given no matter what the legal use is for this driveway (next to the Westcott property).

- ✓ Suggested that legal counsel was needed as well as contact with NHDOT District 2 to clarify if a permit is required.

Georgiann Fallon of 634 Main Street noted she has several comments and concerns.

- ✓ Asked why vehicles cannot use other points of access.
- ✓ Stated that this does not address safety concerns for pedestrians on Main Street and she felt safety concern for the college students was being given a priority.
- ✓ Asked where the construction vehicles were going to park.
- ✓ Asked the Board to postpone the public hearing as most of residents on Main Street go away for the winter and when they return they are going to be surprised to find the construction underway.

Bobbie Hantz opined that:

- ✓ The Planning Board does not have authority to enforce agreements between neighbors regarding the rights of use for a driveway. Ms. Hantz went on to state "...clearly the Board knows it can manage development for public health, safety, welfare and traffic issues because these are issues that are within the Board's purview but there are limitations on how much the Board can constrict someone's right to use their property in a way that's lawful and is part of the bundle of rights they get when they buy the property. If the folks across the street want to use their driveway in a way that's lawful there is not a whole lot the Town can do as long as safety issues are met."
- ✓ Stated that prior courtesy agreements could not be enforceable in the long term, especially if there was not a legal recording of the arrangement. She emphasized that the burden of previous casual agreements cannot be placed on the existing owner. This is not a change of use and this is not an easement but a driveway that sits on land belonging to Colby-Sawyer College and they have the right to use as a driveway.
- ✓ Stated this driveway was part of the original Colby Farm property that was purchased by the college and continued use of the driveway is permitted. The Town may have some sort of formal/informal agreement to use for emergency services or Town regular services and she would like to do further investigation. This driveway will be use as intended and will be limited to construction employee vehicles.
- ✓ Stated the College would like approval with driveway access as planned subject to satisfying the Board that the College has rights to utilize the driveway. This would give people time to do the research on whether there is an enforceable promise in the minutes. If the Board were not satisfied that the access was not appropriate then the question would come as to using the driveway on a limited basis or not using at all. This is a risk for the College to take and it could impact on how they would move forward with this project. If they cannot get to the parking lot, where are they going to put all these people? She expressed her concern about conditioning a permit when there is no evidence of restriction on the access.
- ✓ Any delay will impact the construction timeline which is to start as soon as school gets out. Additionally she said the College would adhere to any outstanding enforceable conditions.

Will Davis provided comments and addresses questions.

- ✓ Note that the driveway (next to Westcott) is not suitable for truck use except for possibly a van or a pick-up truck.
- ✓ Referred to the plans and map showing where temporary parking was located for construction workers and stated this site will be completely fenced in.
- ✓ Noted there is no other access besides Main Street.
- ✓ Illustrated how vehicles will get to the construction parking and staging area and limitations in vehicular maneuvering due to lack of turning radius space and expressed concern for safety of student pedestrians.
- ✓ Stated that a permanent change to the driveway use was not proposed, this is a temporary use. The use is permitted as it is existing and that it is temporary and would like Planning Board approval with condition for this if required by the DOT.

Bob Vachon provided comments.

- ✓ He noted that the site is compact and expressed the need to get people on and off the site in the best way possible. There will be two parking areas which consist of the parking area for the construction workers and the area for heavy equipment a.k.a. the staging area. This staging area will be in front of the construction site which is going to be tight. He stated his main concern is safety for college students and residents in the area.

Chair Gorman asked for input from the Board and staff. He asked if the Board should wait to make a decision or approve with conditions.

- ✓ Suggestion to review the Planning Board minutes of when the Science Center was built regarding the discussion about the use of the driveway next to Westcott property.
- ✓ Referred to Richard Lee's memo to the Board of Feb 12, 2016, he states, "It appears that the intention is to use the driveway to the water tank off Main Street as a construction entrance. I would caution the neighbors may complain about that when they find out or the traffic starts. I think when the Science Center was built this entrance was only used a little due to the complaints."
- ✓ The Board could include as a condition of approval receipt of a NHDOT driveway permit if one is required from NHDOT (temporary or permanent driveway) for access of the construction vehicles, or could continue the public hearing.
- ✓ Asked how many people will be on the construction site. Mr. Davis stated anywhere between 10 to 40 people. Suggestion to use Chargers Road early in the morning as college students are not usually awake yet.
- ✓ Need confirmation from NHDOT if a driveway permit is needed.
- ✓ Discuss if there is was access from Chargers Road to the construction parking area to minimize impacts to the campus and neighboring properties.
- ✓ Noted that abutters were duly noticed, and that abutters can send in written comments. Some people who are away do have their mail forwarded to their seasonal address, the Town has met their obligation to mail the abutter notice to the current mailing address.
- ✓ Asked if consideration was given to the lower parking behind Lethbridge Lodge. Mr. Davis responded that this area would be used as a staging platform.
- ✓ Understand the Fallons concern, but stated it not right to keep the College from going forward on this project.

- ✓ Noted that any construction site is going to be noisy, but this is short-term impact and the College is important to the Town.
- ✓ Discussed options for a conditional approval, and that some conditions could require further review by the Planning Board, or that the Board could make the conditions more generic like, receipt of NHDOT permit if required, AoT permit and etc.

Mr. Davis asked the Board to consider approving the plan with conditions.

**MOTION TO APPROVE THE COLBY-SAWYER COLLEGE SITE PLAN
APPLICATION FOR CONSTRUCTION OF THE FINE AND PERFORMING ARTS
CENTER (TM 085-033-000) WITH THE FOLLOWING CONDITIONS.**

1. The driveway access from Main Street (next to the Westcott property, Tax Map 096-002-000) may only be used by the contractors during the demolition and construction, and only personal vehicles such as pick-up trucks, vans and automobiles are permitted, no construction vehicles may use this driveway at any time, the hours of use are Monday-Friday from 7 am- 6 pm.
2. Removal and restoration of the contractor parking area and the parking area adjacent to the tennis courts shall be restored and planted as shown on the plan, prior to the occupancy of the new Arts Center.
3. Prior to any construction all approvals shall be obtained and copy provided to the Town including the NH Alteration of Terrain (AoT) permit, Storm Water Pollution Prevention Plan (SWPPP), all sewer and water permits as may be required by the Town of New London Public Works and New London-Springfield Water Precinct.
4. The engineer shall provide a plan to the Town showing how the contractor plans to navigate the site during demolition and construction, including showing use of Chargers Road, showing areas of temporary displaced parking, and arrows showing on-site circulation of construction vehicles and access from Main Street (not from the driveway access next to the Westcott property).
5. The engineer shall contact NH Department of Transportation (NHDOT) District 2 to clarify if a State driveway permit is needed for access from Main Street during the demolition and construction of the project, and provide a copy of the Planning Board draft minutes to NHDOT so they understand the details of the discussion when they are making their decision if a State driveway permit is needed. Engineer shall provide evidence to the Town of the NHDOT decision.

IT WAS MOVED (Jeremy Bonin) AND SECONDED (Michelle Holton) AND THE MOTION WAS APPROVED UNANIMOUSLY.

Matt Conway, LLC. Site Plan Application and Public Hearing for CB Colburn Fine Gifts & Candy, LLC. Property located at 374 Main Street. Tax Map 084-003-000. Zoned Commercial. Proposal to utilize Unit 1 (most recently occupied by Colby Real Estate) for a retail store. The property includes residential and commercial space. Waivers requested. A conceptual plan was recently discussed at the February 23, 2016 meeting.

Matt Conway presented plan for opening CB Colburn Fine Gifts & Candy, LLC. from Tuesday through Saturday at 374 Main Street. Target opening date is June 1, 2016 and will be selling typical gift shop articles. There is no change to any items previously presented at the conceptual discussion of February 23, 2016. There was a short discussion on the topic.

- ✓ **MOTION TO APPROVE THE SITE PLAN APPLICATION FOR MATT CONWAY, LLC. AT TM 084-003-000 FOR CB COLBUR FINE GIFTS & CANDY, LLC. IT WAS MOVED (Bill Dietrich) AND SECONDED (Michelle Holton) AND THE MOTION WAS APPROVED UNANIMOUSLY.**

Discussion of the Current definition of Family, Definition # 49 as Amended May 2015

Ms. St. John explained the definition of family was amended in May 2015. The current definition has been subject to interpretation. She had prepared several scenarios and asked the Board members to independently review and provide their input to her. She will compile the results for further discussion and to share with the Board of Selectmen, as this definition has implications for addressing enforcement issues. The Board recalled that at the public hearing on the draft language in 2015, there was much discussion on the issue as well. Board members reflected that the current definition could be considered intrusive, that the parking of vehicles on a site is the real issue of dealing with occupancy, and that the Fire Codes have a different number of persons allow (3 instead of 5). Janet Kidder noted that Chief Jay Lyon has authority via fire code requirements to limit the number of people residing in a house to address the safety issues. Board members were asked to share their responses with staff and further discussion would be likely.

Zoning Map Discussion on Edits and Clarification

Ms. St. John explained that the amendments to the Zoning Ordinance will be incorporated soon, and the zoning map will need to be updated to reflect the Town Vote to change a portion of the Stahlman property (petitioned zoning amendment) on the zoning map. Furthermore, she is suggesting that the current colors used on the map be changed, as numerous people have commented on the shades of green are confusing and other comments. The Board agreed that the following changes be incorporated:

1. Interstate 89 – needs to be shown in a different color so it stands out.
2. Lake Sunapee – the word Lake is shown in the left side of the map, could it be included in the “water” where the word Sunapee is located, so it read “Lake Sunapee”.
3. Utility easement (legend) is shown in red, this is hard to read (in the Forest zone), maybe a different color for the utility easement.
4. Stahlman zoning change be incorporated.
5. Conservation district on the draft map is a shade of kelly green, would like to use the current light green color of the current Forest district.
6. Label Colby Point.

7. ARR district on the draft map is shown as a medium yellow color, would like to see a light yellow shade.
8. R2 is shown on the draft map – R2 and it be placed on the map around the lake, can the R2 be placed in a different locations.
9. Legend after Urban Residential – include R-1
10. Legend after Residential – include R-2
11. Current map has the Special Flood Hazard Zone, Planned Unit Development Overlay District and Workforce Housing Overlay District (in various zipatone patterns), these districts need to be placed on the map (and want to be sure the zipatone patterns don't confuse people and still be able to read the underlying information).

Amendment to the Rules of Procedure

Reading of the proposed amendment occurred at the February 23rd, 2016 meeting which is to change the election of offices from the month of June to April.

- ✓ **MOTION TO APPROVE THE AMENDMENT TO THE RULES OF PROCEDURE. IT WAS MOVED (Bill Dietrich) AND SECONDED (Jeremy Bonin) AND THE MOTION WAS APPROVED UNANIMOUSLY.**

Future Meeting Dates Schedule Discussion

The Board discussed future meeting dates in 2016. Staff will amend the meeting calendar for posting. Refer to the Planning Board meeting schedule and the Town's website for updated meeting information.

Update of Town Meeting and Zoning Amendments.

It was acknowledged that the Zoning Amendments have passed and Lucy St. John informed the Board that the language has been incorporated and the next step is to update the actual map, which was just discussed. Both will be available soon.

Agenda Attachments List Items

Ms. St. John referred to the items on the list noting several State applications were received including one for a boathouse, specifically the Samuel Rowse Wetland Application. She is bringing this to the attention of the Board, as the definition of boathouse and the provisions of the Shoreland Overlay District were amended in May 2014.

Rowse, Samuel B. Trustee Wetlands Application. Property located at 47 Sunset Shores. Tax Map 103-024-000. Project description- Remove 203 square feet of rock/crib support on an existing grandfathered over the water boathouse/dock, replace with 9 support piling; repair 66 square feet of crib support under west wall of boathouse using existing materials; remove a 3 ½: 12 pitched boathouse roof and replace with 7:12 pitched roof for snow load; install one 3 piling ice protection cluster and 2 free standing ice protection pilings. Other general in-kind replacement

of decking, etc. Authorized Agent, Regina Nadeau of Normandin, Cheney & O'Neil, PLLC. Application received March 9, 2016.

The Board reviewed the photographs included in the Wetland application, showing pictures of the existing boathouse and the proposed boathouse. The Board discussed the specific language which states:

1. Docks and existing boathouses are permitted subject to the following restrictions.
 1. a. New dock construction and existing dock maintenance or replacement are permitted subject to required state permits, standards, and regulations. The attachment of the dock to the shoreland shall be the least impacting alternative as permitted by the State. (Amended May 2014)
 1. b. Maintenance or replacement of existing boathouses which will not increase the use, size or footprint of the structure is permitted subject to required state permits, standards, and regulations. Construction of new boathouses is not permitted. (Amended May 2014)

The Board discussed the language, “will not increase the use, size or footprint” and if the proposed changes to the roofline is an increase in the size of the building and use of the boathouse. The boathouse application to NHDES states that the reason from going from a flat roof to a pitched roof is to allow for snow loads. This roofline also allows for more storage, which will increase the use. The Board agreed that the change to the roofline and the dormer is more attractive, but the intent of the zoning amendment was not to increase the size or to obstruct views of the lake. The Board agreed that the proposed boathouse does not comply with the provisions of the Zoning Ordinance, and that the owner should be advised to seek a variance from the Zoning Board of Adjustment and to inform NHDES of the Planning Board’s position. The Board commented that the Zoning Ordinance was amended in May 2014 as requested by residents as they did not want to see any increase in boat houses.

- ✓ **MOTION TO ADVISE THE NHDES THIS APPLICATION DOES NOT MEET OUR ZONING ORDINANCE REQUIREMENTS AND TO ADVISE MR. ROWSE TO OBTAIN A VARIANCE FROM THE ZONING BOARD OF ADJUSTMENT. IT WAS MOVED (Michelle Holton) AND SECONDED (Jeremy Bonin) AND THE MOTION WAS APPROVED UNANIMOUSLY.**

Bruce Herring Wetlands Application. The Board briefly discussed the Bruce Herring Wetlands Application. Property located at 300 Lakeshore Drive. Tax Map 036-011-000 (old # 036-012-000). Staff noted that at the March 20th Conservation Commission meeting, the Commission commented they had some concerns about the location of the 2nd dock, and that this property has had a raft out in the water. The Planning Board decided not to provide any comments to NHDES as docks are permitted, and rafts and structures in the water are the jurisdiction of the State.

Pike Brook Road Wetland Applications. The Board also asked about the Pike Brook Wetland Applications, noting additional docks are proposed there as well.

Plan NH Accessory Dwelling Unit (ADU) Workshop Update

Paul Gorman gave an overview of the Plan NH workshop conducted on March 17th and attended by himself, Janet Kidder, Bill Dietrich, Bill Helm, Liz Meller, Marianne McEnrue and Lucy St. John. The law signed by the Governor takes effect in June 2017 (previously referred to as Senate Bill 146). Chair Gorman would like to be in position to have any amendments to the Zoning Ordinance relative to this new law for the next Town Meeting process. Hollis and Londonderry have provisions that the Town will want to review. It was noted this law was adopted to address workforce housing issues, allow aging residents to stay in their homes, and to address other housing issues facing NH towns and cities.

Board of Selectmen Update

Janet Kidder announced that Bill Helm was elected Chair of the Board of Selectmen and she will remain on the Planning Board as the Selectmen's Representative.

Tree Cutting Application received – Site Walk Scheduled

Ms. St. John noted that a tree cutting application for the Niehaus property at 155 Owls Nest Road is to be presented at the next Planning Board meeting of April 12, 2016. She noted this is the property the Board discussed at the Feb 23rd meeting, as a Wetlands application was submitted for docks. The board scheduled a site walk of property for March 31st, 2016 Thursday at 4 pm. Staff will post the Site Walk notice.

Motion to Adjourn

- ✓ **MOTION TO ADJOURN THE MEETING AT 9:00PM. IT WAS MOVED (Janet Kidder) AND SECONDED (Bill Dietrich) AND THE MOTION WAS APPROVED UNANIMOUSLY.**

Respectfully submitted,

Jennifer Vitiello,
Recording Secretary
Town of New London, NH