

**NEW LONDON PLANNING BOARD  
REGULAR MEETING & PUBLIC HEARING  
NOVEMBER 13, 2007**

MEMBERS PRESENT: Karen Ebel (Chairman), Dale Conly, Celeste Cook, Tom Cottrill, Michael Doheny, Ken McWilliams (Planner), Larry Ballin (Selectmen's Representative), Michele Holton (Alternate).

MEMBERS ABSENT: Jeff Hollinger, Deirdre Sheerr-Gross (Alternate)

Chair Ebel called the **MEETING TO ORDER** at 7:30 PM. She asked Alternate PB Member Michele Holton to sit on the PB as a replacement for PB Member Hollinger, who was absent.

**I. CONTINUED PUBLIC HEARING ON THE PROPOSED SITE PLAN REVIEW REGULATIONS.**

Chair Ebel asked if anyone had any comments on the revisions to the proposed Site Plan Review Regulations. There were no comments.

Lori Underwood, Senior Director, Planning and Projects for New London Hospital Association asked when the regulations would become effective. Ken McWilliams responded that the regulations would become effected when they were signed by the PB and delivered to the Town Clerk to be certified.

It was **MOVED** (Conly) and **SECONDED** (Cook) **THAT THE SITE PLAN REVIEW REGULATIONS BE APPROVED AS PRESENTED. THE MOTION WAS APPROVED UNANIMOUSLY.**

The signature sheet for the revised Site Plan Review Regulations was circulated for PB signatures. Mr. McWilliams advised that he would deliver the approved regulations to the New London Town Clerk to be certified, after which the regulations would be effective.

**II. LAND SUBDIVISION CONTROL REGULATIONS**

Ken McWilliams presented the signature sheet for the revised Land Subdivision Control Regulations that the PB approved on October 23, 2007 for PB signatures. After all PB members present had signed the sheet, Mr. McWilliams advised that he would deliver the approved regulations to the New London Town Clerk to be certified and the revised regulations would become effective immediately thereafter.

**III. REVIEW & DISCUSS PROPOSED AMENDMENTS TO THE NEW LONDON ZONING ORDINANCE**

**A. *ARTICLE XVI: SHORE LAND OVERLAY DISTRICT***

Zoning Administrator Peter Stanley reviewed the proposed changes to the Shore Land Overlay District.

*Section B. Shore Land Overlay District Boundaries:* Zoning Administrator Stanley said that he had changed the existing 300-foot district boundary to 250-feet to conform to the newly adopted State of NH Shore Land Regulations. Members of the PB disagreed with the proposed change. All opined that the current 300-foot boundary should be retained. PB member Ballin asked if there had been any challenges to the boundary line. Mr. Stanley responded in the negative.

*Section C. Permitted Uses:* Ken McWilliams advised that in Paragraph 2 the reference to "normal high water" should be changed to "Reference Line". Chair Ebel recommended that the PB review the draft of the definition of Reference Line. PB member Cottrill asked how the State of NH would establish a Reference Line. Zoning Administrator Stanley responded that Little Lake Sunapee and Pleasant Lake both had spillways that would aid in the determination. He said that in the case of (big) Lake Sunapee, the

elevation of the high water line was known. Mr. Cottrill suggested including the normal Reference Lines for the listed bodies of water in the regulation. Zoning Administrator Stanley agreed to work on doing so. PB member Doheny asked if they should be in the regulation or in an appendix. Zoning Administrator Stanley and several PB members recommended that the Reference Lines be imbedded in the regulation, as that would be where property owners would be most apt to see them. Chair Ebel questioned the "at full pond" reference. Mr. Stanley replied that it was included in the State regulatory language.

Zoning Administrator Stanley advised that a notable change was that the State regulation would allow only one pathway that could be six feet wide, whereas New London's regulations have permitted four-foot wide pathways with no restriction on the number of pathways. Chair Ebel pointed out that if the State regulation were more restrictive, it would apply; therefore, the New London regulation might as well conform. She also recommended replacing "A" with "One" to add clarity. PB member Conly suggested using "A single" might be better. PB member Cook agreed. PB member Cottrill said that there was the possibility that a pathway could, by winding around, include most of a lot. Zoning Administrator Stanley said that was a current issue with multiple pathways being used. He opined that a circuitous route might well be better for deterring run-off. Mr. McWilliams concurred that it would be better than pathways with a straight shot toward the water. PB member Cottrill said that he observed it as a loophole in the proposed regulation. Zoning Administrator Stanley advised that the property owner would need to obtain a permit from the NH Department of Environmental Safety (DES). PB member Ballin added that the application for a state permit must show the route of the pathway.

Section E. Specific Provisions for Residential Development with Waterfront Access: Zoning Administrator Stanley advised that paragraph 3 had been revised to eliminate the reference to a non-existent Special Exception. He said that there was no Special Exception that would allow access for business or commercial purposes.

Chair Ebel advised that the reference in paragraph 2.f. to the New Hampshire Water Supply and Pollution Control Division should be deleted. She recommended that Mr. McWilliams do a global correction to assure that all references throughout the regulations were eliminated.

Section F. Stormwater and Erosion Control: Zoning Administrator Stanley advised that big changes were proposed for this section. He said that the proposed regulation pulled in the Low Impact Development (LID) regulations that the PB just adopted in its revised Land Subdivision Control Regulations and Site Plan Review Regulations. Chair Ebel advised that the new subdivision regulations only applied to new subdivisions; however, the proposed amendment could open an avenue to older subdivisions with poor drainage issues. She said the proposed amendment would encompass another large area. Zoning Administrator Stanley commented that he had received a plan for development of a property on Pleasant Lake that would cover a large portion of the land with impervious surface.

PB consensus was to replace "All new Structures, modifications to existing Structures," with "All new Structures, exterior modifications, or changes in footprint".

Ken McWilliams referred to the notes handed out at the beginning of the meeting in which he advised that paragraphs F.1.e. and f. would be retained in the regulation. They were inadvertently omitted from the draft.

Section G. Waterfront Buffer: PB member Ballin asked if the requirements would apply to all waterfront property. Zoning Administrator Stanley replied affirmatively. Mr. McWilliams advised that paragraph 2, section d.5) addressed the issue of lots legally developed before the adoption of the proposed amendment. Zoning Administrator Stanley said that section F.2.e. had been folded into Section G. He said that most of the section paralleled the new State regulation; however, he had added a reference to shrubs in F.2.d.1).

Ken McWilliams asked if the language used in H.1. be used in G.1. He opined that H.1. contained better language. Zoning Administrator Stanley replied affirmatively. Chair Ebel recommended making the language in G.1. stronger. Mr. Stanley said that he would clarify G.2.c. regarding pruning. Mr.

McWilliams asked about pruning height and if there was any maximum. Mr. Stanley responded affirmatively. He agreed to add clarity.

Zoning Administrator Stanley advised that G.7. would provide a temporary practical way to maintain property. He opined that it would be better to have a provision that would provide a temporary access pathway to be replaced with native trees and shrubs after completion of construction. Mr. McWilliams recommended eliminating "12 foot wide" and inserting "construction" after "temporary access".

In G.6., Mr. McWilliams opined that pruning one-half of the bottom of trees would be difficult to measure and asked why not recommend some height measured from the ground. PB member Conly advised that there had been some discussion regarding pruning the bottom one-third. He said that he like the bottom one-half provision. Consensus of the PB was to leave the proposal at the bottom one-half. Zoning Administrator Stanley said that it has been awkward without such a regulation. He said there has been no way to permit access for purposes of construction under the current regulations.

Section H. Natural Woodland Buffer: Ken McWilliams advised that there was a definition of "redevelop" in the newly adopted Land Subdivision Control Regulations that differs from "re-developed" as used in H.2. He advised that it would be necessary to come up with a new term or a new definition of the term for purposes of the proposed amendment.

Chair Ebel asked if the Land Subdivision Control Regulations did not define "impervious surfaces". Mr. McWilliams responded in the negative. Chair Ebel asked if the State law would become applicable in April 2008. Zoning Administrator Stanley responded affirmatively. He said that it contains a 20% impervious area provision. Mr. McWilliams advised that 20% on a two-acre lot would be about 20,000 sq. ft. He opined that 20% was too lenient and referred the PB to #10 in his memo in which he suggested an alternative approach. He said that first, the goal was to minimize impervious surface as you get closer to the lake and to allow the greater impervious surface area toward the back of the lot, and secondly, water resources were stressed by health standards at 10% impervious surface. He recommended that no impervious surface be permitted in the 50-ft waterfront buffer, a maximum impervious surface of 6% between 50 ft and 150 ft. in the natural woodland buffer, and 10% from 150 ft. to the remainder of the lot. Zoning Administrator Stanley asked if there was any scientific data to support the health impact at 10% impervious surface. Mr. McWilliams responded affirmatively. He said that 10% throughout the watershed was the maximum impervious surface that should be permitted. Zoning Administrator Stanley responded that different towns had addressed lot coverage. PB member Ballin opined that the proposal put forth by Mr. McWilliams would make it very difficult to develop small lots. PB member Doheny opined that the PB needed to do more research done before recommending 10%. PB member Ballin opined that it would force builders to construct higher structures to the maximum permitted under the zoning ordinance. He asked what people wanted to view along the shoreline. He opined that the PB needed to see the science behind the 10% recommendation. Zoning Administrator Stanley opined that there would be lots of objections. Mr. McWilliams advised that he would provide data supporting the 10%.

Chair Ebel advised that the ballot rationale must be very clear about the impact of the new NH Shore Land Protection Statute that becomes effective April 1, 2008.

Section J. Non-conforming Lots: Mr. McWilliams recommended requiring a storm-water plan, rather than offering an incentive. Zoning Administrator Stanley replied that the wording had been taken directly from the State statute.

- B. ARTICLE II GENERAL PROVISIONS, PARAGRAPH 1. AGRICULTURE.** Ken McWilliams advised that he had reviewed the use of the terms "agriculture" and/or "farm or farming" throughout the Zoning Ordinance. He advised that farming and agriculture were permitted uses in Residential Districts (R-1 & R-2), the Agricultural & Rural Residential District (ARR), the Conservation District (CON), and the Forest Conservation District (FC).

Mr. McWilliams sought guidance from the PB regarding whether or not farming and agriculture should be permitted in the following districts: (1) Commercial District (C) – PB consensus: Yes, permit; (2)

Institutional – College- District (INST) – PB consensus: Yes, permit; (3) Institutional/Recreational District (I/R). Mr. McWilliams opined that the topography of much of the remaining undeveloped land included slopes in excess of 15%; therefore, he recommended that farming/agriculture not be permitted in the I/R District. PB member Ballin said that he would have a problem with denying farming/agriculture in the I/R district because there was a significant amount of undeveloped land that did not have slopes of 15% or more and that would support farming/agriculture. PB consensus: Yes, permit. (4) Hospital Institutional District (INST) – PB consensus: Yes, permit.

- C. **ARTICLE III. DEFINITIONS: ALTER.** Zoning Administrator Stanley advised that the town assessors had requested that the definition of the term “Alter” be revised to read “Any structural change or rearrangement of rooms, including the addition or conversion of a bedroom or changes in value.”

PB member Holton questioned making a value judgment on the basis of the type of roofing or siding used for replacement purposes. Zoning Administrator Stanley reiterated that the change was requested by the assessors and was supported by the Board of Selectmen. PB member Ballin said that the Board of Selectmen was trying to establish an equitable tax rate, and he opined that renovations would add value to a property. PB member Doheny opined that outside changes were important structural issues, not a value issue. Chair Ebel advised that she would like more information from the Board of Selectmen. PB member Cook asked if a building permit was required for internal renovations. Zoning Administrator Stanley responded in the negative. Chair Ebel suggested changes in value in excess of \$10,000. After discussion, PB consensus was to delete “or changes in value” from the revised definition.

- D. **ARTICLE III. DEFINITIONS: RIGHT-OF-WAY.** The proposed revision to the definition of a Right-of-Way was reviewed and approved by consensus of the PB.

- E. **ARTICLE II. GENERAL PROVISIONS, PARAGRAPH I. AGRICULTURE.** PB member Ballin opined that alpaca should be added to the list of livestock in Article II, Paragraph 1, Section d. Grazing, Care, Raising, or Keeping of Livestock. Mr. Ballin said that the current number of chickens that can be kept is 12. Chair Ebel asked about the acceptability of the increase to 24 and whether the chickens must be caged. According to the Table presented, No “Free Range” Poultry would be permitted. PB member Ballin recommended removing poultry from the Table. Chair Ebel agreed that the No “Free Range” should be confined to pigs. PB member Doheny asked about the limitation on small animals proposed in Section c. He wondered if the limit of a dozen referred to a total number, or a dozen of each kind listed. Ken McWilliams agreed to clarify that the dozen was a total maximum. PB member Cottrill opined that a property owner could come to the PB for review if he/she wanted to keep more than a dozen small animals.

- F. **ARTICLE XIII. WETLAND CONSERVATION OVERLAY DISTRICT, PARAGRAPH G. Wetland Buffer.** Ken McWilliams advised that the proposed amendment did not discuss cutting in wetland “fingers”. He said that the matter required further study and consultation with the Conservation Commission and, perhaps, a consultant. He opined that the proposed revision would be a stop-gap measure for one year.

- G. **ARTICLE XV. FLOODPLAIN OVERLAY DISTRICT.** Ken McWilliams advised that FEMA was requiring each community to adopt new floodplain maps and update ordinances. He said that he would draft an amendment in response to the requirement.

- H. **ARTICLE 11. GENERAL PROVISIONS, SECTION 10. Sign Regulations.** Zoning Administrator Stanley was working on a regulation for signs in institutional districts.

**IV. M. P. STEVENS – Tree Cutting Request**

**(Tax Map 135, Lot 7)**

PB member Conly presented a request from M. P. Stevens to cut three trees located within the 50-foot buffer at 128 Pike Brook Road, Tax Map 135, Lot 5. Mr. Conly said that he had visited the site and viewed the three trees, a small pine leaning toward the boathouse, a large red pine that could prove to be a danger to the house, and a small red pine that is damaging the stone retaining wall at the front of the property. He advised that the

property owner had offered to plant six (6) blueberry bushes to replace the large pine tree that was significant in size.

It was **MOVED** (Cottrill) and **SECONDED** (Doheny) **THAT THE REQUEST TO CUT THREE (3) TREES LOCATED WITHIN THE 50-FOOT BUFFER AT 128 PIKE BROOK ROAD, TAX MAP 135, LOT 7, AND PLANT SIX (6) BLUEBERRY BUSHES TO REPLACE THE SIGNIFICANT LARGE RED PINE TREE BE APPROVED. THE MOTION WAS APPROVED UNANIMOUSLY**

**V. OTHER BUSINESS**

- A. CONSERVATION SUBDIVISION DESIGN:** Ken McWilliams announced that Randall Arendt would be making a presentation on Conservation Subdivision Design in Manchester, New Hampshire, on Monday, December 3, 2007. He advised any PB members interested in attending should sign up with Amy Rankins, Land Use and Assessing Coordinator.
- B.** The MINUTES of the OCTOBER 23, 2007 MEETING of the PLANNING BOARD were APPROVED, as circulated.

The **MEETING** was **ADJOURNED** at **9:03 PM**.

Respectfully submitted,  
Judith P. Condict, Recording Secretary  
New London Planning Board

DATE APPROVED \_\_\_\_\_

CHAIRMAN \_\_\_\_\_