

**NEW LONDON PLANNING BOARD
REGULAR MEETING & PUBLIC HEARING
JANUARY 9, 2007**

MEMBERS PRESENT: Karen Ebel (Chairman), Dale Conly, Celeste Cook, Jeff Hollinger, Sue Clough (Selectmen's Representative), and Kenneth McWilliams (Planner). Tom Cottrill arrived at 7:30 PM.

MEMBER ABSENT: Sue Ellen Andrews

Chair Karen Ebel called the **MEETING TO ORDER** at 7:00 PM.

I. JONATHAN FEINS – Continued Public Hearing on Final Plans for Stonehouse Road Access to the Harborview Subdivision in Sutton

G. Dana Bisbee (Pierce Atwood) and David Eckman (Eckman Engineering) appeared on behalf of Jonathan Feins.

Mr. Bisbee stated that he had hoped to be in position for a NLPB decision at the meeting; however, the department heads had raised issues during the afternoon meeting and a January 8 letter from New London Road Agent Richard Lee raised issues regarding paving and drainage of Stonehouse Road. Mr. Bisbee advised that Mr. Eckman had met with Doug King from the New Hampshire Department of Transportation (NH DOT). He opined that the discussion had been fruitful and that a couple of outstanding issues had been identified. Mr. Bisbee said that he thought that Louis Caron (L. C. Engineering Company, LLC) had planned to comment further on the meeting; however, Mr. Caron was not present. He stated that NH DOT wanted to see the final plans for Stonehouse Road and the intersection of Stonehouse Road and King Hill Road before signing off on the plan. Mr. Bisbee expressed his hope that the NLPB could approve the application subject to NH DOT's approval of the final plan.

Chair Ebel advised Mr. Bisbee that his letter dated December 26, 2006 had just that evening been received by the PB members; thus, the PB had not yet had an opportunity to review it. She advised that, in light of tardiness of the submission, the PB could refuse to hear any further discussion on the matter. Mr. Bisbee responded that he had e-mailed the letter to Ken McWilliams on December 26, 2006 and he assumed that was sufficient. Mr. McWilliams replied that the letter had not been in his possession when he came to New London to put together the agenda and materials for the meeting. Mr. Bisbee acknowledged that hard copy needed to be submitted timely. He pointed out that a letter regarding the need for pavement and issues relating to drainage had been submitted timely. Chair Ebel stated that she wanted PB members to have the benefit of Mr. Caron's comments. She reminded those present that Mr. Caron had been engaged by the Town of New London to conduct an independent engineering review of the proposed changes to Stonehouse Road and to the intersection of Stonehouse Road and King Hill Road. Ken McWilliams verified that NH DOT had responded favorably to the revised plans for the intersection of Stonehouse Road and King Hill Road.

David Eckman (Eckman Engineering) advised that Doug King of NH DOT was comfortable with the grade. He said that lowering the drainage pipe across King Hill Road would allow additional catch basins. He said that there would be one additional catch basin as the pipe goes up Stonehouse Road. When PB Clough asked where the drainage flow would go, he responded that it would go to a turnout and then into a field. He said that NH DOT wanted the drainage pipe to be at a 45-degree angle to the ditch.

Mr. Bisbee stated that the Harborview application in Sutton was nearing approval. Chair Ebel asked how the PB would know about NH DOT's decision. Ken McWilliams replied that NH DOT would send a letter to notify the PB of its decision.

Chair Ebel noted that in a January 9, 2007 letter Louis Caron advised that catch basins had been added to the new intersection near King Hill Road. In that letter, he also recommended that the portion of Stonehouse Road located in New London should be paved and that there be minor modification to the typical section where the gravel layer meets the side slope extensions for "cut" conditions.

Chair Ebel asked if there would be much more volume of drainage coming out. Mr. Eckman responded that there would be very little change. He pointed out that there were currently two roads where the plan was to have only one road.

Louis Caron arrived at the meeting and spoke about the memo issued by Richard Lee, Road Agent for the Town of New London. He advised that the road profile had gone through many iterations. He opined that the plan presented was a good compromise. He said that it would eliminate the need for retaining walls. Ken McWilliams advised that the plan had been discussed at the meeting of municipal department heads at which Road Agent Lee was present and that Mr. Lee had agreed that the compromise was the best approach. Item 3 in Mr. Lee's memo advised that the plan was to upgrade all pipes from 12" to 15" along the entire length of Stonehouse Road in New London. Mr. Bisbee said that Mr. Lee's comments in Item 3 and Item 5 referred to a regulatory requirement for easements in order to replace the pipes. He said that he was unfamiliar with the statute, but would be looking into it.

PB member Clough asked why they were proposing to change the size of the culverts. Mr. Eckman replied that Sutton wanted 15" pipes, and since the plan was to upgrade the entire road, it made sense to replace all of the smaller pipes with 15" pipes. Ms Clough said that she was concerned that the increase in pipe size was because of an anticipated increase in drainage flow. Mr. Eckman responded that the change was proposed to address existing conditions. He said that most of the existing flow was from off-road drainage from the hillsides. Ms Clough asked if the road were to be paved, would the increase in drainage be addressed. Mr. Bisbee responded that the matter had been discussed at length in Sutton and that Sutton had agreed that the proposed engineering design addressed the issue of increased drainage.

Mr. Caron pointed out that the area was very small, and he opined that the increase in drainage would be very small. He said that anytime a lot is developed, there is increased drainage flow. He opined that replacing the gravel road surface with pavement would result in only a small increase in drainage flow. Ms Clough opined that the impact on the field that received the drainage could be significant and erosion would be possible. Mr. Caron replied that NH DOT should study and monitor the flow. Mr. Eckman said that if a channel was used to a certain amount of flow, there would be no impact and the downstream areas would be acclimated to the amount of flow.

Chair Ebel asked Mr. Bisbee to look into the regulatory requirement for easements in order to change the culvert size. Mr. McWilliams said that he understood that the easement was for the property owner of the receptor field. PB member Clough said that multiple negligible increases could add up to a significant increase in drainage flow. She opined that Mr. Lee would need to obtain an easement because the flow would be increased. Mr. Bisbee said that was an area where there already was overflow. He opined that increasing the culvert size simply accommodated existing drainage flow. Ms Clough recommended sending a notice to downstream property owners regarding easements for increases in the culvert size crossing the road or for drainage.

Mr. Eckman stated that the plan proposed would be replacing inferior or unsuitable material. He said that road fabric would be placed in soft areas to control erosion. PB member Clough asked if the road work would be monitored. Mr. McWilliams replied that it would be monitored by either Richard Lee or Louis Caron, depending upon whom the PB selects as the supervising engineer. Mr. Caron pointed out that the presence of ledge could also be the cause of soft spots in a road.

Ken McWilliams reported on the meeting with municipal department heads. He advised that Richard Lee's memo outlined the Highway Department concerns. He said that Richard Lee strongly recommended that Stonehouse Road be paved, and he said that Mr. Lee's comment #2 would be restricted by the right-of-way. He said that Doug King from NH DOT had requested some minor revisions to the drainage plan and that NH DOT would issue a letter signing off on the plan after the revisions were made. Mr. McWilliams advised that the New London Fire Department would not be the first responder and that calls should initially be directed to the Sutton Fire Department. The New London Fire Department would provide back-up assistance under the mutual aid agreement. Requests for emergency services should be directed to Sutton. Mr. McWilliams advised that Fire Chief Peter Stanley would like that information contained in the deeds and in the homeowners' association documents to make it clear to property owners.

Chair Ebel advised that the PB had received comments from George Mason Delafield just that day and had not yet had time to review them. She asked if the PB should address the matter of security. Mr. Bisbee said that his client expected that there would be some security required. He urged the PB to make a decision that night and, if not that night, then no later than its January 30, 2007 meeting. He said that Mr. Feins wanted to expedite the

application. Chair Ebel responded that she was not yet ready to make a decision. Other PB members concurred that they did not feel that matters were settled enough to make a decision.

Ken McWilliams asked if the plans would be updated with the comments made by Town Road Agent Lee and Louis Caron. Mr. Bisbee replied affirmatively. PB member Conly said that there was still the question of paving to be resolved. Mr. Bisbee responded that his client would like the road to remain gravel. He said that he had addressed the topic in his December 26, 2006 letter. Chair Ebel asked if the Sutton PB had decided whether to require that the road be paved. Mr. Bisbee replied that originally the Sutton PB wanted the road to be paved.

Mr. McWilliams advised Mr. Bisbee that 10:00 AM on January 16, 2007 was the deadline for submitting information for the PB's consideration at its January 30, 2007 meeting. PB member Hollinger opined that paving could be a major stumbling block. PB member Clough said that she would be reluctant to pave Stonehouse Road, but she would go along with the recommendation of the safety and highway experts. She opined that traffic on Stonehouse Road would increase as a result of this subdivision in Sutton, and she said that she would hate to see the cost of paving the access road thrust upon the taxpayers of New London. PB member Conly opined that the maintenance costs for gravel roads were considerable. PB member Cook said that she was very concerned about an increase in traffic if the road were to be paved. She said that she hated to see the end of gravel roads in New London. PB member Cottrill agreed. Chair Ebel took a sense of the PB and all members present agreed, although some reluctantly, that Stonehouse Road should be paved. Mr. Cottrill said that he wouldn't want to see a repeat of the Stony Brook Road situation in which the original property owners wanted that road to remain a gravel road, but subsequent owners wanted the town to pave the road.

It was **MOVED** (Clough) and **SECONDED** (Conly) **THAT THE CONTINUED PUBLIC HEARING ON FINAL PLANS FOR STONEHOUSE ROAD ACCESS TO THE HARBORVIEW SUBDIVISION IN SUTTON BE CONTINUED TO TUESDAY, JANUARY 30, 2007 AT 7:30 PM. THE MOTION WAS APPROVED UNANIMOUSLY.**

II. CATE FAMILY TRUST – Continued Preliminary Major Subdivision (Tax Map 103, Lots 2-1 & 2-2)

Erin Darrow (Darrow Civil Engineering) advised the PB that it appear as if installing a dry hydrant on lakefront property owned by the Cate family on Herrick Cove, right on New Hampshire Route 103A, would be possible and it would satisfy the New London Fire Department's requirement that all new house lots be located within 1500 feet of an adequate water supply for fire protection. She said that she had discussed the matter with both the Fire Department and NH DOT.

Ms Darrow said that most of the house lots would be within the 1500 feet threshold. She said that TM 103, Lot 2-1 would be slightly beyond 1500 feet from the dry hydrant. She advised that a waiver of the 1500-foot requirement would be sought if a dry hydrant were to be installed at Herrick Cove. Ms Darrow stated that the proposed house sites were beyond 1500 feet from the hydrant, but the lots, except for 103-2-1, would be within 1500 feet of the dry hydrant. She reiterated that the plan appeared to be feasible. Ms Darrow advised that the Cates would like to have the option of installing the dry hydrant now or at the time that the new house lots were developed or sold and that a covenant regarding the installation be included in the deeds of the proposed lots. She said that the Cate family would like to eliminate from the covenant any reference to cost, as was suggested earlier.

Fire Chief Peter Stanley advised that the Fire Department would be willing to waive the 50-75 feet that lot 103-2-1 lacked in distance from the dry hydrant in light of the benefit the dry hydrant would provide for the entire neighborhood. He pointed out that the Cates might face the same issue again if the remainder of the property were to be developed at a future time. He suggested that digging a fire pond further up in the wetland area would solve the fire protection problem for all of the property. PB member Clough asked why the dry hydrant wouldn't work for five lots if it would work for four lots. Mr. Stanley clarified his statements.

Chair Ebel advised that revised covenant language should be submitted to the PB in writing. Ken McWilliams advised that the design of the dry hydrant or fire pond should be submitted and approved by the PB now, whether constructed now or when a lot was developed. He cautioned the Cates that if changes occurred in the town regulations and no development of the subdivided lots happened within four (4) years of the approval, the subdivision would be governed by the revised regulations.

Vaughn Cate Grubbs asked if everyone in the family were willing to take the risk that the regulations might change and that willingness were to be put in the deeds, would the PB approve. Chair Ebel and PB member Clough both replied that the PB would like the entire plan to be approved now. Ms Darrow asked if it would be possible to get PB approval contingent upon the Cates getting all of the necessary permits.

Mr. McWilliams asked if time was an issue. Ms Grubbs advised that she and her husband, Mark Grubbs, wanted to build now and wanted to have ownership of a full 13 acres in order to benefit from "current use" regulatory protections. She said that the property was currently owned by a trust. Zoning Administrator Peter Stanley advised that the "yellow-house" lot was eligible for a building permit now. He said that the lot made no impact on wetlands. Chair Ebel opined that the issue for the Grubbs was one of building a house on land they didn't officially own and that she understood why they were uncomfortable. Ms Grubbs agreed. Mr. McWilliams advised that, if the object was to have the plat signed and recorded, all requirements must be met and all permits approved anyway, so the approval that night wouldn't help the situation much. He said that there would be no advantage to an approval with contingencies. Chair Ebel opined that the applicants now knew what would be required and they needed to get the engineering completed. She reiterated that ownership was an issue.

III. HARRY SNOW - Continued Preliminary Major Subdivision: 7 Lots (Tax Map 106, Lot 13)

Harry Snow was accompanied by Peter Blakeman (Blakeman Engineering, Inc.).

Chair Ebel reported that the PB subcommittee on the proposed Snow subdivision had met on January 8, 2007. She advised that the biggest issues to be addressed were buffering the wetlands and where the buildings would be located on Lots 1 and 2.

Mr. Blakeman pointed out changes that had been made to the original plan that was presented to the PB. He advised that the entrance road had been moved further up Bog Road, so that it was no longer opposite a house. He noted that a fire pond had been added and that building envelopes on Lot 1 and Lot 2. He said that the lot line between Lot 2 and Lot 3 had been also been adjusted. Mr. Blakeman advised that the colored plans distributed identified the wetland buffer and the crosshatched area closer to Messer Pond identified the proposed wetland buffer that Mr. Snow would take to the Zoning Board of Adjustment (ZBA) for a Special Exception

Chair Ebel said that the lavender-colored area on the plan represented the 100-foot wetland buffer required by the regulations. She stated that the subcommittee had followed the recommendation of the enforcement officer to draw a straight line along Bog Road. She advised that Mr. Blakeman would present the plan to the ZBA for a waiver. She said that he would not have to ask for a Special Exception for the fire pond on Lot 1, because that was a permitted use in a wetland buffer under the regulations. Chair Ebel advised that the subcommittee had also discussed putting a dry hydrant on Bog Road, not where one was placed on the plan presented.

Mr. Blakeman stated that the building envelopes followed the proposed subdivision regulations and that the proposed lots met setback and size requirements. Chair Ebel noted that Lots 1 and 2 were located closer to the scrub-shrub area, so building envelopes were definitely desirable. Mr. Blakeman responded that the justification for the placement of the building envelopes was that the forested wetlands on Lot 1 were no different from many other wetlands in town that were not buffered. He said that the plan presented was a compromise that provided a little more buffer than Mr. Snow wanted and a little less than the PB wanted. Chair Ebel agreed that the compromise was acceptable and that Mr. Snow could go to the ZBA with the PB's support, if the rest of the PB members were agreeable.

Chair Ebel advised that the subcommittee had wanted an erosion control plan for each building site; however, it appeared that all sites were in the 15% slope area that required erosion control plans anyway. Mr. Blakeman advised that erosion control plans would be submitted for the driveways, but detailed plans for the building sites would only be submitted with building permit applications. Chair Ebel stated that if the final sites were not on 15% slopes, the subcommittee had agreed that an erosion control plan would be required for each site anyway because of the subdivision's proximity to Messer Pond.

Chair Ebel advised that the subcommittee had discussed homeowners' association documents and items to be included, e.g., maintenance of the privately-owned fire pond and drainage swales, etc., as well as the 200-foot buffer requirement contained in the deeds. She said that the subcommittee had also discussed limiting fertilizer usage, except during development. She said that there was a question as to whether docks attached to the land would be permitted under the Kellner-Snow deed, so she contacted Town Counsel during the subcommittee meeting. Town Counsel had advised that such docks were considered structures and would not be permitted by the deed; however, floating seasonal docks would be permitted. Chair Ebel said they had also discussed cutting restrictions, but no decision had been reached. Mr. Snow disagreed with cutting restrictions. He opined that the property owners wouldn't want to cut everything on the wooded lots and that he certainly would not do it. Mr. Blakeman opined that with the level of protection provided along Messer Pond, no further restrictions were necessary. He opined that the slopes of 15%-20% would not encourage owners to cut. Chair Ebel said that the subcommittee was mindful of cutting on other sites around Messer Pond and could recommend inclusion of advisory language in the homeowners' association documents. Mr. Snow responded that he did not want additional restrictions. He argued that the building sites were far enough from the water, the size of the lots was well above the two acres required in the R-2 District, and there was already more protection than for any other subdivision in New London. Mr. Blakeman advised that Mr. Snow had not maximized lot development, i.e., the objective was not to get as many lots as possible on the property. Chair Ebel responded that the PB policy in the past had been to include any and all restrictions in the homeowners' association documents and in the deeds as well as on the plan. She stated that she had heard Messer Pond property owners express concern about cutting not just from an erosion control issue, but also due to concerns about visual impact. She said there was much consternation about the stripping of the area where many larger houses had been built by another developer.

Abutter Fred Kaufman (216 Bog Road) agreed that with the 200-foot buffer there might not be a need for cutting restrictions from an erosion standpoint. He called attention to the large visible yellow house on Woodland Trace with no trees around it. Chair Ebel replied that the PB subcommittee was cognizant of visual impact. Mr. Snow commented that the lot cited had been logged first and then the house was put on the lot. He opined that that approach was backwards. Mr. Snow reiterated that there would be adequate protection without the addition of cutting restrictions and that he would not cut the lots to the extent the other developer had done. Chair Ebel responded that the PB's concern was not with Mr. Snow, but with subsequent owners. She said that unless the approval contained cutting restrictions, there would be no way to control cutting in the future.

PB member Clough opined that the buffer on four of the lots provided protection, but on the other lots the PB could use protective language with regard to keeping some percentage of the upper lot wooded. She said that wooded areas also slowed erosion. Chair Ebel said that she understood Mr. Snow's position, but she was concerned about future owners, not him. She also stated that the cutting affected not just the pond, which was protected by the 200-foot buffer, but the wetlands, of which there were many on the site. She asked about the possibility of a 30% cutting restriction. PB member Conly opined that it appeared that the lake lots were adequately protected already because of all the buffering requirements. Chair Ebel said she agreed in theory, but asked Mr. Blakeman to calculate for each lakeside lot what percentage was actually protected. Mr. Blakeman agreed to do so. Mr. Conly said that he would like to codify Mr. Snow's plan for future protection as part of the approval.

Abutter Eleanor Angoff (64 Surrey Lane) asked about the buffer that provides green space below the yellow house along Fieldstone Lane. Several PB members advised that there was a view easement that provided a 100-foot green space between Fieldstone and Surrey Lanes.

Peter Blakeman advised that Mr. Snow was not interested in creating any new buffers. Mr. Snow responded that he had visited that lot the previous day and he estimated that there was about 150 feet between the building site and the edge of the property. Mr. Blakeman said that he was very reluctant to add buffering along property lines. PB member Cook asked if the property were wooded. Mr. Snow replied affirmatively. Ms Cook asked if Mr. Snow would leave the trees on the lot. Mr. Snow responded in the affirmative. He opined that protection was adequate. He said that there was kind of a natural wetland buffer on the property.

Ken McWilliams reported on issues raised at the meeting with municipal department heads. He said that Town Road Agent Richard Lee wanted the length of open ditches minimized, more culverts, and the use of fabric on soft soils to prevent erosion. He advised that the Fire Department wanted the turn-off for the dry hydrant paved for a truck pull-off. He also advised that the size of Lot 1 had been modified.

Chair Ebel asked if there was anyone from the Messer Pond Protective Association who wished to speak. Bob Crane (315 Forest Acres Road) said that the Association would like some percentage limit on cutting so that no clear-cutting could occur so houses could not be seen from Messer Pond. Mr. Snow replied that the houses would not be invisible. He opined that the lots would be more “tree-d” than any other lots on Messer Pond. Mr. Crane responded that he was happy with what he had been hearing. Abutter Kaufman suggested running a poll to determine the amount of cutting and requiring the homeowners’ association to approve the color of houses.

Chair Ebel asked Mr. Blakeman if he wanted to continue the Preliminary Site Plan Review (SPR) to another meeting of the PB or if he wanted to proceed to a Final SPR. Ken McWilliams advised that development of homeowners’ association documents need to start earlier than Final SPR. Mr. Snow responded that he planned to start on the homeowners’ association documents the following week and that he planned to use the Snowcrest documents as a template. Zoning Administrator Peter Stanley advised that the application needed to be presented to the Conservation Commission for review at least 30 days before going to the ZBA for a Special Exception. Chair Ebel recommended continuation of the Preliminary SPR. She elicited a “sense of the PB” regarding the subcommittee’s recommendation that the application be sent to the ZBA with the support of the PB. She also elicited a “sense of the PB” regarding cutting restrictions and advisory language re leaving healthy stands of trees. PB members agreed with both principles.

It was **MOVED** (Hollinger) and **SECONDED** (Cook) **THAT THE PROPOSED SNOW SUBDIVISION BE REFERRED TO THE ZONING BOARD OF ADJUSTMENT FOR A SPECIAL EXCEPTION TO THE WETLAND BUFFER REQUIREMENTS WITH THE SUPPORT OF THE PLANNING BOARD. THE MOTION WAS APPROVED UNANIMOUSLY.**

Mr. Blakeman advised that he wanted to proceed directly to a Final SPR. Mr. McWilliams recommended that the applicant work with the PB subcommittee on outstanding issues.

IV. ROBERT DALEY (35 LITTLE SUNAPEE ROAD, LLC) – Continued Preliminary Site Plan Review: Parking (Tax Map 60, Lot 3)

Ken McWilliams advised the PB that Robert Daley had requested a continuation of the Preliminary Site Plan Review (SPR) for parking at 35 Little Sunapee Road to January 30, 2007.

PB member Cottrill opined that it seemed as if the agenda for the January 30, 2007 meeting of the PB was very full and recommended that if that was the case, Mr. Daley’s continuance be scheduled for another date. Mr. McWilliams reviewed the items already scheduled for the January 30, 2007 PB meeting. Mr. Cottrill recommended continuing Mr. Daley’s SPR to February 13, 2007.

It was **MOVED** (Conly) and **SECONDED** (Hollinger) **THAT THE CONTINUED PRELIMINARY SITE PLAN REVIEW: PARKING AT 35 LITTLE SUNAPEE ROAD BE CONTINUED TO TUESDAY, FEBRUARY 13, 2007 AT 7:30 PM. THE MOTION WAS APPROVED UNANIMOUSLY.**

V. PUBLIC HEARING ON ZONING AMENDMENTS PROPOSED BY THE PLANNING BOARD FOR CONSIDERATION OF THE VOTERS IN MARCH 2007

Chair Ebel opened the Public Hearing by outlining the procedures to be followed in discussing the proposed zoning amendments. She advised members of the audience that copies of the proposed amendments were available in the hallway near the entrance to the Sydney Crook Meeting Room. She further advised that the document showed the changes to specific zoning amendments by a combination of **highlighting** the proposed new language and ~~striking out~~ of the existing language to be deleted.

Resident Judy Chapin (267 Lamson Lane) objected to holding the public hearing at 9:00 PM. She said that the hearing should have been held when the public could attend. She said that elderly people could not attend hearings at so late an hour. Chair Ebel stated that the public hearing was “Noticed” for 7:00 PM, so the PB hadn’t actually scheduled the hearing for 9:00 PM. She also stated that, although she wasn’t certain, she

thought everyone who had left so far that night had been there on other matters. Ms Chapin strongly opined that a public hearing is held on one subject and it should be held at the "Noticed" time. She pointed out the absence of members of the public at 9:00 PM. Chair Ebel apologized to the Chapins and said that the next hearing would be scheduled first on the agenda. PB member Conly also apologized and explained that the PB had tried to accommodate the scheduling needs of the applicants that particular night.

PB member Clough asked if all of the proposed zoning amendments should be considered at the second public hearing. Zoning Administrator Stanley responded that because of regulatory "Notice" requirements, time permitted changes to be made only at the first public hearing. He advised that there would be insufficient time to meet "Notice" requirements between the second public hearing and the annual Town Meeting at which the amendments are presented for consideration by the voters.

Chair Ebel said that, if there were no objections, she would dispense with the reading aloud of each proposed amendment. Hearing no objection, she proceeded with the hearing.

- A. **AMENDMENT NO. 1 – ARTICLE II General Provisions.** The amendment proposes to amend Article II General Provisions, Section 5. Height Regulation to allow chimneys to exceed 35 feet in height as necessary only to comply with state and local fire code requirements. There being no discussion it was

MOVED (Conly) and **SECONDED** (Cottrill) **TO PLACE THE PROPOSED AMENDMENT NO. 1 ON THE BALLOT FOR CONSIDERATION BY THE VOTERS IN MARCH 2007. THE MOTION WAS APPROVED UNANIMOUSLY.**

- B. **AMENDMENT NO. 2 – ARTICLE II General Provisions** proposes to amend Section 14. Temporary Ancillary Sales, Paragraph c. Temporary Fund Raising Events for Non-Profit Organizations to remove the limit on the number and length of events.

Alan McLean (349 Pingree Road) said that he was speaking in support of the amendment on behalf of the First Baptist Church. He advised that the church hosted many events for other groups. He asked when the limit had been adopted and why it had been enacted. Zoning Administrator Peter Stanley responded that it was adopted in order to allow such events; previously, none were allowed under the Zoning Ordinance. Mr. McLean opined that the proposed amendment was an improvement. He said that he was also speaking for some members of the Council on Aging. Chair Ebel introduced him to Hugh & Judy Chapin, very active members of the Kearsarge Area Council on Aging.

There being no further discussion, it was

MOVED (Cook) and **SECONDED** (Cottrill) **TO PLACE THE PROPOSED AMENDMENT NO. 2 ON THE BALLOT FOR CONSIDERATION BY THE VOTERS IN MARCH 2007. THE MOTION WAS APPROVED UNANIMOUSLY.**

- C. **AMENDMENT NO. 3 – ARTICLE III, Definitions.** The amendment proposes to amend Article III. Definitions. 123. Structure. to clarify items included or excluded from the definition.

Michael Todd (159 Old Main Street) advised that he had re-written the proposed amendment to make it easier to read and to understand. He distributed copies of the suggested revision. He opined that his suggestions clarified the amendment. He pointed out that it was not proper English to use the word you're trying to define in the definition.

PB member Clough suggested leaving space between what is permitted and what is not permitted. Zoning Administrator Stanley said that he was concerned that saying "anything built for storage" would capture more items than intended, e.g., closets. Mr. Todd asked why not add "outside". He questioned the use of the term "structure(s)" in the definition of a "Structure". Chair Ebel replied that the definition of "Structure" was known. Ms Clough said that the amendment modified the definition of the term "Structure". Chair Ebel agreed that "outside" could be added. Ken McWilliams suggested using "outside storage". PB member Cottrill opined that the location of "sheds and greenhouses" should be

placed earlier in the sentence. Chair Ebel opined that there was no need to include “as defined in this regulation” after “Buildings”. She recommended striking it totally.

It was **MOVED** (Cottrill) and **SECONDED** (Conly) **TO TAKE THE PROPOSED AMENDMENT NO. 3 – ARTICLE III, DEFINITIONS. 123. STRUCTURE, AS REVISED, TO A SECOND PUBLIC HEARING. THE MOTION WAS APPROVED UNANIMOUSLY.**

- D. AMENDMENT NO. 4 – ARTICLE III. Definitions.** The amendment proposes to amend Article III. Definitions to add a definition of “Bedroom”.

It was **MOVED** (Conly) and **SECONDED** (Cottrill) **TO PLACE THE PROPOSED AMENDMENT NO. 4 ON THE BALLOT FOR CONSIDERATION BY THE VOTERS IN MARCH 2007. THE MOTION WAS APPROVED UNANIMOUSLY.**

- E. AMENDMENT NO. 5 – ARTICLE XXV. Enforcement, Section A. Authority, Paragraph 1.** The amendment proposes to amend ARTICLE XXV. Enforcement, Section A. Authority, Paragraph 1. to delegate their power and authority to enforce the provisions of this Zoning Ordinance to the Town Administrator and/or the Zoning Administrator.

Resident Hugh Chapin (267 Lamson Lane) opined that it would be a huge mistake to transfer authority to non-elected appointees. He asked Ken McWilliams if there was any precedence. Chair Ebel responded that the Board of Selectmen would not be transferring authority; rather, it would be authorized to delegate its administrative duties with oversight by the Board of Selectmen. She said that it was an administrative provision, and she advised that the delegates would have to report to the Board of Selectmen. She said that the amendment had been reviewed and approved by Town Counsel, who said that it was not uncommon. In fact, the provision was only introduced because it was strongly recommended by Town Counsel that there be an official delegation authorization in the Zoning Ordinance. No power would be relinquished. Chair Ebel opined that smooth operation of an ever-growing town required the Board of Selectmen to be able to get assistance, as it could not do everything itself.

Zoning Administrator Stanley said there were a variety of statutes that applied to enforcement. He explained that any violation would be discussed with the Town Administrator, and if there were any disagreement between the Zoning Administrator and the Town Administrator, the matter would go to the Board of Selectmen and/or Town Counsel. He opined that the purpose of the amendment was to promote more efficient administration, not a power grab.

PB member Conly said that the PB was very concerned about the need for immediate oversight by the Board of Selectmen. Chair Ebel asked for the Board of Selectmen’s viewpoint on the measure. PB member Clough advised that the Board of Selectmen did strongly endorse the proposed amendment. She said that it was not a transfer of power; rather, the provision gave the Board of Selectmen the option to delegate its authority. Chair Ebel suggested as a further modification to the amendment that “to the extent it deems necessary to assist it in the exercise of its duty to” be inserted between “authority” and “enforce”.

Resident Judy Chapin (267 Lamson Lane) asked if it had been done in other towns. PB member Clough responded affirmatively. Chair Ebel advised reiterated that Town Counsel had recommended the amendment and had approved the language. She also noted that the PB members had made sure to include reporting responsibilities in the amendment and an oversight requirement.

Resident Hugh Chapin opined that things operated well as they now exist. Mr. Chapin said that there was no way of knowing who would wear the hats of the Zoning Administrator and the Town Administrator in the future. He said that the language recommended would open up the possibility for abuse of power. He opined that it would add one more layer of bureaucracy to be navigated and would be more time consuming.

Zoning Administrator Stanley and Chair Ebel advised that without the amendment, it was arguable that the Town Administrator did not have the authority to even write a letter regarding a violation. Chair Ebel

said that the only layers of bureaucracy would be the Zoning Administrator, the Town Administrator, and the Board of Selectmen. She added that nothing was being added to town bureaucracy that didn't already exist and that this was simply a formalization of the delegation authority.

Resident Judy Chapin expressed her concern that the amendment could be placed on the ballot without a second hearing. Chair Ebel explained that it couldn't be changed without a second hearing, but, technically, it could go on the ballot that night if there were no changes. She further explained that it would not be possible to make additional changes at a second hearing and still comply with statutory "notice" requirements to place an amendment on the ballot. At the second hearing the choices are limited to placing an amendment on the ballot as it was written for the hearing or not placing it on the ballot. Mr. Chapin advised that he would see that there were a number of interested residents at the second hearing on the proposed amendment. He also stated that he would ensure that there was a great deal of media coverage of the issue if the PB went ahead with it.

PB member Cottrill said that the proposed amendment was an attempt to legally authorize actions that are now being done without legal authority. He suggested adding a statement regarding the right of the Board of Selectmen to revoke/rescind the delegated authority at any time without any notice. PB members thought that this was an excellent idea, and the Chapins concurred. Mr. Chapin stated that this addition would give him a great deal of comfort. After discussion, the PB decided to add the following to the end of the amendment: "and may revoke its delegation of authority to the administrators at any time and without prior notice." The Chapins opined that the revised version of the amendment was greatly improved. Chair Ebel thanked them for their input, as did other members of the PB.

It was **MOVED** (Hollinger) and **SECONDED** (Cottrill) **TO TAKE THE PROPOSED AMENDMENT NO. 5 – ARTICLE XXV, Enforcement, Section A. Authority, Paragraph 1, AS REVISED, TO A SECOND PUBLIC HEARING. THE MOTION WAS APPROVED UNANIMOUSLY.**

- F. AMENDMENT NO. 6 – ARTICLE II. General Provisions, Section 15. Home Occupations/Home Businesses.** The purpose of the amendment is to clarify that the dwelling unit where a home occupation or a home business is conducted shall be the domicile of the person conducting the business.

It was **MOVED** (Hollinger) and **SECONDED** (Cottrill) **TO PLACE THE PROPOSED AMENDMENT NO. 6 ON THE BALLOT FOR CONSIDERATION BY THE VOTERS IN MARCH 2007. THE MOTION WAS APPROVED UNANIMOUSLY.**

- G. AMENDMENT NO. 7 – ARTICLE II. General Provisions, Section 18. Accessory Dwelling Units, Section c. Requirements and Limitations, paragraph 6.** The purpose of the amendment is to clarify that one of the dwelling units must be the domicile of the owner.

It was **MOVED** (Conly) and **SECONDED** (Cottrill) **TO PLACE THE PROPOSED AMENDMENT NO. 7 ON THE BALLOT FOR CONSIDERATION BY THE VOTERS IN MARCH 2007. THE MOTION WAS APPROVED UNANIMOUSLY.**

Ken McWilliams advised that copies of the ballot amendments would be available in the town offices on January 16, 2007.

Chair Ebel closed the Public Hearing on Proposed Amendments to the New London Zoning Ordinance.

VI. OTHER BUSINESS

- A. SARAH CAVE/GOURMET GARDEN – Need for Site Plan Review:** Ken McWilliams advised that Sarah Cave would like to offer Gourmet Garden items for sale in the location in the New London Inn formerly occupied by the gift shop. The use would still be retail.

Someone mentioned that the gift shop had been approved as a retail use for hotel guests without access by passers-by from outside the Inn. PB member Cottrill opined that the retail use should not be allowed to expand without coming back to the PB for review.

It was **MOVED** (Conly) and **SECONDED** (Hollinger) **THAT NO SITE PLAN REVIEW BE REQUIRED FOR GOURMET GARDEN/SARAH CAVE TO OFFER ITEMS FOR SALE IN THE SPACE IN THE NEW LONDON INN FORMERLY OCCUPIED BY A GIFT SHOP, PROVIDED THAT THE SQUARE FOOTAGE OF THE RETAIL SPACE REMAINS THE SAME. THE MOTION WAS APPROVED UNANIMOUSLY.**

B. DRAFT OF REVISED DRIVEWAY REGULATIONS

Ken McWilliams reminded the PB there had been an issue relating to reducing minimum driveway width from 12 feet to 10 feet. Fire Chief Peter Stanley said that it might be necessary to widen curves on a 10-foot wide drive to allow access by fire apparatus. He said that if a 10-foot drive was straight, there would not be a problem with access. PB member Cottrill said that the discussion was not about reducing the width of the primary access drive. Fire Chief Stanley opined that it would be more practical to allow the Fire Chief, in concurrence with the Town Road Agent, to reduce the requirement as long as it didn't impede access by fire and emergency equipment.

Mr. McWilliams advised that in SECTION III – STANDARDS, Paragraph H. GRADE it was necessary to retrieve the minimum grade of 15% from a previously deleted provision from an earlier draft. The statement "Maximum grade may not exceed 15%" needs to be added to the section. It was also recommended that "approaches" be replaced by "entrances and exits".

In SECTION VI – ADMINISTRATION, Town Counsel Bart Mayer recommended putting in standards for an appeal. Chair Ebel said that the section was re-written to comply with regulatory parlance.

In SECTION III – STANDARDS, Paragraph G. HORIZONTAL CURVES, a second sentence was added to clarify that the standard applies only to the main driveway and not to any secondary or off-shoot driveways. Fire Chief Stanley recommended that the words "leading to a structure" be inserted in the first sentence, so it would read "Horizontal curves in driveways leading to a structure . . .

C. AGENDA FOR JANUARY 30, 2007: It was agreed that the Public Hearing on the Proposed Zoning Amendments would be scheduled for 7:30 PM, and the Public Hearing on the Revised Driveway Regulations would be scheduled for 8:00 PM.

D. The MINUTES of the DECEMBER 12, 2006 meeting were APPROVED, as circulated.

The **MEETING** was **ADJOURNED** at **10:27 PM**.

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

DATE APPROVED _____

CHAIRMAN _____