

**NEW LONDON PLANNING BOARD
REGULAR MEETING & PUBLIC HEARING
SEPTEMBER 23, 2008**

MEMBERS PRESENT: Karen Ebel (Chairman), Tom Cottrill, Jeff Hollinger, Ken McWilliams (Planner), Larry Ballin (Selectmen's Representative). Deirdre Sheerr-Gross (Alternate) arrived at 7:30.

MEMBERS ABSENT: Dale Conly, Celeste Cook, Michael Doheny, Michele Holton (Alternate)

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

I. JUNE FICHTER – Sunapee Area Watershed Coalition Presentation

June Fichter and Terry Dancy made a presentation regarding the efforts of the Sunapee Area Watershed Coalition (SAWC) efforts to protect the Lake Sunapee watershed.

Mr. Dancy gave a brief history of the coalition. He advised that in October 2001 the Lake Sunapee Protective Association had written to the Boards of Selectmen of the six watershed towns regarding the need to study and protect the quality of the water and seeking support for a study. He said that in 2002 the Lake Sunapee Protective Association made recommendations regarding what the study should encompass and made application for federal and NH Department of Environmental Services (DES) funding for an extensive study. He advised that the Upper Valley Lake Sunapee Regional Planning Commission (UVLSRPC) had also submitted a separate application for a watershed study.

Mr. Dancy advised that in 2003 the Coalition had met with the Boards of Selectmen of the six watershed towns and asked them to support the Coalition's efforts and to appoint representatives. He said that the Coalition had received input from a very extensive group. He said that the towns had studied their ordinances, and the Granite State Rural Water Association had been approached for help in putting the report together. He said that the Coalition continued to meet once a month. He noted that the information provided by the Coalition had impacted town ordinances, including the Master Plan.

Ms Fichter distributed printed copies of a slide presentation. She said the Coalition had discovered that what was important to the Coalition was also important to NH DES and NH Department of Transportation (DOT). She advised that the Coalition had taken field trips all over the watershed, and had then constructed a computer model taking into account the impact of land uses and phosphate loading in the watershed areas. She said that at full build-out phosphorus would be added at 2000 pounds per year (approximately 2.7 times the current level) from fertilizer, road run-off, and sewage. Mr. Dancy advised that algae began to appear at 10 parts/million and the current level in the lake was about eight parts/million. He said that the Coalition was very concerned about the immediate problem.

PB Member Ballin said that when the Coalition made its presentation to the New London Board of Selectmen he had asked if Lake Solitude had been tested. He asked if that testing had been done since that time, and said that it would be a good basis from which to judge other lakes. Ms Fichter replied that it had not been tested yet.

Ms Fichter advised that the published report on the watershed contained information from many more contributors than the Coalition had imagined. She said the study indicated how ground water impacted by watershed pollution. She advised that SAWC had done a comparison of the regulations from all six of the watershed towns. She said that copies of the watershed plan had been sent to the Boards of Selectmen and libraries in each of the six watershed towns. Ms Fichter advised that the Coalition's Erosion & Sedimentation pamphlets were now being distributed with building permits in New London and Springfield, and that Newbury also had a pamphlet that it was using.

Ms Fichter said that, as a result of the study, the Coalition recommended a number of actions relating to pollution from stormwater runoff, erosion from land development activities, the impacts of impervious cover on

water quality stormwater runoff, septic system maintenance and location (recommended towns maintain a data base of septic locations and conduct routine inspections), enforcement of ordinances and regulations, road salt use and storage, development of a watershed plan, and development of an education program. She opined that maintenance of water runoff might be written to deeds. She said that DES was considering regulations to promote zero runoff increase from pre-development to post-development. Mr. Dancy suggested that there might be some tax or other incentive offered to achieve that end. Ms Fichter complimented New London on its ordinances regarding erosion control and stormwater runoff. She said that the Coalition's concern was the accumulated effect on the watershed of all the individual actions. She opined that the towns could benefit from reducing the impact on the watershed and that regulations needed to be enforced. Mr. Dancy agreed that the towns needed to enforce their regulations and the public needed to be educated.

Chair Ebel thanked Ms Fichter and Mr. Dancy for their presentation. She said that it was very pertinent as the PB was right in the midst of a Master Plan update and assessing potential zoning amendments. She also told them that Zoning Administrator Peter Stanley had been appointed to the State land use commission and that she had been appointed to a State stormwater commission. She noted that both commissions would be interested in SAWC's work.

Alternate PB Member Deirdre Sheerr-Gross arrived at 7:30 PM. Chair Ebel asked her to sit on the PB to replace PB Member Cook.

II. COUNSELING ASSOCIATES OF NEW LONDON, PLLC – Concept Site Plan Review: Need for Site Plan? (Tax Map 72, Lot 40)

Betsy Harrison (Counseling Associates of New London, PLLC) was accompanied by Marilyn Kidder (Coldwell Banker Milestone Real Estate).

Ms Harrison advised that Counseling Associates of New London, PLLC would use the first floor of the property located at 35 Newport Road for its counseling practice. She advised that the two apartments upstairs and the chiropractic practice in the ancillary building would remain.

Chair Ebel asked how many partners the practice had. Ms Harrison replied that there were two partners and one other practitioner. Chair Ebel asked what the hours of business would be. Ms Harrison responded that the hours would be 7:00 AM to 7:00 PM.

Ken McWilliams advised that the proposed use of the property would be a less intensive use than the previous use, as it would be going from a real estate office to a general office use. Reporting on the meeting with municipal department heads, Mr. McWilliams said that Zoning Administrator Peter Stanley had advised that the business would need to obtain a sign permit. Fire Chief Jay Lyon had advised that interconnected hard-wired smoke detectors were needed in the stairwells as well as the apartments, that there needed to be signs to indicate how to exit the building and that although there was an external stairwell onto a roof, an additional ladder would be required. Chief Lyon also advised that egress signs would be needed downstairs as well as emergency lighting.

Marilyn Kidder advised that she had reviewed the requirements with Fire Chief Lyon and an electrician. Chair Ebel asked if there was a letter from the Fire Department outlining the requirements. Ms Kidder responded that she had been working with the Fire Department right from the beginning; however, she said a letter would be fine, if that was what the PB wanted. Chair Ebel said it would be good to have a letter outlining the requirements for the various parties involved. Fire Chief Lyon said he would be happy to provide such a letter.

PB Member Ballin opined that no Site Plan Review (SPR) should be needed for the proposed change in use of the property, provided that Counseling Associates complied with the Fire Department requirements. Other PB members agreed.

It was **MOVED** (Sheerr-Gross) and **SECONDED** (Ballin) **THAT NO SITE PLAN REVIEW BE REQUIRED FOR A CHANGE IN USE FROM REAL ESTATE OFFICE TO GENERAL OFFICE USE OF PROPERTY LOCATED AT 35 NEWPORT ROAD (TAX MAP 72, LOT 40) AS PRESENTED BY COUNSELING ASSOCIATES OF NEW LONDON, PLLC, CONTINGENT UPON COMPLIANCE WITH ALL STATE AND LOCAL FIRE CODES AND REQUIREMENTS. THE MOTION WAS APPROVED UNANIMOUSLY.**

III. CATHERINE J. GIBSON – Final Site Plan Review: Home Business (Tax Map 74, Lot 4)

Catherine Gibson advised that she would like to offer Tarot, Numerology, and Astrology consultations at her home at 66 Job Seamans Acres (Tax Map 74, Lot 4).

Chair Ebel asked Ms Gibson if she understood the regulations pertaining to a home business. Ms Gibson responded affirmatively. Chair Ebel asked if any issues had been raised at the meeting with municipal department heads. Ken McWilliams responded that no issues had been raised. Chair Ebel asked if there were any abutters present. No one responded.

Chair Ebel complimented Ms Gibson on the thoroughness of her Executive Summary and application materials. She asked Ms Gibson to explain the parking that would be available. Ms Gibson replied that there was parking for one or two cars. She said that if there were three or more clients, then she would go to them rather than have the clients come to her home.

It was **MOVED** (Hollinger) and **SECONDED** (Cottrill) **THAT THE PROPOSED HOME BUSINESS OF TAROT, NUMEROLOGY, AND ASTROLOGY CONSULTATIONS AT 66 JOB SEAMANS ACRES (TAX MAP 74, LOT 4) BE APPROVED, AS PRESENTED BY CATHERINE J. GIBSON. THE MOTION WAS APPROVED UNANIMOUSLY.**

IV. NEWPORT ROAD DENTAL OFFICES – Proposed Security for Site Plan (Tax Map 59, Lot 1)

Ken McWilliams called the PB's attention to a handout detailing e-mail exchanges with Peter Blakeman (Blakeman Engineering, Inc.), Jim Bruss (Bruss Construction, Inc.), Director of Public Works Richard Lee, and Fire Chief Jay Lyon regarding security for Newport Road Dental Offices.

Mr. McWilliams advised that Director of Public Works Richard Lee and Fire Chief Jay Lyon had reviewed the proposal and approved the \$76,975 security for Phase II of Newport Road Dental Offices.

PB Member Ballin asked if the town was still holding \$10,000 as security on Phase I. Zoning Administrator Stanley responded that the amount of security was being reduced as items were completed.

It was **MOVED** (Ballin) and **SECONDED** (Cottrill) **THAT THE PROPOSED SECURITY OF \$76,875 FOR PHASE II OF NEWPORT ROAD DENTAL OFFICES AT 125 NEWPORT ROAD (TAX MAP 59, LOT 1) BE APPROVED AS PRESENTED. THE MOTION WAS APPROVED UNANIMOUSLY.**

V. PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE – Concept Site Plan Review: Replace Electric Substation (Tax Map 84, Lot 27)

David Ertz (SGC Engineering, LLC) appeared on behalf of Public Service Company of New Hampshire (PSNH) regarding a concept site plan to replace a substation that was built in 1953. He advised that the substation was located on South Pleasant Street in the R-2 District. The proposal was to construct a new substation on that same site.

Chair Ebel asked what a substation was. Mr. Ertz responded that a substation allowed voltage to be "stepped down" for home use.

Mr. Ertz pointed out the location on a site map that he displayed. He said that the plan was to use the existing driveway. He indicated the delineation of wetlands on the site map. He advised that the existing substation was 40' x 44' and the new one would be 3.5 times that footprint. He said that construction would start in 2009. Mr. Ertz said that development of the site was constrained by a sewer line easement, wetlands, and a "force line" that he had only learned about at the meeting with municipal department heads. He advised that Public Works Director Richard Lee had suggested moving the substation down over the sewer easement, a suggestion which Mr. Ertz said that he would consider as it would reduce the amount of wetlands that would need to be filled. He said that the proposed new footprint would necessitate the filling of somewhat less than 3000 square feet of wetlands; however, that could be significantly reduced by moving the substation down over the sewer easement.

Mr. Ertz advised that the surface, except for the equipment foundation, would not be paved and would not be concrete; rather it would be gravel. He said that the proposed plan included a mobile control unit. Ken McWilliams advised that it was the mobile portion of the substation that Public Works Director Lee had suggested placing over the sewer easement, a suggestion in which PSNH was now interested. He said that PSNH had found that a substation was not a permitted use in wetlands.

PB Member Ballin asked what impact moving the substation would have on the wetland. Mr. Ertz replied that it would reduce the amount of wetlands to be filled by 85%. Chair Ebel asked how deep the pipe in the sewer easement was. Mr. Ertz replied that it was six to eight feet deep. Mr. McWilliams advised that there were two pipes: a force main and a gravity-feed pipe. Chair Ebel asked if the pipes had not just recently been replaced. PB Member Ballin opined that the replacement had been some years ago. He said that it would make sense to drop a camera down to investigate the status of the pipes before locating anything over them. Mr. McWilliams pointed out that nothing would be constructed over the pipes other than the proposed fence.

It was **MOVED** (Ballin) and **SECONDED** (Cottrill) **THAT PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE BE REFERRED TO THE ZONING BOARD OF ADJUSTMENT (ZBA) FOR TWO VARIANCES, (1) FILLING A WETLAND AND (2) CONSTRUCTING A BUILDING OVER A WETLAND, IN ORDER TO CONSTRUCT A NEW SUBSTATION ON ITS PROPERTY OFF SOUTH PLEASANT STREET (TAX MAP 84, LOT 27). THE MOTION WAS APPROVED UNANIMOUSLY.**

Mr. Ertz inquired about the hearing schedule for the Zoning Board of Adjustment. Zoning Administrator Peter Stanley and PB Member Ballin explained that ZBA meetings were set on an "as-needed" basis and that Mr. Ertz should contact the Town Offices to schedule one.

VI. CAMP WALLULA – Concept Subdivision Plan

(Tax Map 33, Lot 16)

Christian Bottinger, owner of Camp Wallula, was accompanied by Stephen Jesseman (Jesseman Associates, P. C.), Bradford Cook (Sheehan Phinney Bass & Green, P.A.), and Pam Perkins (New London Agency).

Stephen Jesseman reminded the PB that in 1971 a plan drawn by Bristol Sweet Associates to subdivide the Camp Wallula site on Route 114 into 17 units had been approved by the PB. He advised that the plan showed the sites and the houses. He said that town counsel had determined that the approved subdivision plan had been "grandfathered". Mr. Jesseman displayed a plan on which he had tried to lay out the lots and right-of-way. He pointed out that the hammerhead was near a steep slope, but it met the regulatory requirements. He said that the plan also showed driveways.

Mr. Jesseman said that in a December 18, 2007 letter, the Town of New London advised Mr. Bottinger that any change in the approved 1971 subdivision plan would negate the site's "grandfather" status. He advised that his client intended to comply with the terms of that letter in updating the 1971 plan. Mr. Jesseman suggested applying the setbacks to each lot and establishing a maximum house size to be sited on each lot with the exact location of the house on the lot to be determined later. He said that he thought the suggestion could be reviewed by town counsel and town counsel could be asked if it would change the "grandfather" status of the approved plan.

Attorney Bradford Cook advised that Mr. Bottinger was living in a building containing two of the 17 approved units. He said that Mr. Bottinger occupied one unit and there was an apartment upstairs.

PB Member Cottrill asked if each of the units would have its own water and septic systems. Attorney Cook responded that the subdivision would be served by the municipal water system, and each unit would have an individual septic system. PB Member Cottrill asked if Mr. Bottinger wanted to change the lot lines. Mr. Jesseman responded affirmatively. PB Member Ballin asked if all property owners would have access to the lake via the common area. Attorney Cook responded affirmatively, but he added that the high water line had changed over time.

Mr. Jesseman asked the PB if it would accept the concept of setting a maximum house size and permitting a change in individual lot lines. Chair Ebel recommended that he make a plan of what it was that they wanted, and the PB would submit it to town counsel for a determination of whether or not the changes were substantial enough to jeopardize the "grandfather" status of the approved subdivision. PB Member Sheerr-Gross asked if he could show the house sizes on the existing lots and then on the suggested lot sizes. Mr. Jesseman agreed.

Ken McWilliams advised that the zone allowed only 50% of a lot to be covered by buildings and accessory structures. He said that 50% of a lot had to be landscaped area. PB Member Sheerr-Gross asked if the common area could be used to satisfy the density requirement. Mr. McWilliams replied negatively, and said that the 50% landscaped area had to be within each lot. Chair Ebel verified that the maximum footprint would be based on the setback and related requirements on the originally approved lots and would not be affected if individual lot lines were changed, thereby expanding the lot size. Mr. Jesseman and Attorney Cook concurred.

Zoning Administrator Peter Stanley advised that the subdivision was a Planned Unit Development (PUD) and, as such, required a buffer strip all the way around. He also advised that any changes would need to comply with current regulatory requirements.

Chair Ebel asked if any homeowner's documents had been drafted. Attorney Cook responded in the negative. Chair Ebel advised that any drainage components would have to be maintained, and advised that it be handled by the homeowner's association.

PB Member Cottrill asked if the property was all one lot. Attorney Cook replied that the PUD had been approved in 1971, but the subdivision had never happened. He reiterated that the PUD had been "grandfathered". He also advised that approval would have to be granted by the NH Department of Environmental Services.

Mr. Jesseman pointed out the lot that they wanted to shift because of a steep slope. PB Member Ballin asked if the existing tennis court was pervious. Attorney Cook responded that the court was clay. Mr. Jesseman asked if the PB wanted a drainage plan. Both Chair Ebel and PB Member Ballin responded affirmatively. Chair Ebel recommended that they build in Low Impact Development measures to ameliorate the impact of drainage and that the homeowner's documents contain provisions to maintain them or provide that the Town of New London could step in at the expense of the homeowners' association should it fail to maintain drainage measures. She advised that the PB would want to build in protection for the lake.

Mr. McWilliams advised that paragraph five of the December 18, 2007 letter from the Town of New London (copy included in the handouts) addressed the need to meet all subdivision requirements, e.g., drainage, topography.

VII. STANLEY FARM ASSOCIATION, INC. – Concept Minor Subdivision

(Tax Map 57, Lot 4)

Peter Stanley appeared on behalf of the Stanley Farm Association, Inc. He demonstrated on the plan displayed the amount of land under conservation easement. He explained that he was seeking a referral to the Zoning Board of Adjustment for a Variance of the minimum lot size in the Agricultural Rural Residential District.

Mr. Stanley advised that the farmhouse was jointly owned and contained two apartments, the income from which was intended to provide sufficient revenue to cover taxes and amortized debt. He advised that the rental income was no longer adequate. He said that several of the small lots were owned individually. Mr. Stanley advised that the Association had recommended cutting the farmhouse off and selling it to some family member; however, providing the minimum four acres required for a lot in the Agricultural Rural Residential District would result in an irregular lot that would have to include the Burpee Hill Road access to the back property. He said that the Association's plan was to put the entire area under conservation easement, and the proposed change would allow one easement rather than several easements for individual lots.

Mr. Stanley said that the proposed subdivision would require converting the farmhouse back to a single family residence.

PB Member Sheerr-Gross asked if there were a way to change the access to the farmhouse. Mr. Stanley replied that conditions of the subdivision sale would be to recommend not having a shared driveway and to formalize all easements.

PB Member Cottrill asked how many lots there were. Mr. Stanley replied that there were six lots. PB Member Cottrill suggested that at some point one of the lots could go outside the Stanley family. Mr. Stanley opined that it was very unlikely that any of the property would go outside the family. Mr. Cottrill asked if all six lots were livable. Mr. Stanley responded affirmatively. PB Member Cottrill asked if all had septic/sewer systems. Mr. Stanley replied by identifying the septic/cesspool locations.

It was **MOVED** (Hollinger) and **SECONDED** (Cottrill) **THAT STANLEY FARM ASSOCIATION, INC. BE REFERRED TO THE ZONING BOARD OF ADJUSTMENT FOR A VARIANCE TO PERMIT A LOT IN THE AGRICULTURAL RURAL RESIDENTIAL DISTRICT WITH LESS THAN THE MINIMUM FOUR ACRE LOT SIZE, WITH THE PLANNING BOARD'S RECOMMENDATION FOR APPROVAL. THE MOTION WAS APPROVED UNANIMOUSLY.**

VIII. POSSIBLE ZONING AMENDMENTS FOR 2009

PB members reviewed a list of possible Amendments to the New London Zoning Ordinance for consideration of the voters in March 2009. Ken McWilliams advised that all but one of the items on the list had been compiled by Town Administrator Jessie Levine and Zoning Administrator Peter Stanley. He advised that an amendment regarding signage had been recommended by William Green.

- A.** Section e. PROHIBITED SIGNS of ARTICLE II. 10. Sign Regulations: William Green recommended adding a paragraph. He said that the recommendation grew out of temporary sign for a condominium open house that he had placed on common land on the condominium property. Zoning Administrator Stanley had advised him that the sign was not allowed.

Zoning Administrator Stanley said that town counsel had recommended making some accommodation for cluster developments regarding generic signs to address real estate open houses. PB Member Sheerr-Gross opined that it sounded as if Mr. Green was talking about a temporary sign and town counsel was talking about a permanent generic sign. Zoning Administrator Stanley replied that an amendment could be crafted to address both situations. He volunteered to draft such an amendment and run it by Mr. Green.

Ken McWilliams recommended revising Mr. Green's proposed amendment by changing "communities" to "residential developments" in line one and in line two changing "a" to "one".

- B.** Revise the Zoning Map to accommodate the changes proposed in the Zoning Boundary Study conducted by the Upper Valley Lake Sunapee Regional Planning Commission.
- C.** Add a Small Wind Energy System Article. Zoning Administrator Stanley said that he was working with the Energy Committee on an article. He advised that the State had provided a template that was pretty

good. PB Member Sheerr-Gross opined that towers had to be “pretty tall”. Ken McWilliams said the height was 150 feet.

- D. Add a definition of “Seasonal Use”. PB consensus was that a definition was needed. A definition was important for non-conforming uses. Zoning Administrator Stanley opined that it was not a critical amendment.
- E. Update New London’s Shore Land Overlay District to reflect the current changes in the State’s Comprehensive Shoreland Protection Act. Zoning Administrator Stanley recommended that New London no longer have a 300-foot buffer. He recommended adopting the State’s 250-foot buffer because it would be less confusing. He advised that property owners must have both town and state approvals.
- F. Broaden ARTICLE II General Provisions, Section 14. Temporary Ancillary Sales to include other temporary events that are not sales related, such as volunteer days at the hospital and graduation at the college.
- G. Amend the Zoning Ordinance to respond to Senate Bill 342 on Workforce Housing to include: (1) allowing multi-family dwellings in residential zones where properties are served by public water and sewer either as a permitted use or as a use permitted by special exception, and (2) provide for inclusionary zoning in residential developments by offering a density bonus for workforce housing that will remain affordable. Zoning Administrator Stanley opined that such an amendment was not optional; the town has to comply with state regulations.
- H. Add Forestry as a permitted use in the R-2 District where large amounts of forest remain that should be managed.
- I. Add setback requirements for on-site wastewater treatment systems from domestic wells and maintenance requirements for on-site wastewater treatment systems in ARTICLE II General Provisions, Section 8. Sanitary Protection. Zoning Administrator Stanley advised that he had given the suggested to Health Officer Don Bent for his recommendations.
- J. Periodic review of sign regulations. Zoning Administrator Stanley recommended deleting.

IX. OTHER BUSINESS

- A. The MINUTES of the AUGUST 26, 2008 MEETING of the PLANNING BOARD were APPROVED, as circulated.
- B. The MINUTES of the SEPTEMBER 9, 2008 MEETING of the PLANNING BOARD were APPROVED, as circulated.

The **MEETING** was **ADJOURNED** at **9:00 PM**.

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

DATE APPROVED _____

CHAIRMAN _____