

**NEW LONDON PLANNING BOARD
REGULAR MEETING & PUBLIC HEARING
MAY 22, 2007**

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

Chair Ebel called the **MEETING TO ORDER** at 7:30 PM. She welcomed new member Michael Doheny and alternate member Michele Holton. She invited Alternate Holton to sit in for absent member Celeste Cook.

I. G. & K. CROZER – Final Site Plan Review: Greenhouse – Orchids (Tax Map 56, Lot 7)

George and Katharine Crozer were both present. Chair Ebel complimented them on the summary they had provided, but asked if they could briefly recap the proposed project.

Mr. Crozer advised that he had been working for several years growing orchids in Virginia. Mrs. Crozer said that she wanted to build a greenhouse very soon in order to be able to relocate orchids that they have bought and that are now "homeless" in Virginia. She said that she knew, having met with the municipal department heads, that they had to do some work on the driveway before opening the site for retail business; however, they would like to build the greenhouse as soon as possible. She advised that it would be five years before the proposed business of wholesale, retail, and Internet sale of orchids would not be fully operational.

Chair Ebel asked if they would be the only employees. Mrs. Crozer replied affirmatively. Chair Ebel asked about the hours of operation. Mrs. Crozer replied that they would like to be open four to five days a week eventually. She advised that a sign would be erected when the retail phase of the business opened. PB member Conly asked for confirmation that the plan presented was for both now and in the future. Mrs. Crozer replied that it was and advised that they wanted to have the entire proposal reviewed at one time.

Chair Ebel asked if the full set of plans referenced in the summary was available for review. Mrs. Crozer produced some photos of a similar, but larger, structure. She said that the greenhouse would have a gravel floor and be heated by propane at first, but later from a geo-thermal energy source.

Chair Ebel asked Ken McWilliams if any issues had been raised at the meeting with municipal department heads. He advised that Health Officer Donald Bent had asked about the use of the privy located near the existing cottage on the property. The Crozers advised that it would continue to be used until the retail phase of the business begins at which time they would install a septic system. Jay Lyon of the New London Fire Department stated that leaks from the propane tank were of concern. Zoning Administrator Peter Stanley advised that the Crozers would need a permit from the NH Department of Environmental Services to cross wetlands with the driveway, approval from the Conservation Commission, and a Special Exception from the Zoning Board of Adjustment (ZBA) for crossing wetlands with a driveway. Mr. McWilliams advised that Road Agent Richard Lee had said that a driveway permit was required. He also said that the sight distances were okay. Mr. McWilliams added that Town Administrator Jessie Levine had advised that the address of the driveway would change as a result of its slight relocation.

It was **MOVED** (Conly) and **SECONDED** (Ballin) **THAT GEORGE AND KATHARINE CROZER BE REFERRED TO THE ZONING BOARD OF ADJUSTMENT FOR A SPECIAL EXCEPTION TO CROSS WETLANDS WITH A PROPOSED DRIVEWAY LOCATED AT TAX MAP 56, LOT 7. THE MOTION WAS APPROVED UNANIMOUSLY.**

Chair Ebel noted that the Crozers were requesting three waivers of the Site Plan Review requirements. Mr. McWilliams advised that the Crozers would like a waiver of Article IX. A. 6. of the Site Plan Review Regulations that requires information on "the shape, size, and location of existing and proposed structures on the property and within 200 feet of it". He said that it was a typical request given the property boundaries. Mr. McWilliams said that they also would like a waiver of Article IX. A. 7. that requires "conceptual plans, floor

plan layout and elevations of all proposed structures on the site”. He advised that the proposed greenhouse would have an open floor plan and the Crozers had provided a sketch of the structure. Mr. McWilliams advised that the third waiver request related to Article IX. A. 15. “drainage design showing location and size of existing and proposed drainage structures including culverts, pipes, catch basins, manholes, ditches, holding basins, etc.” He said that the Crozer had shown the direction of storm water runoff and the property was very large and the proposed greenhouse would be far from any abutter.

PB member Doheny asked if there was a plan available for the proposed septic system. Mrs. Crozer replied that the facilities would be located in the existing cottage on the property. She said that no plans had been drawn yet, since the septic would not be installed until the retail phase of the project was reached.

It was **MOVED** (Ballin) and **SECONDED** (Conly) **THAT THE REQUESTED WAIVERS OF ARTICLE IX. A. 6, 7, AND 15 OF THE SITE PLAN REVIEW REGULATIONS APPLICATION REQUIREMENTS BE GRANTED. THE MOTION WAS APPROVED UNANIMOUSLY.**

Zoning Administrator Peter Stanley advised that the required Occupancy Permit would be impacted by the fact that the driveway was not expected to be completed until later. Ken McWilliams suggested giving the Crozers one Occupancy Permit for the greenhouse now and then another for the driveway later. Mr. Stanley said that he thought it prudent to discuss the matter at the PB meeting with the Crozers present. Mrs. Crozer asked how one went about obtaining an Occupancy Permit. Zoning Administrator Stanley responded that the Town Administrator would offer assistance with the process. PB member Doheny asked what the sequence would be. Mr. McWilliams replied that the Crozer could apply for an Occupancy Permit for the greenhouse first. Mr. Doheny asked about the existing driveway. Mrs. Crozer responded that they would be improving the driveway over the course of the next year. Mr. Doheny asked if there would be an Occupancy Permit on the temporary drive. Mr. McWilliams reiterated that the Occupancy Permit now would be for the greenhouse. Zoning Administrator Stanley advised that Town Administrator Jessie Levine might require a Letter of Credit to cover the cost of improving the driveway. PB member Ballin opined that it would be prudent to offer a temporary permit predicated on a final Occupancy Permit being issued upon completion. Zoning Administrator Stanley responded that he and the town administrator would follow up on the matter. He said he was articulating the requirement so that it would be reflected in the Minutes. Mrs. Crozer stated that she wanted to be sure that they would be able to use the greenhouse. Chair Ebel asked if a PB motion would have to address the Occupancy Permit issue. Mr. McWilliams advised that it would not. Mrs. Crozer said that they would be living on the property as well as working in the greenhouse.

Chair Ebel asked about the propane comment made by the Fire Department. Zoning Administrator Stanley responded that the department had seen, at another site, a small oil leak that resulted from the line freezing. He opined that was the reason for Mr. Lyon’s comment.

It was **MOVED** (Conly) and **SECONDED** (Ballin) **THAT THE FINAL SITE PLAN FOR CONSTRUCTION OF ONE GREENHOUSE NOW AND TWO MORE GREENHOUSES IN THE FUTURE, AS PRESENTED ON THE SITE PLAN, TO BE USED IN A HOME BUSINESS TO GROW ORCHIDS FOR WHOLESALE, RETAIL, AND INTERNET SALES AND A DRIVEWAY TO ACCESS THE GREENHOUSE AT TAX MAP 56, LOT 7 BE APPROVED, SUBJECT TO RECEIPT OF A WETLANDS PERMIT FROM THE NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES AND A SPECIAL EXCEPTION FOR A DRIVEWAY TO CROSS WETLANDS FROM THE NEW LONDON ZONING BOARD OF ADJUSTMENT. THE MOTION WAS APPROVED UNANIMOUSLY.**

PB member Ballin asked if in preparing an abutters list when there is an easement on the property, the holder of the easement should be listed. Zoning Administrator Stanley replied that he would try to get a requirement that the holder of an easement be added to the list of abutters.

**II. TOWN OF NEW LONDON & LeROY-JOHNSON, LLC. – Final Lot Line Adjustment
(Tax Map 84, Lots 89 & 90)**

Ken McWilliams presented a mylar for the final lot line adjustment regarding Tax Map 84, Lots 89 and 90 that was approved at the May 8, 2007 meeting of the PB to be signed by PB members present at May 8, 2007 meeting. PB members Hollinger, Conly, and Ballin signed the mylar. Ken McWilliams said that he would ask Connie McBride, Administrative Assistant for the Town of New London, to contact PB member Cottrill to come to the town offices to sign the mylar, after which it would be forwarded to the Merrimack County Registry of Deeds.

III. ELECTION OF OFFICERS

Chair Ebel asked Ken McWilliams to advise the PB members about the procedure for electing officers for the ensuing year. Mr. McWilliams advised that all *regular* members of the PB are eligible to participate in the election of officers and to be elected to office. He also advised that alternate members were not eligible to participate.

PB member Conly pointed out that two of the regular members were absent. He opined that it would be better to wait until all regular members of the PB were present before holding the election inasmuch as they might be nominated for office. PB member Ballin concurred.

Chair Ebel agreed and the election of officers was deferred until the June 12 meeting at which all regular members of the PB should be present.

IV. JONATHAN FEINS/L.C. ENGINEERING, LLC – Harborview Subdivision in Sutton with Access via Stonehouse Road in New London: Review by Independent Engineer

Chair Ebel told PB member Doheny that she knew that he had been in business with Mr. Feins in Wilmot and she reviewed the reasons for which a PB member should recuse himself/herself. Mr. Doheny responded that he not been in business with Mr. Feins, but had only been considering buying a piece of property from him. However, to avoid any appearance of a potential conflict, he agreed to recuse himself.

Ken McWilliams distributed copies of a draft letter to be sent to Jonathan Feins in regard to the unpaid invoices for the services of Louis Caron, the independent engineer hired by the Town of New London to review the plans for Stonehouse Road and the intersection of Stonehouse Road and King Hill Road relating to access to the Harborview Subdivision in Sutton. Mr. McWilliams briefly reviewed the history of the issue before the PB. He advised that the RSA provides for sole access approval by the town providing access. He advised that Mr. Feins had taken exception to that stance because of a proposed secondary access. Mr. McWilliams said that although Mr. Feins had worked with the PB originally, he opined that the PB had no authority to require him to pay for an independent engineering consultant. The PB had consulted the Town's legal counsel and had been advised that it did have such authority. Mr. McWilliams said that Mr. Feins, through his lawyer, had finally agreed to pay for the independent engineering review. He advised that there were fees outstanding of approximately \$3,600. Mr. McWilliams advised that Mr. Feins has said that he doesn't owe that much and has refused to pay. Mr. McWilliams said that the letter before the PB advised Mr. Feins that if payment in full is not received by the June 12, 2007 meeting of the PB, the PB will decide whether to notice a public hearing to consider revocation of the project approval because of his failure to comply with a condition of that approval.

Mr. McWilliams told the PB that copies of the account statements and the agreement were attached to the packet of materials mailed to them earlier. Chair Ebel advised that Mr. Feins was refusing to pay more than the \$2,500 originally approved. PB member Hollinger opined that when the PB originally granted approval, contingent upon paying Louis Caron's outstanding bills, it was doing Mr. Feins a favor so that he wouldn't have to return to the PB for another meeting. The PB could have delayed approving the matter until the fees were paid, but it did not. Mr. McWilliams opined that the taxpayers of New London should not have to pay for expenses related to a subdivision in Sutton.

PB member Ballin said that the draft letter presented look good. He opined that Mr. Feins should not be allowed to walk away from paying the cost of the independent engineering review. Chair Ebel advised that the approval was based upon payment of reasonable fees. Mr. Feins alleges that the PB required extra meeting and time to review the plan, thus requiring extra costs. Chair Ebel reminded the PB that when she advised G. Dana Bisbee, attorney for Mr. Feins, at the outset of the estimate of \$2,500, that amount was merely an estimate that assumed two more subcommittee meetings plus at least two additional meetings, but that the amount could be higher or lower depending on how the application proceeded. She advised that, ultimately, the PB could revoke the approval for failure to pay.

PB member Conly opined that the PB could not forego the use of engineering consultants. He said that the PB needed to stand firm on the issue. PB member Ballin agreed that the New London taxpayers should not have to pay the bill.

It was **MOVED** (Ballin) and **SECONDED** (Conly) **THAT THE DRAFT OF THE LETTER TO JONATHAN FEINS REGARDING PAYMENT IN FULL BY JUNE 12, 2007, OF THE BALANCE DUE (\$3,681.55) FOR ENGINEERING SERVICES FOR REVIEW OF PLANS FOR STONEHOUSE ROAD AND ITS INTERSECTION WITH KING HILL ROAD IN NEW LONDON BE APPROVED. THE MOTION WAS APPROVED UNANIMOUSLY.**

Mr. McWilliams asked if the letter should be sent by Certified Mail. Chair Ebel responded affirmatively and advised him to include copies of the invoices.

Michael Doheny returned to the PB.

V. CAPITAL IMPROVEMENTS PROGRAM (CIP)

Ken McWilliams advised that Town Administrator Jessie Levine hoped to get the CIP review process started earlier this year. He said that the Budget Committee wanted more time to consider the requests.

Chair Ebel asked PB members if anyone would like to volunteer to be on the CIP Committee. PB member Ballin said that he was already on that Committee. PB Hollinger volunteered to serve again. Chair Ebel said that she would ask PB member Cottrill if he would like to continue to serve. If Mr. Cottrill should decline, Chair Ebel opined that it would be a good experience for new PB member Doheny.

VI. DRAFT SUBDIVISION REGULATIONS – Continued Review & Discussion

Chair Ebel noted that PB member Doheny had not yet had an opportunity to review the draft and not all of the regular PB members were present. PB member Hollinger asked if the Chair had reviewed the draft pages 44-69, as assigned. Chair Ebel said that she was not feeling well and would like to defer the discussion.

PB member Ballin advised that the Advisory Committee to the Board of Selectmen often asked about the status of the Master Plan Update. He said the Bill Clough had suggested forming another committee to move the Master Plan forward. Chair Ebel responded that the PB had been working to update the regulations before turning its attention to the Master Plan. She suggested that another approach would be to take the review of the subdivision regulations out of the regular PB meetings and to have a special PB meeting specifically for review and discussion of the regulations. **A special meeting was scheduled for June 7, 2007 at 7:00 PM** to discuss the remainder of the draft of the subdivision regulations.

Chair Ebel asked Ken McWilliams to review the Master Plan Update schedule. Mr. McWilliams advised that the PB had planned to kickoff the Master Plan Update last fall; however, the PB had run into budget issues. He advised that the PB wanted to update the regulations first. He said that the Driveway Regulations had been revised and adopted and the Site Plan Review Regulations were in the second draft. He added that the PB was approximately half way through the Subdivision Regulations. He said that the PB had discussed taking both the Site Plan Review Regulations and the Subdivision Regulations to the same public hearing. Mr. McWilliams advised that once the revised regulations were in place, the PB could schedule a “Vision” workshop in the fall.

Chair Ebel opined that the PB really had to have a separate meeting for the Master Plan Update. Mr. McWilliams reminded PB members that they had discussed having one extra meeting each month specifically for the Master Plan. Chair Ebel asked about the committee structure. Mr. McWilliams advised that there should be a committee for each chapter. He said that typically, the committee would meet on a Friday evening, hold a community workshop on Saturday, and compile a report for the PB.

Peter Stanley said that the Conservation Commission had already started working on a natural resources inventory. Mr. McWilliams advised that he has been doing some work on two presentations to make during the Master Plan Update.

Chair Ebel asked if there should be a committee for the "Vision" workshop. Mr. McWilliams replied that the PB had such a committee; however, PB member Hollinger was the only one of the three remaining on the PB. PB member Ballin advised that the Board of Selectmen had an extensive list of volunteers. He and PB member Conly volunteered to work on the "Vision" workshop.

Chair Ebel asked when the survey would go out to the community. Mr. McWilliams said that it would be mailed after the community workshops. He said that the workshops would help identify items that should be included in the survey.

VII. OTHER BUSINESS

A. POSSIBLE NEW ORDINANCE

Zoning Administrator Peter Stanley advised the PB that New London does not have a "peddler's ordinance" governing the selling of hotdogs or ice cream from a truck or a stand or whatever. He said that he and Town Administrator Jessie Levine asked the Board of Selectmen if the town should have a designated space for that purpose. He opined that requests will increase and it would be better to accommodate and regulate such activity. He advised that right now someone wanted to sell ice cream at Bucklin Beach.

PB member Ballin opined that the easiest thing to do would be to say "no" as New London has no ordinance permitting such an activity. He said that his reaction was to suggest putting vending machines at the beach. That way any income would come to the town.

Zoning Administrator Stanley said that some towns designate spaces and then put them out to bid, thereby raising money for the town. Chair Ebel opined that the issue would be to determine where and how many spaces should be designated.

The **MEETING** was **ADJOURNED** at **8:32 PM**.

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

DATE APPROVED _____

CHAIRMAN _____