



TOWN OF NEW LONDON, NEW HAMPSHIRE

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PLANNING BOARD MEETING MINUTES September 10, 2013

MEMBERS PRESENT: Tom Cottrill (Chair), Jeff Hollinger (Vice-Chair), Paul Gorman (Secretary), Emma Crane (Conservation Commission Representative), Peter Bianchi (Board of Selectmen's Representative), Michele Holton, John Tilley, Bill Helm (Alternate), Michael Doheny (Alternate)

MEMBERS ABSENT: Deirdre Sheerr-Gross (Alternate)

STAFF: Lucy St. John (Planning and Zoning Administrator), Kristy Heath (Recording Secretary)

Chair Cottrill called the meeting to order at 7:00pm.

Site Plan Discussion – Marshall's Garage, 330 Elkins Road (Tax Map/Lot: 077-037-000)

Ms. St. John said the issue came to the Town's attention when an abutter complained that the natural tree buffer between the two properties had been removed, making the garage, site lighting and other site details more visible. Mr. Michael McChesney also informed staff that other changes had been made to the site over the years. Ms. St. John explained that she and Ms. Hallquist, Town Administrator visited the McChesney property with Michael. A letter was sent to David Marshall dated August 13, 2013. Mr. Marshall came into the Town Office to meet with Ms. St. John and Ms. Hallquist. Mr. Marshall invited them to visit his property as well. Ms. St. John said she visited his property and took photographs. He explained that due to previously scheduled vacation plans he wouldn't be able to attend the August 27th Planning Board meeting, and asked that our request to attend a Planning Board meeting wait until the September 10th meeting.

Ms. St. John explained that a letter from the Law Firm of Hinckley Allen representing the McChesney's, a letter from David Marshall to the McChesney's and photographs are included in the packet of information.

David Marshall, owner of Marshall's Garage and his wife Carla were present and represented by Attorney Melanie Bell of Goshen, NH. Ms. Bell said some weed trees had been removed and she didn't think the Board had jurisdiction to ask for site plan review because of this and because it is a preexisting, non-conforming use. She explained that David's business had actually decreased over the last 10 years. Ms. Bell added that it was unfortunate that Mr. McChesney had made some expansions to his own property, enabling him to see more of the garage.

Chair Cottrill asked if any of the parking or layout of the garage had been changed since 1998, when the last site plan review was done. Mr. Marshall said that nothing had changed.

Michael and Gatia McChesney were present represented by Attorney Dan Deschenes of Hinckley Allen. Attorney Deschenes introduced himself and Mr. and Mrs. McChesney. He opined that the Planning Board has jurisdiction since site plan regulations require that businesses go back to site plan review for changes in use or layout. He has identified six additional reasons other than just trees being cut, which would necessitate a site plan review. Mr. Deschenes explained that the vegetative barrier between the properties was removed which has nothing to do with any changes Mr. McChesney has made to his own property.

Mr. Deschenes said that the property was also being used for car rentals, which was not part of the last site plan review. This is a different use and renting cars requires a special license through the DRA. The garage has this license and is renting cars, which is a change in use. He added that the annex (building with the red roof) is what he was looking at and that the McChesney's believe the site has been changed significantly since the last site plan review. Additionally, behind the annex building there is a structure, which was not there when the last site plan review was done. He referenced the letter addressed to the Planning Board dated September 6, 2013 from Attorney Arnold, of the firm. Ms. Bell said the hearing they were at that night was not noticed with

regard to the aforementioned items; they were there only because of the tree issue. She didn't believe the other five points were a change of use but if the Planning Board was going to look at that evidence, she would ask that those issues be discussed at a different hearing.

Mr. Bianchi explained that it was a meeting and not a hearing. No one had to be noticed and it is simply a discussion. Should the Planning Board request an updated site plan, all the legal documentation would be seen and abutters would be noticed. The Planning Board needs to decide if Mr. Marshall will have to submit a new site plan for the property. As he understood it, there were no requirements to notice anyone of what was going on that evening; the Planning Board was there to have a discussion and it was not a hearing to discuss issues brought up by the attorneys.

Ms. St. John reiterated that indeed this meeting is not a "public hearing", stating the purpose was to explain the situation to the Planning Board and determine if site plan review would be required. She referred to the letter she sent to David Marshall dated August 13th. She explained that it is common practice to provide information to the Board in advance of the meeting, and any new information submitted, as she had done. Her letter states she believes site plan review is needed, noting this was also discussed with the Town Administrator who also concurs with this interpretation. Attorney Bell said she would like to see where this is written in the regulations and felt her clients were entitled to due process in this case.

Mr. Deschenes agreed with regard to the scope of the discussion, noting that a public hearing is not part of tonight's discussion, and that their position is that the Planning Board had jurisdiction to require site plan review and move forward.

Chair Cottrill asked if it would be helpful for the Board members to see the property. Several of the Board members commented they were familiar with the location but not the site details. Mr. Bianchi said he didn't think it necessary to visit the site. He knew the site personally and historically and was contacted by Ms. McChesney several times with complaints. The two lots are in close proximity which, in and of itself can cause problems.

Mr. Doheny said the explanation of the use of the property suggests the use of the site may be different than it was 10 years ago. He would need to see proof of that to trigger a site plan review. He wondered if the cutting of trees triggered a site plan review. Ms. St. John explained that per her letter to Mr. Marshall she believes it does, she also referred to the details of the Site Plan Regulations regarding screening, lighting and other requirements, and to RSA 674:43 and 44. Chair Cottrill felt that the Planning Board members should look at the property.

Chair Cottrill asked that members of the Planning Board look at the property and compare it with the site plan from 1998. Ms. St. John suggested the Board, not individual members, schedule a site visit. The purpose would be to review the site, no decisions would be made during the site visit. The Board agreed that this should be done. A site visit was scheduled for Sunday, September 15th, at 2:00 pm. Mr. Deschenes said the Planning Board would also want to see the property from Mr. McChesney's vantage point and expressed permission for the members of the Planning Board to make both properties part of their site visit. Discussion on this issue would be tabled until the next Planning Board meeting.

Carla Marshall, Mr. Marshall's wife, read a letter she wrote for the Board to hear. She recalled that she was the real estate agent who showed the McChesney's the house when they were in the market to buy. She was frank about the noise and activity of the area and when asked, indicated that the house was so cheap because it was next to a garage and people generally don't want to live next to a garage. She also warned them that while the home was close to the beach, noise from the beach can also be a problem. She went on to explain that Mr. Marshall has been praised for upgrading the appearance of the garage over the years, has volunteered actively in the community, has donated thousands of dollars to causes in the community, and even plowed the McChesney's driveway for free their first winter there. The business is less active than it used to be and she wondered if what the McChesney's really want is for the garage to close. She concluded her statement by asking what the McChesney's had done for the community.

Ms. Holton said it bothered her that neighbors can't talk to each other and settle things. She felt irritated that it had to end up like this.

Conceptual Application, Robert Ewing's Subdivision – 596 Main Street (Tax Map/Lot 096-015-004)

Ms. St. John noted that the street address and tax map number were not correctly identified on the agenda, she noted that correction to be 596 Main (not 675) and the correct tax map (not 015-004-000).

Ms. St. John provided a brief overview and indicated she visited the property with Charlie Hirshberg. She suggested that the Board consider a site visit to see the private roadway, access points and other details of the previously approved Bolger Subdivision. Charlie Hirshberg (CLD Engineering), representing Bob Ewing (owner, who was in attendance) explained that Mr. Ewing is trying to market the property and is considering several different lot arrangement scenarios and looking for input from the Board.

Mr. Hirshberg said that over the years, Mr. Ewing has acquired more property. Mr. Hirshberg explained that several plans were approved over the years, including a three (3) lot subdivision off of Squires Lane, on a hammerhead, i.e. the Bolger Subdivision in 2002; Mr. Ewing's lot and the lot with a separate guest house which has a driveway off of Main Street and some frontage on the hammerhead (gated roadway, next to the church); Lot 10 on Main Street and the other three (3) lots off another roadway which has access from Main Street.

Mr. Hirshberg explained that Mr. Ewing is also considering returning the lots to the previous configuration and separating Mr. Ewing's house into a smaller parcel. They believe that by making the lots more rectangular, the lots would be more marketable.

Ms. St. John said the discussion and conceptual layout would make more sense if a site visit were scheduled. She noted that she was surprised by what was previously approved, including a hammerhead, off what looks like a driveway. She noted the "roadway" to Mr. Ewing's existing house is more like a driveway and they are proposing a new lot off of it. She questioned how frontage was determined in the previously approved lots. Mr. Bianchi said he understood it was conceptual but he couldn't figure out where the frontage was, what the frontage was on and the size of the lots. Noting more details would even be helpful for this conceptual discussion. The whole subdivision would need to be reviewed and everything will have to be made on a proper dimension road with proper frontage. He felt it was confusing. Mr. Hirshberg said the lots meet the frontage requirement on Bolger Road. Mr. Bianchi said that opening up the subdivision discussion may reveal other issues. Ms. Holton commented that the Bolger Subdivision plan was quite controversial. Ms. St. John commented that if any new lot lines were going to be created they would need to conform to current zoning and subdivision regulations. She will compile a history of this property to the Board for full understanding.

Mr. Hirshberg said they want to make the parcels more rectangular to make them more marketable. They think with some lot line adjustments they can get appropriate frontage on Bolger Road. Mr. Hirshberg said the road is gravel but will be paved when the first house is built there. Mr. Ewing thought the subdivision allowed for five lots. Mr. Hirshberg thought there was a stipulation on the number of driveways that would be allowed on Bolger Road and commented that Richard Lee (Public Works Director) recalled this being true. Ms. St. John said if this was part of the plan or a condition of approval, it would be in the motion for approval. She said would take some time to research this and offered that she had already started compiling information.

Mr. Hirshberg wondered if they can create frontage on a road with a hammerhead. Mr. Doheny commented that new lots need to have frontage, per the current regulations.

Mr. Hirshberg asked if the Board would consider granting any waivers because of the size of the lot, including topo and HISS mapping. They could demonstrate that the lot could accommodate a septic. He noted that water and sewer was in place in a portion of the property.

Ms. St. John referred to the sliver of land shown on the plan, accessed from the 3-lot subdivision off of Squires Road. She suggested that this configuration be addressed if other lot lines will be changed. Mr. Hirshberg explained that when this was previously approved, Mr. Ewing was working on a conservation easement with Ausbon Sargent Land Preservation Trust and the easement was not finalized, but the sliver of land remains.

Chair Cottrill recalled that a private driveway can service two dwellings. Ms. St. John discussed the terms private roadway, common driveway and frontage. Chair Cottrill suggested staff review requirements.

A comment was made that approved subdivision plans have expiration dates if no substantial improvements are made within a certain amount of time. Mr. Tilley said they need to determine whether these plans would pass for today's regulations, and that any new subdivisions would need to meet the current regulations.

Tree-Cutting Application for Paul Vance – 624 Bunker Road (Tax Map/Lot 063-001-000)

Ms. St. John said she visited the site and took several photographs. She had suggested that the Planning Board visit the site and Paul Gorman visited the site on behalf of the Board. Mr. Hollinger, noted he is an abutter, and knows the site. The photographs were shown on the overhead. There was one tree leaning over the lake, two birch trees on the lawn and one tree near the dock. There are plenty of points on the far sides of the segments. It was noted that if they remove the vegetation and trees from the center 50 foot segment they won't meet the points required. They also want to remove the underlying vegetation. Mr. Hollinger noted that no approval is necessary to cut anything under 2" in diameter. The segment in the center is just 27 points although the surrounding segments are well over the minimum.

Mr. Vance said Dave Carey, private tree consultant (not in attendance) suggested the trees in question be cut. He said they were damaged 20 years ago and were patched with some asphalt but it is disintegrating. Ms. Vance said that she was nervous that the tree near the beach area is a hazard to the grandchildren and others. Mr. Vance said there are two large beds of long grass and wild flowers he thinks were put in to capture runoff. They could put blueberry bushes in this area. Mr. Tilley thought they should approve this with a planting plan. Ms. Crane said that it would be best to stagger the blueberry bushes. She thought 15 plants in a zigzag pattern would work well.

IT WAS MOVED (Michael Doheny) AND SECONDED (Emma Crane) to approve the tree cutting request for Paul Vance, contingent upon him planting 15 blueberry bushes, or as many as will fit, in a staggered fashion in the middle segment, that one large tree near the beach and the tree by the dock be cut for safety reasons, and that the birch trees on the lawn on the East segment be cut, as adequate points will remain. THE MOTION WAS APPROVED UNANIMOUSLY.

Mr. Hollinger departed the meeting at 8:30pm.

CIP process and schedule

Ms. St. John will provide some information to the Board at the next meeting.

Zoning Ordinance Suggested Amendments

Ms. St. John provided, as requested, 10 items listed by priority, for consideration as zoning amendments at the next Town Meeting. Mr. Doheny wondered if a complete re-write of the ordinance should be done to improve clarity. Ms. St. John explained that the Board had recently discussed this issue, and wanted to continue with the annual process of identifying and prioritizing areas needing clarification, she thought in years to come, depending upon the success of the annual amendment list, it may be something for the Board to consider.

It was noted that some of the items on the list, may not necessarily require an amendment, for example- adding a table showing differences in requirements for home occupation vs. home business; or moving definition to the appropriate section- for example floodplain definition to the Floodplain Overlay District, and etc.

Mr. Doheny said any proposed amendments will need explanation or rationale for voters to understand the reason for the amendment.

Review of Minutes

July 30, 2013 Joint Meeting with the Board of Selectmen

IT WAS MOVED (Paul Gorman) AND SECONDED (Michele Holton) to approve the minutes of July 30, 2013, as circulated. THE MOTION WAS APPROVED UNANIMOUSLY.

August 27, 2013

IT WAS MOVED (Michele Holton) AND SECONDED (Paul Gorman) to approve the minutes of August 27, 2013, as circulated. THE MOTION WAS APPROVED UNANIMOUSLY.

Mr. Doheny asked about the discussion included in the August 27 minutes regarding the change in traffic flow on Cougar Court. Mr. Bianchi noted in 1986 or 1988 the Kearsarge Regional School District (KRSD) site plan was approved showing traffic plans. The District has recently made a site plan change by adding an outlet to the existing parking lot to allow traffic to enter and exit Cougar Court. The School District should have come before the Planning Board to seek consideration for this change in the flow of traffic as it affects the flow of traffic well beyond the school property. It was suggested staff contact the School District to ask for a site plan proposal and review.

May 11, 2013

IT WAS MOVED (Michele Holton) AND SECONDED (Michael Doheny) to approve the minutes of May 11, 2013, as circulated. THE MOTION WAS APPROVED UNANIMOUSLY.

Correspondence

Fast Track Applications

Ms. St. John noted a letter had been sent to Attorney Barton Mayer regarding the fast track process. His letter of response was provided to the Board. Ms. St. John was asked to explain her interpretation of the response and she said Town Counsel stated that the Town should not be offering Fast Track applications unless it is approved at Town Meeting. Ms. St. John said that she and other town staff have looked through many records and cannot find when or if the Fast Track process was put before the voters for approval. She said if the Board agrees with this interpretation, the Fast Track process should be discontinued. It was the general consensus that based on the letter from Attorney Mayer the Fast Track application process would be suspended until further clarified.

Messer Plan

Ms. St. John said the Messer Plan was recorded. She didn't need the deed to do this as she had previously thought.

RPC – Sustainability Challenge Grant

Ms. St. John said that the RPC would review New London's ordinance and get back to them the first of the year about sustainability, walk-ability, etc. The towns of New London, Sunapee, and Newbury were chosen for this grant.

Colby-Sawyer College- Mercer Field- Site Plan Update (085-033-000) Update

Ms. St. John conveyed the plan was approved on August 27, 2013 with conditions. The engineer submitted the revised plan today, meeting the conditions of the approval. They plan to start construction the following day. Chair Cottrill said they did not need to sign the site plan as long as the college was doing what had been asked of them.

Other Business- CAC meeting

Mr. Bianchi said the CAC has been going through the Master Plan chapter by chapter and thought of it as a new set of eyes looking at it and commenting on it. He wanted the Planning Board to know that it was being discussed and suggested they review the CAC minutes as they are available.

State Permit Application and Informational Items:

Ms. St. John referred to the information provided to the Board and asked if anyone had questions.

With no other business, Chair Cottrill called for a motion to adjourn.

**IT WAS MOVED (Emma Crane) AND SECONDED (Michele Holton) to adjourn.
THE MOTION WAS APPROVED UNANIMOUSLY.**

The meeting adjourned at 9:08pm.

Respectfully submitted,

Kristy Heath, Recording Secretary
Town of New London