



TOWN OF NEW LONDON, NEW HAMPSHIRE

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PLANNING BOARD APPROVED MEETING MINUTES July 23, 2013

MEMBERS PRESENT: Jeff Hollinger (Vice-Chair), Paul Gorman (Secretary), Emma Crane (Conservation Commission Representative), Peter Bianchi (Board of Selectmen's Representative), and Michele Holton.

MEMBERS ABSENT: Tom Cottrill (Chair), John Tilley, Deirdre Sheerr-Gross (Alternate), Michael Doheny (Alternate)

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

Vice-President Hollinger, sitting in for Tom Cottrill, Chair, opened the meeting at 7:00pm.

Bonin Property Site Plan. Tax Map 084-064-000. Located at 210 Main Street.

Ms. St. John referred to the staff report and provided a brief history of the site. Ms. St. John said that abutters had been notified of that evening's meeting.

Ms. St. John explained that the parking in front of the property along Main Street is in the NHDOT Right-of-Way, noting NHDOT had no comments, refer to the reviewer comments included in the staff report.

Chair Hollinger apologized to the Bonin's for the misunderstanding regarding the motion of the April meeting.

Jeremy Bonin introduced, Kim Bonin and their staff sitting in the audience. Mr. Bonin referred to the large photograph and site plan, he noted they have purchased the property and renovations are underway. He referred to the site diagram showing the proposed parking off of Haynes Road. He noted they need to have the project completed by September 21, 2013 due to some bank requirements.

He referred to the New London Parking and Traffic Study prepared by the Upper Valley Lake Sunapee Regional Planning Commission 2004, staff had provided a copy to them. Mr. Bonin referred to a map in the 2004 Parking Study and pointed out where their building was on the map. Their parking area was shown to have 11 parking spaces; nine out front and two in the back. The parking survey shows that their building is not in the critical parking zones.

Mr. Bonin said they have proposed to maintain the curb cuts on the map and the existing nine spaces out in front of the building along Main Street. This parking is intended for customer use. The parking in back is for the employees. They plan to add eight new spaces in the back area, which provides for two spaces over what the zoning requires. They anticipate that at some point they could change the upstairs space from a residential to a business use.

Mr. Bonin said the building takes up less than 20% of the lot and the parking area would take up about another 20%. He estimated open space to be about 50% and the lawn and trees on site would remain. They would do some landscaping with flowers to bring the property up to the standard of the neighboring businesses.

Mr. Bonin said that they plan to create a swale down gradient from the parking spaces, this is depicted on the plan, and this will help with infiltration.

Chair Hollinger said it had been asked if the dumpster would be screened as it abuts a residential property. Ms. St. John referred to the staff report comment on dumpster screening.

Scott Grizzle, who lives on Haynes Road, wondered when the lower parking lot would be used. Mr. Bonin said it would be used during business hours. He noted that two of the spaces are designated for the residential occupants of the building, as was the case before this upgrade was proposed. Mr. Grizzle wondered if there were any plans to put up any landscaping to keep lights from going into his house. Mr. Bonin said there were not. Mr. Grizzle wondered if there would be any additional lighting added to the lot. Mr. Bonin said there would not be any added lighting; they would be using the lighting that already existed on the building. Mr. Grizzle noted that there was a flood light on the building that shines down into his property and if it could be pointed away, he would appreciate it. Mr. Bonin said he would see what he could do to remedy that issue.

Chair Hollinger read through the waivers that were requested by the Bonin per their letter dated June 26, 2013. Ms. Crane wondered about deliveries possibly being made during peak traffic hours. Mr. Bonin said that other than UPS or FedEx delivering monthly office supplies, he did not anticipate any numerous or frequent deliveries.

IT WAS MOVED (Peter Bianchi) AND SECONDED (Paul Gorman) to approve the site plan for the Bonin's as outlined, including the eight waiver items. THE MOTION WAS APPROVED UNANIMOUSLY.

Peter & Harriet Messer Minor Subdivision (Tax Map 131-006-000) 1047 King Hill Road.

Ms. St. John referred to the staff report and provided a brief history, noting the previous plan was revoked by the Planning Board. Ms. St. John explained that the plan before the Board reflects the property lines as they were before, not those shown on the plan that was approved and revoked. She noted that one line is through the center of the shed.

She explained that abutters were notified and that Mr. Joe Messer has been in to the office to see her, talked with her on the phone and had submitted a letter this evening to be read into the record. Ms. St. John was asked to read the complete letter into the record, the letter date July 23, 2013 from Mr. Joseph Messer was read.

Ms. St. John noted that Peter Messer was represented by legal counsel this evening. Attorney Matthew Snyder from Sulloway and Hollis in Concord said that the new plan is the same plan that was used in 2012; it includes the same boundary lines. Mr. Snyder conveyed that he had spoken with staff this afternoon. He then went on to explain that the map Mr. Joseph Messer recently submitted, marked with the green lines is not correct, said he was there to explain why the property lines that Joseph Messer indicated were incorrect.

Attorney Snyder then provided handouts to the Board including deeds as defined by Book 688, Pages 177-180 and Book 1127, Pages 56-57.

Attorney Snyder said that the first green line of the southern portion of the plan is incorrect. Where it says “well house” Joseph has cut that off of his property, representing that it is not on his property. That is contrary to what is in the 1972 deed from his father, James Messer to Joseph Messer. The deed is identified as Book 1127, Page 56. It references that the well has always been a part of Joseph’s property. Attorney Snyder said that the green line running from East to the North is incorrect. The proposed plan notes that Stonehouse Road was formerly known as King Hill Road. Joseph believes that the property line extends to that road probably because he forgot that Stonehouse Road was formerly known as King Hill Road. Attorney Snyder said that the third mark-up of the land was incorrect because it appears that Mr. Messer added courses to the plan. There seemed to be five courses included but this is not the case in the deed.

Attorney Snyder provided the deed from Charles Dinkins to James Messer. There were four courses in this deed, Book 688, Page 177. The annexed property owned by Joseph Messer suggests there are five or six, but this is not represented in the deeds. Attorney Snyder said that the boundary lines are incorrect because the meets and bounds show up in the deed. He said that the initial plan (the one that was revoked) only had the change of a distance of the southern portion of the property. The southern boundary line intersected a shed that sat between the two properties. Peter Messer had moved the property line several feet to keep the shed on his property. Nothing else has changed on the plan.

Attorney Snyder said that this has been an ongoing family situation with the Messer’s and the lack of cooperation on the part of Joseph Messer has caused Peter Messer and his family a considerable amount of headache. He understood that Joseph Messer didn’t have any problems going to the office during the day and raising concerns but he doesn’t attend the meetings where the decisions are made. Attorney Snyder explained at one point a couple of years ago Joseph Messer retained an attorney to discuss this issue with staff at the Sulloway and Hollis Law Office, but it never went anywhere. This was over two years ago.

Attorney Snyder explained by approving this proposed plan, they would be giving Joseph Messer exactly what the deeds entitle him to. Attorney Snyder wasn’t sure that Joseph Messer could argue against the points that he had made.

Chair Hollinger asked when the lot lines were last surveyed. Mr. Messer said it was around 2010, before they submitted the last subdivision. Kate Dulac (Peter Messer’s daughter) said at that time the Board approved several waivers and that a soil map was generated and made part of the record, thusly there is no need to entertain a soils waiver at this time, as this information is in the file.

Mr. Bianchi noted that Cliff Richer’s is a registered surveyor and his results match the deeds. Peter Messer explained back in 2010-2011 when this was being discussed, that his brother, Joseph Messer made a verbal agreement with Peter Stanley and Cliff Richard to move the line to his benefit. The problem was that it wasn’t obtained in writing.

IT WAS MOVED (Peter Bianchi) AND SECONDED (Paul Gorman) to approve the Messer minor subdivision plan, contingent upon including staff recommendations, editorial notes, and waiving the topography and boundary line surveys. THE MOTION WAS APPROVED UNANIMOUSLY.

Ms. St. John said that there is a 30-day appeal period and advised that they don't sign the plan until then. Ms. Holton said that Joseph Messer has had equal opportunity to defend his case and has not attempted to do so.

Tree Cutting Application- 135 Lamson Lane. Tax Map 049-018-000. Property owned by Dr. Sikhar and Martha Banerjee. Letter from Monica Banerjee at 135 Lamson Lane received July 17, 2013.

Ms. St. John said the applicants had initially submitted a building permit for an arbor which was denied. This was most recently discussed at the June 11, 2013 meeting with a motion to defer action on the blueberry bush cutting request until a plan is submitted and the Conservation Commission has had a chance to review the plan. Ms. St. John referred to the Notice of Decision of the June 11, 2013 meeting noting they were approved to cut two trees and to defer action on the blueberry bush cutting request until a plan is submitted and the Conservation Commission could review the proposal, and they were also referred to the ZBA. In the meantime, Rick Anderson of the Conservation Commission had visited the site. Ms. St. John noted she hadn't visited the site.

Ms. St. John referred to the Conservation Commission draft meeting minutes of June 19, 2013 which conveyed that the Conservation Commission felt concerned with an arbor of that size within the buffer.

Ms. St. John explained that she explained the ZBA process and application procedures to the Banerjee's. They had submitted a variance application, and she also suggested they complete a special exception application. A variance application was sent in. The applicants then decided they didn't want to go forward because of the timing and the expense of the effort. Ms. St. John explained to the applicant at that time, that they could submit an 'Appeal of Administrative Decision' application request. The Banerjees then elected to submit a letter dated July 17, 2013. This letter was provided to the Board and identified on the agenda (correspondence received).

Mr. Hollinger said that Rick Anderson's inspection notes that the blueberry bushes are overgrown and he felt the Conservation Commission could support both requests; cutting the trees and taking out the blueberry bushes.

Ms. Monica Banerjee said her grandmother built the house in 1938 and it rotted. They rebuilt it in the same footprint in 1998 and it is taller than the first one. Ms. Banerjee said that the ordinance was very confusing and she didn't think she needed to go to the ZBA to be able to put the arbor up. This is an alteration of a legal non-conforming building as long as it is not making the building more non-conforming. She said it was away from the lake, and away from the brooks. They were not encroaching on the brooks or the lake any further and didn't think they had to get another variance. She asked for clarification.

Ms. St. John explained that because the diagram they submitted showed the proposed arbor as being within the 100' buffer. The arbor is not within 50' of the lake but would be within 100' of the natural features on the site. She then reviewed the provisions regarding nonconforming structures in the Shoreland Overlay District, and that expansion can occur if it complies with these provisions.

Mr. Bianchi said if the applicants came to them and said they would like to put a garage up within 10' of the stream, only because the stream was there before when they built the house, they wouldn't allow it. Ms. Banerjee said the arbor was being attached to the house and was not a free-standing structure. Only about five posts would be in the ground and the rest of the structure would be supported by the house. Mr.

Bianchi said that he understands this is a frustrating issue but this is the way things fall with the zoning with the buffers.

Ms. St. John referred to provisions in the Ordinance regarding reducing the buffer, special exceptions and variances. Ms. Banerjee commented that this isn't helpful for them now. Ms. St. John conveyed that this and some other recent ZBA applications illustrated that some provisions of the ordinance need clarification and that her letter will be discussed when the Board considers future zoning amendment language.

IT WAS MOVED (Peter Bianchi) AND SECONDED (Emma Crane) to allow the clearing of four or five blueberry bushes as outlined in the diagram provided by Dr. Sikhar. THE MOTION WAS APPROVED UNANIMOUSLY.

Ware Center – Colby Sawyer College. Tax Map 085-033-000. Request to Release Letter of Credit.

Ms. St. John provided a brief history of the project. Mr. Steve Jesseman, Jesseman Associates was in attendance. Ms. St. John explained that the Town process includes circulating a form and sign off by departments. This has been completed. Chair Hollinger said that the college was requesting a certificate of occupancy and release of the letter of credit for the Ware Center construction.

Mr. Bianchi felt that if all the conditions had been met as outlined, they could approve the release of the letter or credit.

IT WAS MOVED (Peter Bianchi) AND SECONDED (Emma Crane) that conditional to all approvals being met, the Planning Board issue a certificate of occupancy and release letter of credit to Colby-Sawyer College. THE MOTION WAS APPROVED UNANIMOUSLY.

Fast Track Application – Bicknor Wilmot - New London Gallery, 209 Main Street. Tax Map 073-080-000.

Ms. St. John said the New London Gallery would like to move into the former Bonin's building. She explained that the current site included multiple tenants with defined parking spaces. She referenced the 2004 UVLSRPC New London parking study. The site was developed with a certain number of parking spaces.

Ms. Robin Reed, property manager said that the Banks Gallery was there years ago. They will be operating as a framing shop and will use just the retail space downstairs. They do not have a tenant for the upstairs office space.

IT WAS MOVED (Paul Gorman) AND SECONDED (Emma Crane) to approve the fast track application for the New London Gallery as presented. THE MOTION WAS APPROVED UNANIMOUSLY.

Fast Track Application- Arrolyn Vernon – New London Shopping Center, Newport Road. Tax Map 059-008-000.

Ms. St. John said that Arrolyn Vernon would like to move into the space Allioops used occupy. This is a simple move from retail to retail. The Planning Board had no questions or concerns.

IT WAS MOVED (Peter Bianchi) AND SECONDED (Emma Crane) to approve the Fast Track application for Arrolyn Vernon, as presented. THE MOTION WAS APPROVED UNANIMOUSLY.

Laughinghouse Special Exception and Variance. Tax Map 093-012-000. 789 County Road.

Ms. St. John said that this issue was going before the ZBA the following evening. It is a wetlands and streams buffer setback issue. Mr. Pierre Bedard, surveyor for the applicant explained that the Laughinghouse built their house in 1997 and correspondence and paperwork in the file indicates that they were aware of the 100' buffer from the marsh and re-did their design to allow for an addition to be built outside of the buffer sometime in the future. They are ready to build the addition now, but have discovered that there had been an artificially dug ditch from the marsh to the upland for an unknown reason. That 12' manmade ditch has caused the addition to now be within the buffer by about 8-9'. It meets setback to the marsh as it was in 1997 but now it does not. This was discussed at the July 17, 2013 Conservation Commission meeting.

It was the consensus of the Planning Board that a special exception would need to be granted and that it should be heard the following night. They were in favor of the case moving forward to the ZBA.

Lot Merger for Nelson property located at 493 and 521 Burpee Hill Road. Tax Map 070-012 and 013-000.

Ms. St. John explained that a lot merge form has been submitted. No public hearing is required per RSA 674:39a and the Subdivision Regulations.

IT WS MOVED (Peter Bianchi) AND SECONDED (Paul Gorman) that they accept the lot line merger as applied. THE MOTION WAS APPROVED UNANIMOUSLY.

Cetron Tree-Cutting Request at 154 Hastings Landing. Tax Map 116-013-000.

Ms. St. John said that this request was discussed at the July 17th Conservation Commission meeting. The applicant has submitted the application on July 15th. She had not done a site visit but after seeing a picture could determine that one tree was leaning towards the house and the property owner was concerned.

IT WAS MOVED (Emma Crane) AND SECONDED (Peter Bianchi) to approve the tree cutting request for 154 Hastings Landing. THE MOTION WAS APPROVED UNANIMOUSLY.

Stevens Tree-Cutting Request at Owls Nest Road. Tax Map 135-001-000.

Ms. St. John said this request was submitted July 16, 2013. This was discussed at the July 17th Conservation Commission (CC) meeting. The CC made a motion that a site visit be conducted. Ms. St. John explained the plan submitted indicates they will still meet the point system if they removed the trees. She noted considering the number of trees proposed to be removed and the length of shoreline, over 400 feet, she suggested that a site visit be conducted by members of the Planning Board and or Conservation Commission. The owners have given permission for there to be a site visit.

IT WAS MOVED (Peter Bianchi) AND SECONDED (Jeff Hollinger) to pass over this until the August meeting until the Conservation Commission can inspect the property. THE MOTION WAS APPROVED UNANIMOUSLY.

Bemis Tree-Cutting Request at 111 Sunset Shores. Tax Map 091-015-000.

Ms. St. John explained this was briefly discussed at the June 11th meeting. On June 22nd a photograph and a more detailed plan were submitted. She noted that no site visit by staff or the Conservation Commission had been conducted, due to when the application materials were submitted. The Board reviewed the photographs showing the two dead trees. The Board thought this was an acceptable request.

IT WS MOVED (Peter Bianchi) AND SECONDED (Emma Crane) to approve the request of the Bemis family to cut down the two trees. THE MOTION WAS APPROVED UNANIMOUSLY.

Other Tree-Cutting Request

Ms. St. John said that a property owner on Lakeshore Drive (address inserted, 668) came in with a photo of a dangling tree from a recent storm. It was a safety issue and she gave them permission to cut it. She wanted to let the Planning Board know about this.

Reynolds Subdivision Plan. Tax Map 085-024 and 025-000. 153 and 157 Seamans Road.

Ms. St. John distributed the mylar for signature. This was approved at the June 11, 2013 meeting.

Other Business

Ms. St. John said that the CIP process would start in August/September and she would be suggesting some changes.

The Board asked about the two (2) memos regarding signs that were sent to the Board of Selectmen. Ms. St. John noted they illustrate that some language in the ordinance needs clarification and should be reviewed when the board looks at possible zoning amendments.

Shorten Agenda format. Ms. St. John circulated a revised short agenda format and asked for input from the Board. The Planning Board liked Ms. St. John's reformatted agenda, as it was shortened and well-organized. Mr. Bianchi noted that the supporting information would still need to be reviewed by the Planning Board members so they would be ready for the meeting.

Approval of Minutes

April 23, 2013

IT WAS MOVED (Emma Crane) AND SECONDED (Paul Gorman) to approve the minutes of April 23, 2013, as circulated. THE MOTION WAS APPROVED UNANIMOUSLY.

May 14 – there was no quorum to approve

June 11 – there was no quorum to approve

**IT WAS MOVED (Emma Crane) AND SECONDED (Peter Bianchi) to adjourn the meeting.
THE MOTION WAS APPROVED UNANIMOUSLY.**

The meeting adjourned at 8:44pm.

Respectfully submitted,

Kristy Heath, Recording Secretary
Town of New London