

Present: Chairman Sandy Hislop,, Robert Simms, Barbara Hill, Peggy Lamson, Denis Hebert, John Frink, Chris Cross, Cosmas Iocovozzi, Planner Tom Morgan.

Meeting was opened at 7:05 p.m.

Correspondence:

Letter from Guilford Transportation (5/20/02) re: notices of Planning Board action pertinent to Boston & Maine RR and requesting more specifics.

Letter from State DOT (5/9/02) advising that plans are moving ahead for the improvements at Exit 4, Spaulding Tpke.

Each member received copies of Greenland, Portsmouth & Newington's petitions to the Greenland BOA for rehearing re: the proposed retail development on Rte 33.

Notice of Rockingham Planning Commission's Annual Meeting to be held 6/12/02.

Memo from Attorney John Ratigan (6/10/02) re: resolution of conditions between the Town and Sprague Energy on the pipeline from Sprague to the new Enron power plant.

Memo to Planning Board members (6/10/02) from Tom Morgan advising that time must be scheduled to work on bringing the Master Plan up to date.

Barbara Hill advised that she had received notice from the Dept of Transportation of a meeting on a Management Plan for the Little Bay bridges. Meeting will be held in Dover on 6/20/02 at 7 pm and is considered to be of critical importance to the region.

Woodbury Avenue:

Representatives of the Department of Transportation, Traffic Bureau, were present to advise the Board on the synchronization of traffic signals on Woodbury Avenue.

Board was given copies of typical phasing diagrams and were advised of the various ways to set timings at intersections (car activation or min/max timing per phase) including the system used on the various intersections on Woodbury Avenue and the times activated; which were checked on 6/6/02 .

Noted that Wal-Mart had hired an engineering firm, Gorrill-Palmer of Gray Maine, to study the signals on Woodbury Ave and had reported their recommendations to the State DOT..

The DOT advises that the report and its recommendations has many similarities to the present system being used but also has some recommendations that would conflict with what this area motorist is familiar with and therefore the State will keep their plan in effect.

Barbara Hill asked if there were any plans to adjust the signals at Christmas time when the traffic increases tremendously. Was advised that there are no plans at this time to change the signals but could review the situation.

John Frink questioned if , in the future, it would be more efficient for the Board to consult the

DOT on traffic matters on State Roads and not require developers to go to the expense of costly traffic studies.

Board was advised that it would be best to let the State consult with the developer when State roads are involved.

Chris Cross noted that the Industrial Service Road would be opening this year and the assistance of the DOT would be needed to prevent confusion at some intersections.

Was advised that the Town will need to coordinate with the State and the State will be ready to advise and assist.

Chairman Hislop thanked the representatives for a very informative session and the whole Board appreciated their attending the meeting.

Board agreed to take up item 8, (Plans for Recording) of the agenda.

Elaine Scott, representing the Pease Development Authority, presented a plan showing federally owned property in the Town's Waterfront Industrial District.

Denis Hebert stepped down citing possible conflict of interest.

Ms Scott advised that the land had been owned since 1988, but it was recently discovered that the plan had not been recorded at registry of deeds. She asked that the Board sign the plan for recording purposes only.

After discussion Chairman Hislop stated that the Board was not prepared to sign the plan at this time but would review and put on the July agenda for action. Tom Morgan suggested that the plan should note a disclaimer that it is not a subdivision or lot line adjustment also, that he would consult legal counsel and report back to Board.

PUBLIC HEARINGS:

Denis Hebert returned to the table

A) Proposal by Mo & Esther Wong for a Lot Line Adjustment at 99 & 115 River Rd

Cohen Cartier of Millette & Assoc, represented Mo & Esther Wong and presented the plan showing a portion of the residential lot transferred to the Asia Restaurant lot.

Board was advised that the lot in residential use is on town water and sewer and there is no use of the old septic system. (Note: residential properties within the sewer district may tie-in at owners expense and with permission of the Sewer Commission).

Chris Cross asked if the proposed lot lines conformed to the setback requirements (no structure within the setback), also, provisions for capping or filling the well on the property. Mr Cohen advised that the setbacks are clear and the well would be capped.

Peggy Lamson noted thta she was satisfied with information presented.

Mr LeClaire, Patterson Lane, asked what could happen to the small lot if the residential use ceased. Tom Morgan advised that any change would require full Planning Board review and approval,

The Public Hearing was closed and Board returned to the regular meeting.

Chris Cross noted that if the Board of Adjustment had not specified the location of lot lines for the smaller lot but only specified a square footage - the Planning Board would need to set the

lines and adjust the lot size by eliminating the wetland in accordance with the ordinance. Chris moved to approve the lot line adjustment with a list of conditions. Motion was seconded by Barbara Hill.

John Frink, Planning Board Rep to the Board of Adjustment, described, to his knowledge, the action of the Board of Adjustment to separate the commercial and residential uses.

Denis Hebert noted that it was his understanding the BOA 's intent was to create a lot as shown on the plan before the Planning Board. John Frink confirmed that the BOA had reviewed the same plan.

Chris Cross was satisfied that the variance was specific as to area and agreed to amend his motion as follows:

To approve the Lot Line Adjustment with the condition that 1. Lot 13-3 is established to comply with the BOA variance granted at land owner's request to reduce lot size. Any change or intensification of use requires review of the Planning Board. 2. The abandoned well will be filled or capped. Barbara Hill agreed to the amendment and motion carried.

Board agreed to sign plan when the conditions are noted on the plan.

B Proposal by Robert Allard to Reconfigure the Parking area, Old Dover Rd.

Peggy Lamson stepped down citing possible conflict of interests.

Gerry Gagne, Meridian Land Services, presented plans - advised that some modifications made since last meeting.

Noted and confirmed by Tom Morgan, that Dori Wiggin, State Wetlands Board, advised that a wetlands permit would not be required for this project.

Barbara Hill asked about landscaping and was told wooded areas on perimeter would be left and some planting around the dumpster area.

Discussed proposed lighting and noted that wall packs should be downcasts and not the shielded. Board advised that with modifications the number of spaces were reduced to 116.

Chris Cross noted that a portion of the present parking is on Town owned land and that now may be a good time to resolve. Mr Allard stated that this portion of land has been used by the Allards for 35 years.

Denis Hebert suggested that there may be a way to allow the use while not giving up the town's rights of ownership.

Denis also discussed the perimeter lighting and traffic congestion at this site and stated he would like review and opinion from the Fire Chief.

Public Hearing was closed and Board returned to regular meeting.

Discussed the proposal - Barbara Hill asked about number of required parking spaces and was advised that warehousing has no specific number - space is determined by lessees.

Board concluded that they would continue this review next month and asked applicant to return to the July meeting with opinion of Fire Chief. In the meantime will allow construction of parking lot to continue.

C) Revisions to ICR Truck Staging Area

Peggy Lamson returned to the table.

Plans were presented by Gerry Gagne of Meridian Land Services. Mr Gagne also advised that he

had given Tom Morgan copies of the subdivision as-built plans showing underground utilities and drainage easements.

Board reviewed proposal for revisions to the truck staging area including extension and increased height of berm between the new power plant and the residents of Patterson Lane.

Noted that materials to be used are on site.

Irving Beebe, Patterson Lane, asked why berm was being made higher - that he did not see the need if the required sound levels are met.

Board explained that the truck staging area will be used by many of the companies in the Industrial Zone and the berm should shield the residents from any truck noises.

Mr Beebe stated that the generator at the plant is noisy.

Mr Beebe also suggested that modifications should be discussed with residents before being finalized.

There being no further comments the Public Hearing was closed and Board returned to the regular meeting.

Mr Gagne advised that the Truck Staging plan will, if satisfactory, be incorporated into Phase 4 plan of the Industrial Service Road.

Chris Cross stated that the proposed plan was reasonable.

Peggy Lamson explained to the residents of Patterson Lane that were present that the extension and elevation of the berm was intended to protect the residents and , in her opinion, was a good plan.

Barbara Hill moved to approved the plan as presented. Motion was seconded by Peggy Lamson. John Frink suggested that the Board could get a consensus of the residents whether or not they wanted the berm higher.

Tom Morgan pointed out that all residents had been notified. Mr Beebe stated that he was representing his immediate neighbors who are unable to attend.

Gerry Gagne stated that the work on the berm could be put on hold.

Denis Hebert stated that, in his opinion, the plan is a good one that it would be difficult in the future to have the berm made higher if the residents were bothered by truck noise.

The question was moved and the motion to approve the plan carried.

Phase 4 of the ICR construction will be discussed at the July meeting.

E) Linens & Things Ramp and Stairway

Plans were reviewed and noted that there were no changes from the last meeting.

Plans for lighting were reviewed and Denis Hebert suggested that sodium lights would be more efficient. Building Inspector Charlie Smart questioned if the sodium would give sufficient light.

Denis Hebert noted that the location of lights (close to the ground) will give plenty of light.

The Public Hearing was closed and the Board returned to regular meeting.

Denis Hebert moved to accept the plan from new ramp and stairway. Motion was seconded by Barbara Hill and carried.

OLD BUSINESS:

A) Proposed 2-Lot subdivision at 224 Little Bay Road

Eliza Smith presented plans showing a two lot subdivision and lot line adjustment of her property on Little Bay Road.

Advised that test pits had been dug and observed and appeared to be satisfactory. A report will be made to the State.

On a motion by Denis Hebert, seconded by Cosmas Iocovozzi, it was voted to hold a Public Hearing on this proposal at the July 8th meeting.

Tom Morgan advised that the Board will need something in writing from the abutter Fred Smith stating that he approves the proposed lot line adjustment.

B) Sprague pipeline bond

Ted Reed and Burton Russell were present and discussed the resolution of conditions stipulated by the Board on the pipeline from the Sprague terminal to the Enron power plant.

Sprague had submitted a status report on the conditions to Attorney Ratigan. Attorney Ratigan had, in turn, reported to the Planning Board his recommendations as follow:

Posting of a performance bond to ensure that the pipeline will be removed at the end of its useful life or otherwise rendered environmentally benign.

Sprague will indemnify the Town on terms acceptable to the Town's legal counsel for claims arising from the pipelines use.

Sprague is to have insurance coverage acceptable to the Town's legal counsel for this use within the Town's ROW.

Conditions recommended by Attorney Ratigan are as follows:

Sprague has attempted to respond to the requirements that I have relayed on > the town's behalf concerning the three outstanding conditions of approval:

>

> 1. Posting of a performance guarantee to ensure that the oil pipeline will > be removed at the end of its useful life, or otherwise rendered > environmentally benign;

>

> 2. Sprague is to indemnify the Town on terms acceptable to the Town's legal > counsel for claims arising from the pipeline's use;

>

> 3. Sprague is have insurance coverage acceptable to the Town's legal counsel > for this use within the town's right of way.

>

> I understand that Sprague and NEL are anxious to gain a final approval of > the Sprague plan this evening so that oil can be transported in the pipeline > to NEL in July. At this juncture, I believe final approval can be granted > with the following conditions (you may have additional conditions; these > relate only to the issues identified above). Denis and I spoke about these > issues earlier today.

>

PB

6-10-02

> Condition 1: Prior to the introduction of oil into the pipeline, Sprague > shall present a corporate guarantee in the amount of \$500,000 and in a form > acceptable to the town's legal counsel to ensure that the oil pipeline and > other related conduit can be removed or rendered environmentally benign when > its use has ceased. The amount of money in the guarantee may be

reviewed by the Planning Board for adequacy every five years. This corporate guarantee is, for the interim, in lieu of requiring Sprague to post a performance bond or letter of credit, which is the town's usual practice. The Planning Board reserves the right, and Sprague shall execute a suitable agreement which acknowledges this right, to require Sprague to post some other form of acceptable performance security at any time. Condition 2: Sprague shall continue to maintain in place for the duration of the pipeline use insurance policies which name the town as an additional insured under such policies and which cover losses or claims arising out of Sprague's Newington pipeline operation in amounts no less than \$7,000,000. This sum may be reviewed for adequacy every 3 years. As an additional assured, at the Town's election the policies shall allow waiver of subrogation and hold harmless provisions in the Town's favor, together with 45 days Notice of Cancellation provisions and a Severability of Interest Clause.

Condition 3: Sprague shall execute and deliver to the Town's legal counsel an Environmental Indemnification Agreement which is acceptable to the Town's counsel prior to the introduction of oil into the pipeline.

Condition 4: Sprague shall pay the Town of Newington's legal expenses incurred in the review of Sprague's application and these conditions of approval, including by not limited to, legal counsel provided to the Board, the expense of document review and drafting, and such other legal expenses incurred by the Town in reviewing this application and finalizing this approval. Sprague shall pay any engineering expense (Edwards and Kelsey) incurred by the Town in estimating the cost of replacing the oil line or rendering it environmentally benign. Such expenses that have been incurred prior to July 1, 2002, shall be paid prior to the introduction of oil into the pipeline. Expenses incurred after July 1, 2002, shall be paid within 30 days of receipt of a copy of an invoice or bill.

Condition 5: The failure to satisfy or to continue to maintain the requirement of any condition of approval shall be grounds to revoke this site plan approval and to suspend this oil pipeline use per RSA 676:4-a.

Conditions Sprague has agreed to in letter signed by Mr Burton are as follows:

A draft agreement for Performance Guarantee to cover removal of pipeline has been submitted. The pipeline has been registered with Dig Safe.

A draft of the indemnification agreement to cover all liabilities including contamination cleanup has been submitted.

Sprague's Insurance broker has issued a certificate of insurance naming the Town as an additional insured covering liability relating to pipeline use.

Pipeline markers have been installed along River Road the remaining markers on Patterson Lane will be installed at the completion of the plant construction.

Board was advised that Sprague's parent company, Axel Johnson, also agrees to underwrite any costs of removing the pipeline.

Denis Hebert noted that the Town has incurred some legal costs relative to the pipeline and should be passed onto Sprague.

Mr Burton asked that an itemized invoice be sent to Sprague.

Denis Hebert moved to approve with conditions written by Attorney Ratigan. Motion was seconded by Peggy Lamson.

Mr Russell stated that he would like some clarification on the wording in Attorney Ratigan's recommendations.

The motion carried and it was noted that if Sprague, after review, has any objection to the conditions, they can be reconsidered and amended if necessary.

C) Walmart request for release of bond.

This item deferred until the July meeting.

The time being 9:35 p.m. Chairman Hislop polled the Board for their approval to extend the meeting. All agreed to stay.

Preliminary Discussions:

A) Proposal by Robert Allard for multi-use facility at 40 Old Dover Road.

Peggy Lamson stepped down citing possible conflict of interest.

Mr Allard's attorney described his plans for a multi tenant facility and wanted the Board to hear a description of two of the proposed businesses and advise if they conformed to the ordinance.

The first presented was a wholesale office furniture however the warehouse is open to the public and there are some public sales.

Denis Hebert noted that "Open to the public" could compromise the ordinance which prohibits retail in this zone.

The second proposed business was wholesale distribution of variety of merchandise. Space would be set up similar to a tradeshow with orders being taken and items delivered directly to the

company placing the order. Entrance to the show would be tradespeople - by invitation only and open about 290 days per year.

John Frink stated that he would be concerned about the increase in traffic. Mr Allard's representative stated that offices could generate more.

All agreed that this business could fall into a grey area and suggested consulting an attorney.

Tom Morgan pointed out that the ordinance stated that if a use is not listed as a use permitted it is denied.. A use variance can be requested from the BOA.

Mr Allard asked about sign permit requirements. Tom Morgan asked that he stop in his office and he would go over that portion of the ordinance.

B) John & Daniel Mazeau request for subdivision,

John Frink and Chris Cross left the meeting at this time.

Proposal was presented by Michael Mazeau who described his brothers plans to subdivide their

property on Newington Road into two lots. 1 Lot would have the homestead and be 300'X400'
The balance of the property (30 acres) is to be purchased by the Nature Conservancy.

Bob Miller of the Nature Conservancy was present and advised that the transfer could be done very quickly following subdivision approval.

Applicants are asking the Board to waive 3 subdivision requirements for the 30 acre lot as follows: Topographic and soil surveys and USGS datum.

On a motion by Cosmas Iocovozzi, seconded by Denis Herbert, it was voted to waive these three requirements for the 30 acre undeveloped parcel.

On a motion by Peggy Lamson, seconded by Cosmas Iocovozzi, it was voted to hold a Public Hearing on the proposed subdivision at the July meeting.

C) Proposal by Curtis Pickering for a two lot subdivision of his land on Little Bay Rd.

Curtis presented a sketch of his property showing a 1.86 acre lot with house and the other 18.33 acres undeveloped. The property does not have the required (200") road frontage and the subdivision will require a variance from the BOA before the Planning Board can take any action.

The meeting was adjourned at 10:35 p.m. on a motion by Cosmas Iocovozzi, seconded by Denis Hebert.

Pat Main
Secretary