

Present: Chairman Marlon Frink, Larry Upson, Denis Hebert, John Frink, Chris Cross, Jim Leger, Sandy Hislop, Planner Tom Morgan.

Absent: Barbara Hill, Peggy Lamson.

Meeting was opened at 7:04 p.m.

Minutes of Previous Meeting: The minutes of meeting held June 25, 2001, were amended as follows: Sandy Hislop was not present; John Frink abstained from voting on the matter of tree removal on Little Bay Road; Larry Upson and Marlon Frink returned to the table following completion of the preliminary discussion re: Newington Energy LLC; the motion to deny Wal-Mart any outdoor sales (page 4) was withdrawn.

The minutes, as amended, were accepted on a motion by Denis Hebert, seconded by Larry Upson.

Correspondence: Copy of letter from NHDOT to Walmart advising that the drive access and marking project is complete. Copy of letter from P.B. to Howard Patten re: site issues that need to be resolved before release of construction bond. Letter from Attorney John Ratigan re: Public Service request for subdivision of land bisected by the Industrial Road. Notice of Public Hearing (7/16/01) on revised building permit fees scheduled by the Selectmen. Copies of this correspondence had been mailed, with agenda, to all members.

In addition, Tom Morgan distributed copies of the following: Copy of letter dated 5/30/00, to Wal Mart listing conditions for site approval. Letters from Wal-Mart Store Manager requesting permit to hold two outside activities. Copy of Memo from Selectmen advising that John Welch has been appointed to an advisory position of Town Docks Coordinator. Report on the DOT conference held 6/18/01, re: Exit 4, Spaulding Turnpike. Copy of letter (5 page) from Portsmouth City Manager to the Pease Development Authority, commenting on proposed update of the Pease Master Plan. Notice of Public Hearing called by the Selectmen for 7/16/01, to discuss proposal by Newington Energy to expand work hours.

Public Hearing:

Proposal by Westinghouse to expand their industrial plant off Avery Road.

Plan was presented by a representative of Patco Construction. Plans show a small addition to accommodate an office and elevator plus outside covered stairway.

Noted that there is no setback violation; the Fire Chief has been consulted and will require that all will be alarmed; two light poles will be modified by redirecting light on one pole to illuminate the building, the second will be removed and replaced with up-to-date fixture.

There being no further comments from Board or others present - the Public Hearing was closed and the Board returned to the regular meeting.

Denis Hebert moved to approve the proposal as shown on plan with the condition that the two existing pole lights abutting the parking lot be modified and the most northerly one be replaced with fixtures to meet town ordinance. Motion was seconded by Chris Cross.

In discussion Marlon Frink asked if an “as built” plan, including utility plans, would be submitted to the Town and was told yes.

Chris Cross had suggested that the outdoor stairway should have some protection from possible vehicle impact and the motion was amended to add that significant impact protection at all four corners of open stairway must be constructed. The motion, as amended, carried.

Old Business:

A) Bond Reduction request from Wal-Mart -

The Assistant Manager for Wal-Mart was present to ask for reduction of the bond held by the Town

Noted that there are two issues 1. Pavement markings. 2. Synchronisation of Woodbury Avenue Traffic Lights. The Dot has written that pavement markings are complete, however they have not addressed the traffic lights and Board needs some verification that the job is complete and satisfactory.

Denis Hebert moved to have Wal-Mart supply verification from the DOT that the lights have been synchronized and also that the bond should remain in place until all conditions of approval are complete. Motion was seconded by Chris Cross and carried unanimously,

Board then considered the request for two one day activities - 1. Display racing car. 2. Charity Craft Sale.

Chairman Frink stated that there are too many unresolved issues between Wal Mart, the Selectmen, Planning Board and Building Inspector.

Building Inspector Doug George stated that broken down store fixtures are being stored outside; motor homes, including an unregistered one, are parked for longer than 24 hours; advertising banners are displayed without benefit of sign permit. Mr George added that he had become very frustrated trying to deal with Wal-Mart, that he would like to be able to deal with one individual but each time he tries to approach the management he is referred to a different person.

Chairman Frink stated that the Town needs some answers from Wal-Mart regarding the significant amount of time spent in reviewing the OutBack Steakhouse proposal, which all agreed was a low impact, user friendly use of the property, only to have Wal-Mart veto the proposal through a clause in their lease agreement, and thereby usurping the authority of the Planning Board. Chairman Frink asked that the Asst Mgr pass these messages onto his corporate management. Chris Cross stated that he had heard two reasons for the veto were 1. Outback sells liquor and 2 Outback would violate any cross parking rights. Neither reason is valid because Wal Mart sells alcohol and the Newington Ordinance prohibits cross parking agreements. John Frink thought that Home Quarters was permitted cross parking and was advised that the ordinance has changed and that no lease can override a town ordinance.

Mr Hyder, owner of the property, addressed the Board and described his attempts to communicate with someone at Wal Mart headquarters and never receiving replies to his enquiries. Mr Hyder stated that the lease prohibits outside displays but he hadn't enforced this when Town had permitted it in the past. Also, reimbursement of property taxes to Mr Hyder has not been made. Outback Steakhouse has agreed to extend their proposal time to give Mr Hyder a chance to resolve issues with Wal Mart and allow the restaurant to follow through with their plans.

Chairman Frink again voiced his concerns about the lack of Wal Mart's lack of cooperation and the time, money and effort wasted on the Outback Steakhouse proposal.

Chris Cross suggested that the proposal for the two 1 day events seemed well laid out from a safety point of view and if issues with Building Inspector re: use of outside areas could be resolved, they could be allowed. The Asst Manager stated that a new store manager has been appointed and order for cleanup has been issued. The issue of the Campers will be checked out. Chris Cross moved to approve the two 1 day activities in July as applied for. John Frink seconded the motion.

In discussion - Tom Morgan noted that pavement marking, including fire lanes, are fading and should be redone and was advised that there are plans to re-pave and repaint all parking lot markings.

Larry Upson stated that he could not approve until Wal Mart shows good faith effort to work with the town.

Denis Hebert agreed with Larry and added that it is hard to support Wal Mart, when they don't seem to have any respect for the town's regulations.

Chris Cross and John Frink agreed to rescind their motion.

Larry Upson then moved, seconded by Sandy Hislop, the following:

"Due to extenuating circumstances with regards to a lack of open line of communication between Wal Mart and the Town of Newington Committee's along with abutting businesses, the motion is for the Board to not entertain any outside sales or display requests from Wal Mart until good faith efforts by Wal Mart are made to bring these issues to a satisfactory conclusion. These issues include: Outside Storage of Material including RV Overnight Parking; Resolution of the Star Center Use Issue."

In discussion on the motion, Tom Morgan stated that Wal Mart has a policy of allowing RV to park overnight, that this is OK in some communities but violates Newington's ordinance which prohibits campgrounds.

Chairman Frink stated that, in his opinion, the appropriate way to resolve the problem would be to have someone from Wal Mart's corporate management, able to make decisions, come to Newington and discuss matters face to face. He added that the Board had learned some valuable lessons regarding lease agreements - that they cannot violate town ordinances.

Chairman stated that if the Board's concerns are addressed prior to the July dates then the Board could approve the proposal.

Chris Cross suggested requesting a statement, in writing, from the corporate office that Wal Mart intends to supply a single point of contact.

Tom Morgan suggested that the Board extend an invitation to Wal Mart to come to Newington to discuss the future of Beane's Hill.

The motion carried unanimously - the proposal for outside activities on July 17th and 23rd is denied.

B) Bond Reduction request by Howard Patten.

Mr Patten and Board discussed a list of items noted at a site walk held 3/19/01. Landscaping is

an issue and Board would like something in writing that any dead trees will be replaced. It was also suggested that a member of the Conservation Commission visit the site to determine if the approved landscape plan was implemented. Noted that Mr Patten is on the agenda of a Conservation Commission meeting and he questions why he needs to meet with the Commission when a landscape and maintenance plan was approved.

Jim Leger agreed that it should not be necessary for the Conservation Commission to address this issue, that the Selectmen are the Code Enforcing body and they should check if plan is implemented. Mr Patten also advised that he has sold his property and the new owner, Eastern Bearings, should be responsible. Board advised that the bond agreement is between Mr Patten and the Town and he is responsible for meeting all the conditions of approval.

Other items of concern are the possible need for a guard rail an a rear loading dock - will consult engineer; outside lighting does not meet town requirements - Mr Patten stated that he was frustrated, that shields had been mounted on wall paks at great expense and he thought they would resolve the glare problem. Denis Hebert stated that the wall lights violate the ordinance by causing light to reach beyond property line. Mr Patten agreed to consult with his lighting engineer.

All other items on list have been corrected and Mr Patten was asked to resolve lighting problem and also supply something in writing from Eastern Bearings that they would take over the landscape improvements - Board will consider reduction of Bond when all items are resolved.

Preliminary Discussions:

Request from Filenes for storage trailer.

Building Inspector Doug George advised that use of storage trailers had been going on for some time and . Some trailers are out of site - other in plain view.

Denis Hebert stated that these trailers definitely extend the retail floor area and he suggests, if they are allowed, to set a substantial permit fee.

All agreed that there are many issues to work out and voted to hold a work session on July 23rd to review all the details.

Other Business:

Two-Lot subdivision of PSNH Rollins Farm property

Marlon Frink and Larry Upson stepped down and left meeting.

Vice Chairman Denis Hebert took chair.

Plans were presented showing PSNH land bisected by the Industrial Road and the owner(PSNH) would like that portion of property east of Industrial Road subdivided into two lots.

Sandy Hislop moved to approve the proposed subdivision based on the written legal opinion of Attorney John Ratigan dated 7/2/01, and also to authorize Denis Hebert to sign the plan for recording purposes after minor corrections have been checked by Tom Morgan. Motion was seconded by John Frink and carried.

Selectman Chris Cross advised that the Selectmen have been asked to issue pole licenses for poles on the Industrial Road. Board discussed and agreed that underground utilities should be encouraged and would recommend that Selectmen deny request for license.

Meeting was adjourned at 10 p.m on a motion by Sandy Hislop, seconded by Jim Leger.

Pat Main
Secretary.