

Call to Order: Chairman Morton called the meeting to order at 7:00 P.M. Board members in attendance: Edna Mosher, Ralph Estes, Vincent Frank, Richard Ford, John Frink, Chair: Matt Morton and Town Planner: Tom Morgan.

Minutes: Frink pointed out correction on Page four, paragraph four, line one which read Attorney McLoughlin, should have read Attorney Loughlin. Ford moved to accept minutes with correction, Frank seconded, motion carried.

Correspondence: Morgan advised Board copies of all correspondence received were in their packets.

Old Business: Consider a motion for rehearing by James & Susan Carroll regarding the Board's decision of June 18, 2007 to grant a road frontage variance from Article VI of the Zoning Ordinance in order to allow the Estate of Barbara Baird to pursue a 2-lot subdivision at 316 Newington Road, Tax Map 53, Lot 5.

Chair Morton reminded the Board they were voting whether to approve a rehearing and not rehash discussion from the meeting of June 18, 2007. The Board was to decide whether there was an error in the original decision. Ms. Mosher would not be voting on this determination. Chair asked if there were any comments from the public. Attorney Loughlin suggested to the Board when there is a rehearing, they should not allow discussion from the public or applicants requesting the rehearing. Individuals requesting the rehearing have 30 days in which to file a request and that request should include all objections.

Ford commented that the only reason he could see that the Board should consider a request, would be if there was evidence not included in the original request, or whether all interested parties had been notified. Based on information he had, he would not approve the rehearing. Estes asked if abutters from Greenland needed to be notified.

Chair stated there had been a mix up regarding whether there were abutters in Greenland. Morgan said typically the applicants are required to provide a list of abutters and his job is to check that list. They presented a list of all Newington abutters with the request which included very detailed information regarding the land ; more information than the Board is accustomed to seeing. The survey had not been completed.

After he determined all Newington abutters were included on the list, he wondered if there were abutters in Greenland. He called Greenland Town Hall and spoke with the Tax collector. She stated there was only one abutter. Based on that information, he sent notices to all abutters; to include the person in Greenland.

After the June 18 meeting, the survey was completed and the surveyor advised Morgan

that there were six more abutters on the back of the property. These individuals had not been notified because the information was not available before the June 18 meeting. The Chair said Morgan did not err, he did what he could based on the information given to him. Ford asked if those abutters should have been notified of this meeting. Morgan said the law does not require abutters be advised of this meeting. Chair told the Board they have to decide if they are going to approve request for a rehearing and then if the Board approves, the six abutters would be notified and the whole process would be heard again.

Attorney Loughlin suggested to the Board that they approve request for rehearing. Six abutters were not notified. These individuals were in another Town and Newington's Town Planner would not have access to this information unless given to him by Greenland. Everything was done in a good faith effort. Loughlin said the problem is that if one of the abutters comes forward and says "Hey, I didn't know anything about this. I would have come to the hearing and would have objected to the request. Had these six abutters been notified, there might have been a different outcome. He felt the safe course of action would be to notify these six abutters and have a rehearing. It's not something a Board likes to do, however, it might save the Town and others involved, time and money if the case were to go to Court. Based on the fact that six individuals were not notified, the Judge might remand the case back to the Board for a rehearing.

A Board member asked whether there should be a survey done before the matter comes before the Board. Town Planner said in most cases, the survey has not been done until the request goes to the Planning Board. Attorney Loughlin said it was not required for the Zoning Board. The issue in this case was there were letters involved in more than one Town. The Town Planner had no access to the other Town's information other than to do what he did and that was to call the other Town.

Frink made a motion to approve based on the new information given to the Board, Ford seconded. Motion carried. To clarify, Board members voting were Vincent Frank, John Frink, Richard Ford, Ralph Estes and Chair, Matt Morton.

Next meeting is scheduled for August 27 to rehear the original request. Town Planner will notify all parties, to include abutters in Greenland.

Public Hearing: Whole Life Health Care and deRochemont House Limited Liability Company, LLC request a variance from article VI of the Zoning Ordinance in order to allow the reconstruction of a shed-like bulkhead seven feet from the property line. The building is located at 100 Shattuck Way, Tax Map 27, Lot 1-E.

Speaking on behalf of the request was Retta Smith of TMS. The Chairman asked why this wasn't in the original request. She said the original request did not show the bulkhead, which was located in the back and had actually been moved from the house. It was not noticed until about a month ago that this problem existed. Originally the request was for a 12 ft. setback. With the bulkhead attached there would be an approximate 3 ft. setback. They were therefore, asking for a 3 ft. variance. They contacted NH Division of

Resources and were told that the house as a whole had to be moved, to include the bulkhead

There was discussion among the Board members regarding the bulkhead and whether there was a need for the bulkhead to be moved. Chair asked if he had heard correctly; the NH Historical Society was requiring that the original bulkhead be put on the house? Ms. Smith stated this was correct. Nothing can be changed. Chair asked who was responsible for this error. Ms. Smith felt it was probably the original surveyor. Various members commented on different aspects of the request and felt in the end, the request should be approved. Ms. Smith said they could not change anything. They couldn't take out a counter, move a door; nothing could be changed.

Chairman Morton asked if there were any comments from the Public. He recognized Denis Hebert, Chair of the Planning Board. Hebert commented on various items, but did feel that this was a good idea.

Seeing no need for further discussion, Ford made a motion to approve the request to move bulkhead so that it can be attached to the house; Mosher seconded. After reviewing the five criteria, the Board agreed the request met all five criteria. Motion carried.

Mosher moved to adjourn the meeting, Frank seconded; motion carried. Meeting adjourned at 7:40 P.M.

Respectfully submitted,

Sandra Sweeney, Secretary