

Town of Newington, NH

PLANNING BOARD

Meeting Minutes Thursday, November 3, 2011

- Call to Order:** Chair Denis Hebert called the November 3, 2011 meeting at 6:30 PM.
- Present:** Vice Chair, Mike Marconi; Patty Borkland; Bernie Christopher; Jack Pare; Alternate Members, Clifford Abbott and Peggy Lamson; Recorder, Jane Kendall; Board of Selectmen Chair, Cosmos Iocavazzi, and Board of Selectman, Rick Stern; Town Administrative Assistant, Bea Marconi; Town Building Inspector, John Stowell, Newington
- Absent:** Town Planner, Tom Morgan
- Public Guests:** Leslie Brown; Maggie and Russell Cook; Brian Haberstroh; Cindy Kadesh; Jennifer ?; Paul Kent; Skip Link; Matt Morton; Gail Pare; David Philbrick; Lulu Pickering; Melissa Prefontaine; Justin Richardson; David Sweeney; Jim Weiner

1) Public Hearing: Building Proposal for a Pavilion on Fox Point with Capital Reserve Funds as voted on during March 2011 Town Meeting.

Planning Board Chair, Denis Hebert opened the Public Hearing, explaining to members of the public that a vote at the March 2011 Town Meeting had already been made to approve the building of a pavilion from Capital Reserve funds, and the purpose of this Public Hearing was to present the Board of Selectmen's (BOS) building design proposal, and to allow members of the public to express any concerns with the building site and surrounding environment prior to construction.

Patty Borkland, of Little Bay Road, Planning Board Member and Fox Point Pavilion Committee member explained that she was not in favor of a new building on Fox Point, but joined the committee to participate in the decision making process even though the final vote was not her personal choice.

Cindy Kadesh of Mott Cove asked when the round gazebo-building concept was voted out.

Board of Selectman, Rick Stern, said it was part of the Committee's decision that the current proposal would provide the most building for the cost, with the round gazebo being too small, and the larger building being too costly.

Patty Borkland added that the BOS asked the committee to present three different proposals, and the BOS then chose what they thought was the best of the three.

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Cindy Kadesh then asked how many people the structure would accommodate.

Brian Haberstroh of Nimble Hill Road and the Fox Point Pavilion Committee said the final decision for a 30'x40' structure was made in January 2011, and thought to be the best size to accommodate 60-70 people if using picnic tables or more for general use.

Maggie Cook of Hannah Lane asked for clarity on who decided what would be built on the site. Planning Board Chair, Denis Hebert said the Planning Board's role is to facilitate the Public Hearing for the BOS's building proposal for the pavilion, but that the Planning Board was not in favor of the building, and had no part in the decision. Board of Selectmen Chair, Cozi Iocavazzi said residents of the Town voted for the pavilion at the last 2011 Town Meeting, and it is up to the Board of Selectmen to make final decisions on the construction. Iocavazzi said he would defer specific questions to Selectman Rick Stern, and Building Inspector, John Stowell.

Justin Richardson of Post Road said he was confused in reviewing the Town Meeting Report where he found no indication that a new building had been voted on at Town Meeting.

Alternate Planning Board member, Peggy Lamson said she didn't see anything in the Town Meeting Minutes regarding the vote either, so it would be important to read the Town Meeting Verbatim notes for clarification.

Jim Weiner of Fox Point asked if anything could be done to stop construction, such as another Warrant Article Petition with 25 signatures to repurpose and reuse the funds for maintenance of existing structures. PB Chair Hebert said he thought it might be possible, but wasn't absolutely certain of what the law permits. He did say however that there was an attempt to redirect money from the Capital Reserves Pavilion Fund back into the General Fund last year, and it had failed. Justin Richardson said there is an RSA that allows the dissolution of an existing Capital Reserve Fund, and creation of a new fund with a majority vote, but to repurpose requires a two-thirds vote. Richardson said the statute says, "The Planning Board may issue non-binding written comment relative to conformity or non-conformity of a proposal applicable to land use regulations. Within 30 days after a Public Hearing." Richardson continued to point out that building a pavilion would be creating additional reasons to go to Fox Point, but the site plan regulations require adequate facilities, and there are still no bathroom facilities in the plan.

Jim Weiner then asked if the Planning Board could make a recommendation to hold off construction to be reconsidered at the next Town Meeting 2012. Hebert said only if there were a violation of an ordinance or an environmental concern, and that responsibility lay with the Board of Selectmen.

Gail Pare of Little Bay Road and the Fox Point Pavilion Committee asked the BOS to explain their building proposal.

Selectman Rick Stern said the plan was for a 30'x40' gazebo with a hip roof and cupola on top, placed on a cement slab near the Carriage House with a conduit for

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lights, and a water spigot for seasonal use, built 170 feet from the high water mark. Stern said the BOS are having a company look at trees nearby that are dead or sick, but there would be no cutting near the water.

Planning Board Vice Chair, Mike Marconi of Coleman Drive asked what the estimated cost of the proposed pavilion would be. Rick Stern said approximately \$150,000.

Brian Haberstroh asked if the cupola on the proposed pavilion would be active, and Rick Stern said it would be, and that they wanted a close match to the cupola on the Carriage House. Haberstroh said he took a site walk recently and thought it was a good location.

Gail Pare said they had discussed placing the building near the Mott House, or nearer to the Carriage House and asked why the location had been changed. Selectman Rick Stern said it was decided putting it in the center would be most like a Town Green.

Matt Morton, also a member of the Fox Point Pavilion Committee said he didn't like the Mott House location, and would've liked to see the structure placed closer to the Carriage House so they could one day be joined by a walkway. Patty Borkland agreed with Mr. Morton.

Melissa Prefontaine of McIntire Road asked if any public surveys or votes had been done to democratically consider the larger public interests besides individual wishes in the Committee. Selectman Stern said it is common to have one committee, but this project had two committees and it was voted for at Town Meeting.

Justin Richardson expressed concern for the proposed pavilion, which is intended for events, has no bathrooms, and doubted that anyone hoping to use the site for any formal events such as a wedding would want to use portable toilets.

Gail Pare said the Committee also discussed building a protected structure for portable toilets. Cozi Locavazzi said there is one portable toilet on the location, but it was decided that anyone using the area would need to purchase their own portable toilet service for now.

Jim Weiner also expressed concern with priorities in the use of funds, and asked what was the purpose of spending funds on repairing the exterior of the Carriage House if they weren't going to work on the interior, and if it would be worthwhile to look at renovating the Carriage House in phases.

Rick Stern said it was necessary to prioritize repair of the exterior to prevent demolition of the building, but just as there was no short cut to renovating the Old Town Hall, there would be no short cut to renovating the Carriage House interior as it would most likely be inaccessible and unusable until complete according to former Building Inspector, Charlie Smart, and the expense involved would take some time. Jim Weiner asked current Building Inspector, John Stowell if he agreed. Stowell said there are too many variables to consider, including egress and ingress, but he agreed that the building

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would most likely be unusable until all construction and maintenance phases were complete.

Russell Cook of Hannah Lane asked if there were renovation plans for the Carriage House and how much it would cost. Rick Stern said there are plans, and it was estimated at \$770,000 in 2006, in addition to what has already been done to maintain the building. Lulu Pickering said they would need to review those figures for accuracy. Stern said they also considered whether the Town needed to subsidize the renovation and maintenance of another building when working on the current plan for a pavilion.

Lulu Pickering said she had reviewed the Minutes of many years and all issues were addressed extensively, including renovations vs. a new building. Pickering said the zoning ordinance says once repairs are over the 50% mark the building would have to be compliant with the American Disabilities Act for continued use. Pickering said they considering building bathrooms outside the building, but the land slope presented a problem. The most recent estimate for renovating the Carriage House was \$1.2 – \$1.5 million so it was thought the a pavilion would be a prudent first step since the Warrant Article allowed for maintenance with ADA accessibility, bathrooms, electricity, and a septic system, or another building.

Justin Richardson said the verbatim wording of the 2007 Amendment in a vote of 52-9 on spending the Capital Reserve said "...and to direct the Board of Selectmen to propose a building plan including a kitchen and bathroom at the next Town Meeting with construction to begin in the next three years." However, Richardson upon review, the DRA said the Amendment changed the purpose to advisory only, and yet a plan never went to Town Meeting for a vote, and put into question the decision for a new building when the vote had been for renovation. Richardson also expressed concern with expending funds for a new building while noting that \$270,000 had already been spent on renovating the Carriage House, which will continue to need maintenance along with several other buildings in Town, including the Old Stone School, or they would be lost as was the Mott House.

PB Chair Hebert asked Richardson if he thought proper procedure had been followed during the Town Meeting, saying it suggests that the BOS are not mandated to build a pavilion. Richardson said he agreed that the BOS has the right to act on Capital Reserve Funds with a vote, but that he did not think there was a proper vote at Town Meeting to approve building the pavilion.

Lulu Pickering of Little Bay Road and the Fox Point Pavilion Committee said she believed the BOS is to have ten years, and didn't think it legal to mandate three years.

Brian Haberstroh thanked the BOS for calling the Public Hearing and for having gotten to this point after the Committee was formed eight or ten years ago.

Maggie Cook agreed it is a good step forward to serve many at one-tenth the cost of renovation, but that there hasn't been a meeting that adequately represents the Town as a whole.

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Planning Board Chair, Denis Hebert said members of the public could make comments for the Board of Selectmen to consider, but unless there is a change of purpose, the BOS still has final decision on the plan so long as it meets zoning and environmental permit requirements. If anyone wanted to discuss other changes regarding use, they would need to have another meeting.

Jennifer of Mott Cove said she would like to see a smaller building in hopes that the Carriage House would be renovated.

Jim Weiner asked how use of the area would be handled as he hadn't seen any rules or regulations for use, and observed a wedding party on Fox Point this summer that stayed out till 3 a.m.

Leslie Brown of Newington Road asked if vandalism had been considered. Cindy Kadesh said police check the area once or twice during each shift. Denis Hebert said there's also a caretaker that lives out on Fox Point.

Melissa Prefontaine asked if a date for construction had been set, and Rick Stern said they are waiting for permits and to review the proposal for any problems first.

David Philbrick said he equated building a pavilion instead of renovating the Carriage House to building a barn before making a house habitable.

Skip Link of Fox Point Road agreed that it was like putting a Band-Aid on a larger problem.

Dave Sweeney of Fox Point Road said any building project should also consider the building quality and maintenance involved also.

Paul Kent agreed that nothing had been mentioned about financial sustainability, and that he didn't believe last year's Town Meeting could dictate what is done in the next year.

Melissa Prefontaine asked if the issue could be brought to another Town Meeting if the Planning Board and Board of Selectmen were not in favor of building a pavilion.

BOS Chair Cozi Locavazzi said the BOS also voted against the pavilion, but citizens attending the last Town Meeting said before anymore funds were expended on renovations to the Carriage House they wanted to see something built for recreation instead of setting up a tent for September Fest each year. The BOS looked at multiple scenarios, but due to high costs of it was decided to do the next best thing with the current plan for a pavilion as was the understood intent of the Amendment to Warrant Article.

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Justin Richardson said the Warrant Article said a plan is to be presented at Town Meeting.

Denis Hebert said there would need to be another Warrant Article to make changes.

Brian Haberstroh said a pavilion would offer residents a place to go at anytime without locked doors, and would love to see another Warrant Article to complete the Carriage House.

Chair Hebert closed the Public Hearing at 8:20 p.m. and opened final discussion from the Board. Hebert suggested getting a final vote at the next Town Meeting and to start construction in the spring.

Peggy Lamson agreed that there is a moral obligation to residents to request that the BOS get a vote for their plan at the next Town Meeting.

Bernie Christopher of Dumpling Cove questioned anything built in the current economy, and recommended getting word out for residents to vote at the next Town Meeting. Christopher also expressed concern with liability issues.

Jack Pare acknowledged problems with adding infrastructure, but otherwise thought the BOS building plan was good.

Minutes: The October 17, 2011 Meeting Minutes were not included in the packet so the Board said they would review at the next meeting.

Adjournment: Patty Borkland motioned to adjourn. Jack Pare seconded, and all were in favor. Meeting adjourned at 8:30 PM

Next Meeting: Monday, November 7, 2011

**Respectfully
Submitted by:** Jane K. Kendall, Recording Secretary