

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, June 8, 2015

**Call to Order:** Chair Denis Hebert called the June 8, 2015 meeting at 6:30 PM.

**Present:** Jack Pare; Mark Phillips; Jim Weiner; Alternate Member, Ken Latchlaw; Board of Selectmen Representative, Rick Stern; and Jane Kendall, Recorder

**Absent:** Vice-Chair Chris Cross; Bernie Christopher; Thomas Morgan, Town Planner

**Public Guests:** Attorney Bernie Pelech; David Hislop, Knight Hill Land Surveying; Sharon Alley, Girubaih Khalsa; Alan and Lillian Wilson

### **Announcements:**

Chair Hebert announced that Town Planner, Tom Morgan, would be out on leave much of the summer and that Board Secretary, Jane Kendall would be assisting with office duties and the services of a planning consultant would be available as needed.

Chair Hebert asked Board member, Jim Weiner not to vote until he was sworn in. Board of Selectmen's Representative, Rick Stern arrived and Mr. Weiner was sworn in soon after.

### **1) Old Business:**

#### **A) Request by Sharon Alley regarding water service off Fox Point Road, south of Old Post Road, Tax Map 22, Lots 21 and 22.**

Attorney Bernie Pelech said the 2-lot subdivision application came before the Board in December 2014 and was approved in March 2014 with the condition that they worked the public water connection out with the City of Portsmouth. Attorney Pelech said the Mazeau subdivision on Fox Point Road was allowed to tap into the water main four times, but Mr. Terry Desmaris, the new director of the Portsmouth Water Department said he would not allow them to tap directly into the 24" line. He said the new directors in the Water Department were holding applicants to a higher standard now. He said their engineering consultant, Mr. Alex Ross had received an estimate of \$30-\$50,000 from Portsmouth to run a line to the lots. Chair Hebert said Portsmouth told the Town that another approach would be for both the applicant and the Town could pay \$25,000 each.

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, June 8, 2015

Mr. Stern asked how far connection the water connection was from the lot line and Mr. David Hislop of KHL Surveying said it was approximately 400 feet. Board member, Mark Phillips asked where the 8" line ended and Mr. Hislop said it ended 100' past Beane's Lane, but he didn't know if stubbed off in the road or on the shoulder.

Chair Hebert said it was a requirement for buildable lots and asked what happened with the City of Portsmouth. Attorney Pelech said the Town had meetings with the Portsmouth Water Department and he had tried to contact them several times, but they had still not resolved the issue. He said they were requesting a waiver from the public water connection requirement so they could put wells in.

Mr. Hislop said he had not been able to get a hold of Mr. Desmaris until recently and then had Mr. Jim Segal from the Water Department emailed an application to him for water service on the previous Friday. Chair Hebert said they could discuss the waiver, but asked that they submit the application because it would be a more reliable source of water than well water.

Chair Hebert said the Board wanted to be consistent in considering the number of houses to be built on lots and Attorney Pelech replied that they would not be duplexes. Chair Hebert said nonetheless, they might be converted to duplexes someday. Chair Hebert said he wanted to be sure there wouldn't be any issues with well water like cross contamination from the septic systems. Attorney Pelech said they would be required to put the wells out of the radius of the septic systems.

Mr. Stern said he wanted to see the denial in writing from the Portsmouth Water Department before granting a waiver. Board member, Ken Latchlaw said they had been going back and forth for months and suggested that the Board give conditional approval of the waiver with the stipulation that no wells would be drilled until they received a notice of denial.

Mr. Weiner asked how long it would be before the Portsmouth Water Department got back to them and Attorney Pelech said he was concerned that it could be open ended and approval of water was required before State subdivision approval would be given. Mr. Weiner added that he was concerned that the City of Portsmouth might be more inclined to deny tapping in to the 24" water main if they thought they didn't have to if the Board would grant the waiver. Co-applicant, Giribaih Khalsa agreed that the City of Portsmouth would not cooperate because they had no incentive.

The applicant, Sharon Alley said they had been dangling since December 2015 and asked if there was a time limit from the Board's perspective for Portsmouth to respond. Mr. Stern said they had not been given a formal application up to this point. Attorney Pelech said they had submitted the subdivision plan in December 2014 and received a letter from Mr. Desmaris that they could not hook into the 24" water line in January 2015. Chair Hebert asked how long did they normally receive a response in request for water line connections and Mr. Hislop said he generally received a letter of approval to connect rather quickly and then they checked off a box on the State subdivision application that water would be approved.

Chair Hebert said he didn't want to hold them hostage, but he did want to see a letter of denial from Portsmouth because it wasn't just their subdivision that was at stake, but every one that was connected to Portsmouth Water on Fox Point Road could be at risk because they had been told that the 24" water main was layered and not

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, June 8, 2015

intended to be tapped into because it could destroy the integrity of the pipe and be costly to repair or replace.

Board member, Jack Pare commented that the Town paid for a portion of the water lines. Chair Hebert replied that the City of Portsmouth had since taken over ownership and maintenance. He said he thought there was an agreement made back then and no concerns were expressed at that time, but the current matter still needed to be resolved and said the Town might have to take legal action.

Chair Hebert added that Portsmouth had sent a letter stating that the Belanger subdivision could be connected to the corner lot, but they would still need permission from the Selectmen to go through wetlands. Mr. Hislop said he didn't anticipate getting a letter.

Mr. Pare said it might be worthwhile to have the attorneys look for a general responsiveness RSA for the time from that a municipality has to take action. Chair Hebert said there was no more money in the Planning Board's budget, but Attorney Pelech said he would look into it.

Mr. Alley asked if it would make sense for her to deliver the application to Portsmouth in person and Mr. Stern said he thought it might. Chair Hebert said need they would need to be proactive and specify if they could tap into the 24" line. He suggested Mr. Hislop email Mr. Morgan once they receive a response.

Chair Hebert continued the hearing to Monday, June 23, 2015.

### B) Regulations pertaining to driveways crossing **wetlands buffers**

Chair Hebert said the wording regarding wetlands buffer crossings was not corrected at the Town Meeting in March 2015 and this item would be continued for discussion at the next meeting.

### C) Flynn Pit

Chair Hebert said Wilcox Industries had been a good neighbor and they had contributed to the cost of extending Shattuck Way by putting in a section of the road that would connect to the Town waste water treatment plant at their cost. He went on to say that DES had asked the mitigation of wetlands impact with 13 acres of wetlands in exchange. He said there were 19 acres in the Flynn Pit with the power lines running through the middle. He said Town environmental consultant, Mark West had identified a valuable vernal pool, which this land exchange would avoid. Mr. Stern added that DES had also suggested a mitigation cost of \$120,000 but there was no guarantee they would use those conservation funds for the town. Chair Hebert said it would be important to reserve the right of way area in Flynn pit for Eversource.

Chair Hebert said Eversource was also discussing running transmission lines coming from Gundalow Landing and on through the right of way. He said they hoped they would continue underground, but if Eversource agreed to put the vault further back instead of in front of the day pond if they did come above ground.

Chair Hebert said the outpouring at Eversource's open house was good and the speakers logic made an impact. He said Eversource realized going along the right of

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, June 8, 2015

way along Arboretum Drive was a possibility, but he spoke to Mr. Bill Peterson at Great Bay Wildlife Refuge and they would not go through the Refuge and so they would propose other routes down Nimble Hill Road and possibly McIntyre Road or possibly the Class 6 road behind the transfer station.

Chair Hebert said Pease Development Authority owns property purchased from the Khalsas and they had a right of way up Arboretum Drive. He said going through the Historic District would require going through the Section 106 process, which they didn't want to do so this route would help keep it out of the Historic District. He said it would also help avoid the power lines in the flight path and benefit the PDA because they need a significant amount of power.

Chair Hebert said the Town was in a unique situation because of the runway and Historic District. He said Durham and UNH hired Attorney Susan Geiger that the Town was working with and there was a concern that there was a conflict. Mr. Weiner agreed that shared attorneys seldom worked. Mr. Pare said time conflicts were most often the biggest problem Chair Hebert said the Town also paid upfront to educate her and the other towns would be taking advantage of that. Mr. Stern agreed the Town wouldn't want to share.

Chair Hebert said Eversource said they would get back to them on their plans by Monday, June 15, 2015.

### 2) Planning Initiatives:

Chair Hebert asked the Board to review Town Planner, Tom Morgan's recommendations for Planning Initiatives and respond with questions and their own suggestions for the next meeting.

#### A) Proposed zoning district for electrical generating plants

Chair Hebert said the original Newington Energy plant was up for sale to Seabrook, and although they might not buy it, he was still concerned that whoever bought it would consider the site prime land. He said they also needed to consider the proximity to Patterson lane.

#### B) Woodbury Avenue Corridor

Mr. Weiner asked if they had looked at the costs in taking Woodbury Avenue over from the Department of Transportation (DOT). Chair Hebert said he wasn't sure of the costs so they were considering tipping fees, though they weren't sure if that would be a good idea because of the impact to businesses, but they also had to consider the impact to the Town.

**Minutes:** *Mr. Latchlaw moved to approve the Minutes for the May 14, 2015 meeting with corrections as discussed. Mr. Weiner seconded, and all were in favor.*

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, June 8, 2015

**Adjournment:** *Jack Pare motioned to adjourn, and Mark Phillips seconded. All were in favor and meeting adjourned at 7:32 p.m.*

**Next Meeting:** Monday, June 23, 2015 and July 13, 2015

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