

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Tuesday, October 13, 2015

- Call to Order:** Chair Denis Hebert called the October 13, 2015 meeting at 6:30 PM.
- Present:** Vice-Chair Chris Cross; Bernie Christopher; Jack Pare; Mark Phillips; Jim Weiner; Alternate Member, Ken Latchlaw; Thomas Morgan, Town Planner; and Jane Kendall, Recorder
- Absent:** Board of Selectmen Representative, Rick Stern
- Public Guests:** Attorney Charles Griffin; Richard Pickford with WSCA; Terry Desmaris with Portsmouth Public Works; John and Leila Lamson; Christopher and Laura Rogers; John Bernier with the Bernier Corporation; Michael Morrison with SWAMP

1) **Public Hearings:** Proposal by Portsmouth Community Radio (WSCA) to erect an 80-foot high antenna tower atop Beane Hill. The property is situated between Arboretum Drive and the Spaulding Turnpike, Tax Map 19, Lot 22

Chair Hebert noted that the applicant had been before the Zoning Board of Adjustment (ZBA) and were granted their request for a variance.

Attorney Charlie Griffin informed the Board that he had been misinformed and mistakenly said the antenna that was on top of the Music Hall for years was actually no longer there because there were problems with interference with their live microphones. He said they searched and found a location at the pump station in Newington because it was the tallest in the area that would work without interference. He said it was currently on top of the adjacent brick building until they could build their tower.

Attorney Griffin said they received their request for a variance for their proposal as an appropriate use of the site, received approval from the Federal Communications Commission (FCC) to relocate to this site, and acquired an agreement with the City of Portsmouth as indicated in the letter they presented from City Manager, John Bohenko. He also included a letter from Newington Fire Chief, Andrew Head, presented photo exhibits, reviewed the dimensions and setbacks and stated that they met the site review criteria.

Attorney Griffin said they were also requesting that the Board waive the \$600 filing fee, as they were a non-profit radio station that was dependent on listeners.

Board member, Jim Weiner said he had no issue with the request to waive the \$600 filing fee, but he would want to be sure approval would include the stipulation that

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the Town would have permission to mount their public service antennas on the tower as well.

Chair Hebert said another condition would be that the tower could not be sold for commercial use. He also said he thought the FCC patrolled frequencies, but he wanted to make sure that there would be no interference with Town telecommunications. Mr. Pickford said they did patrol the airwaves.

Chair Hebert moved the question of whether the Board wanted to waive the filing fee.

Jack Pare moved to waive the \$600 site review fee for the proposal by Portsmouth Community Radio (WSCA) to erect an 80-foot high antenna tower atop Beane Hill, between Arboretum Drive and the Spaulding Turnpike, Tax Map 19, Lot 22. Bernie Christopher seconded the motion and all were in favor.

Jim Weiner moved to approve the proposal by Portsmouth Community Radio (WSCA) to erect an 80-foot high antenna tower atop Beane Hill, Arboretum Drive and the Spaulding Turnpike, Tax Map 19, Lot 22 with the condition that Newington and its facilities have free of charge access for their repeater communications and that the applicant give 45 days notice to Pease Development Authority prior to the antenna mount. Jack Pare seconded the motion.

Chair Hebert said he had not yet closed the public hearing and suggested the motion be withdrawn and seconded to continue the public discussion and then they could go into closed discussion.

Jim Weiner withdrew the motion and Jack Pare seconded.

Discussion ensued regarding conditions. Vice-Chair Cross suggested that they be required to recertify their equipment if interference became a problem. Mr. Pickford replied that it would cost the station \$1,000, but it would not be necessary because the commercial stations adjacent would have reason to go after them and the FCC would shut them down immediately if there was any interference. He added that the interference was not with the radio station interfering with the Music Hall, but instead with the Music Hall's low quality headsets that were not in compliance and interfered with the radio station. Chair Hebert said he didn't understand why the FCC allowed that to occur and Mr. Pickford replied that it was not the forum to discuss other than to say "non-profit (did) not get quite as much love as for-profit operations". He added that WSCA was required to be in complete compliance and never interfered with anyone else's frequencies or the FCC would take issue with them. Mr. Pare said the FCC was a government agency chartered to enforce standard protocol regarding interference and the Planning Board was a land use board. Mr. Morgan agreed and Chair Hebert asked Vice-Chair Cross if could live with leaving it to the FCC. Vice-Chair Cross agreed that they had raised a good point, but said it was still their duty to report interference to the FCC. Mr. Pickford replied that it was any citizen's right to report

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Mr. Weiner moved that approval include the following conditions:

- *That Newington town services have free of charge access for their repeater communications*
- *That the applicant give 45 days to Pease Development Authority prior to antenna mount*
- *That the broadcasting antenna and tower be used for non-profit radio transmission and not be sold for commercial use.*

Jack Pare seconded and the motion passed 5-1 with Chris Cross opposing.

2) Curb Cut Applications:

A) Proposal by John and Leila Lamson for a curb cut at 30 Little Bay Road, Tax Map 10, Lot 20.

Mr. John Lamson said the house was built 37 years ago and the shared driveway tapped into an old camp road. He said the tenants had a pre-schooler and made an offer to purchase the house so he thought it prudent to have a separate driveway. Mr. Lamson proposed to run the driveway from the middle of the lot to the existing parking area in front of the house so they wouldn't need to take as many trees down. Mr. Morgan asked if any vegetation needed to be removed so drivers could see both ways and Mr. Lamson replied that the lot was in a fairly open spot.

Chair Hebert commented that the Board always supported unshared driveways.

Vice-Chair Cross asked if they would close off the old access and Mr. Lamson replied that the current access was on the other house lot, and they could dig a trench between, but would rather leave it open for emergencies if needed. Vice-Chair Cross asked if the access was deeded or if they could put in a fence and Mr. Lamson said it was not deeded so they could.

Chris Cross moved to approve the proposal by John and Leila Lamson for a curb cut at 30 Little Bay Road, Tax Map 10, Lot 20 with the condition that a support culvert for water flow be placed under the driveway. Jim Weiner seconded the motion and all were in favor.

B) Proposal by Chris and Laura Rogers for a curb cut at 26 Swan Island Lane, Tax Map 53, Lot 16

Chris and Laura Rogers appeared before the Board with their proposal. Chair Hebert said the proposal was straight forward, but he recommended less asphalt. He said he would have liked their abutter, Mr. Michael Berounsky to be present for the discussion, but he was not and he didn't want to stop the application.

Mr. Pare inquired about the extension of land sticking out on one side of their parcel. Mr. Morgan said the configuration was already there when the applicants

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purchased the property and was commonly known as a “spite strip”. Chair Hebert added that it was put there to prevent a road from going in. Vice-Chair Cross commented that someone could not be prevented from developing the abutting lot.

Chair Hebert said he would like to see a reduction of asphalt in the cul-de-sac to prevent two circles while keeping the same road frontage with approval contingent upon the applicant still having access to the road. He said it would reduce asphalt for the Berounsky’s as well, but he wasn’t sure about the drainage easement. Mr. Rogers asked who would pay for altering the cul-de-sac and Chair Hebert said they would only have to pay for their portion and the Town would do the rest.

Mr. Pare wondered if they might discuss a rain garden in the center of the cul-de-sac with Mr. Berounsky. Chair Hebert said he thought the wetlands storage area was before the circle and the land in the center was higher than they thought and would not make a good rain garden, but they still needed a drainage study if Mr. Berounsky wanted to develop his property further. Vice-Chair Cross said he didn’t think it should be a rain garden because the plows would want to dump snow in the center. Mr. Weiner added that a rain garden would require maintenance and ownership would be an issue.

Vice-Chair Cross asked where the water line was coming in from and Ms. Rogers said it would come in from circle. Vice-Chair Cross asked if they had a choice for access to water from Newington Road, they would never have to worry about moving the water line if there were changes to the circle. Ms. Rogers said the tap was already at the circle and was closer to the Berounsky lot.

Ms. Rogers said they reached out to the Connors who were willing to allow the power line to come in from the pole that was a foot or so from their property line after Eversource said they would allow an easement because it was closer and cheaper than coming from Swan Island Lane. Vice-Chair Cross said it was contrary to Town principles for utilities to come in from private property instead of public property. Chair Hebert replied that the pole was already there in this case so there was a good argument for it. Mr. Morgan read the ordinance that said the developer had to provide utilities to each residential building, but he didn’t see that it had to come from the frontage. Chair Hebert said the easement would be for the entire length of the Connors’ driveway. Mr. Morgan read through the subdivision regulations, which said that underground utilities shall be placed in the right of way or dedicated easements.

Vice-Chair Cross asked if the pole also brought power to the Welch lot and Chair Hebert said it did. Vice-Chair Cross said he still had questions on whether the power line that was established a 3-lot subdivision would be adequate for six to seven dwellings, but the lot was created several decades ago and was not a new lot. Chair Hebert asked if there was a fire hydrant nearby and Vice-Chair Cross said he hadn’t seen one. Ms. Rogers said there was one on Newington Road. Vice-Chair Cross said a fire hydrant on the road would help keep their insurance rates down. Chair Hebert said whoever gets there first, if developer forces to move would have to help move drive out.

Bernie Christopher moved to approve the proposal by Chris and Laura Rogers for a curb cut at 26 Swan Island Lane, Tax Map 53, Lot 16 with the condition that the

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applicant be responsible for paving to their lot line if the cul-de-sac circle changed, and that their driveway also include a 12" culvert. Jack Pare seconded the motion and all were in favor.

3) Preliminary Consultations:

- A) Proposal by Michael Berounsky for a 2-lot subdivision at 30 Swan island, Tax Map 53, Lot 9

The applicant did not appear for the meeting. Mr. Morgan said he was not able to reach the applicant by phone, but spoke with his son's wife and asked her to remind the applicant of the meeting. Chair Hebert said the Board was very busy and he was not pleased when people didn't show up.

Chair Hebert said circle and land development was high, but the low drainage easement was a concern.

Vice-Chair Cross said he was concerned about excessive pavement for the development. Chair Hebert said the applicant was not present for a concept only discussion, but asked Mr. Morgan to relay the Board's recommendation to reduce the amount of asphalt in the plan.

Vice-Chair Cross also said there was no fire hydrant at the circle and they should reach out to the fire department as well. Chair Hebert agreed there should be a hydrant, but thought the fire chief would review the proposal if they went before the Technical Review Committee (TRC). Mr. Morgan added that the applicant would need to present their proposal first to receive feedback before going to the TRC.

- B) Proposal by Wilcox Industries to expand its manufacturing plant at 25 Piscataqua Drive, Tax Map 27, Lot 22

Mr. John Bernier with the Bernier Corporation presented the plan for Wilcox Industry's next expansion as a Mylar over the approved plan. He said they moved the multi-level garage and would be gaining 55 parking spaces. He stated that the height of the building would be no higher than the current building.

Chair Hebert asked if there would be a helicopter pad and the engineer said it would be on top of the parking garage. Chair Hebert said he wanted to be sure they had documented permission with the FAA and the Pease that controlled the airspace.

Vice-Chair Cross asked if the helicopters would be landing behind Great Bay Services residential housing. Mr. Morgan said there would be another applicant who had an agreement to purchase Great Bay Services would be coming in the next week with a proposal.

Mr. Bernier said they would not be encroaching the lot lines any differently. Mr. Morgan replied that they might not, but he still had to do an analysis to see what the specifics of relief would be required from the ZBA because it was a complicated site with push outs all over. He said the Planning Board still requested applicants to come before them first. He said they would not go before the TRC until they were ready to

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make a formal application to the Planning Board. Chair Hebert said he would write up to know what variances would be required.

Chair Hebert asked if they had begun their original project proposal and the engineer said they were still working with the dredge and fill applications. Mr. Morgan added that he was still working with Laurie Summers with DES regarding the 13-acre Flynn Pit mitigation proposal.

Chair Hebert said Mr. Jim Teetzle with Wilcox Industries had done a lot for the Town and the Board of Selectmen would be on board with the project.

C) Proposal by SWAMP

Chair Hebert said the applicant wanted to move their business in the building on River Road where Two-Way Radio had been.

Mr. Michael Morrison with SWAMP said he was a botanist and aquatic entomologist that did wetland permits, storm water management and invasive species management. He said he had worked for the Town for 40 years as a contractor, doing mosquito control, but the Town bid out mosquito control to another company in the last year, though he hoped to return.

Mr. Morrison said their vendor carried the organic bacterium they used for mosquito control. He said the material was mostly mixed with water, the containers were triple washed, then put back in the 2-1/2 gallon containers they carried in their vehicles, until they were crushed and put in dumpsters so they couldn't be used again. He said 30 gallons lasted them a year. He said the State highly regulated the materials and he was licensed and were in MS4 compliance, certified for storm water management and drainage maintenance. He said most towns had stopped spraying and now they were only spraying in Portsmouth, but he saw the ditch at school as a major problem because the mosquitoes were breeding and invasives were spreading.

Mr. Morrison said he had five permanent employees, an office manager and summer help that went to Maine, Massachusetts and New Hampshire.

Mr. Morgan said the building inspector had recently found that the applicant occupied the property since May 2015. Mr. Morrison said he had a three-year lease. He said he was working with the fire chief, but it was not certain if he should go before the Planning Board. Chair Hebert said he thought the occupation would be okay if the building inspector was overseeing the enterprise. He said his only concern was with an uncontrolled release and that no one was living in the building. Mr. Morrison said the stove and fridge had been removed.

Board member, Mark Phillips said the building was in the Office zone and biotech was an approved use. Chair Hebert agreed that there would be no need to take action and they could let the building inspector and fire chief oversee the operation. Mr. Morgan agreed.

Minutes: *Jim Weiner moved to approve the Minutes for the September 14, 2015 meeting as corrected. Chris Cross seconded, and all were in favor.*

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Report by Town Planner:

Mr. Morgan said the TRC meeting regarding the Savinelli subdivision at Fabyan Point went well, but Town engineering consultant, Eric Weinrieb asked their engineer to correct the geo datum so they would need to start all over. He said he received an email from their engineer, Mr. Corronati who said he would like to meet with the Planning Board on November 9, 2015.

Mr. Morgan reviewed various projects in town, which included:

- Tree cutting on the Belanger property on the corner of Fox Point and Nimble Hill Roads.
- The water tie in to the Belanger property to avoid the 24" water main
- Shattuck Way easements with Town counsel, Attorney John Ratigan, which were a priority for the slope easement for Eversource.
- Improvements to Gosling Road by the City of Portsmouth
- Future discussions on the Watson property off Nimble Hill Road
- A variance requirement for John Newick's front porch step
- A TRC review of the wastewater treatment upgrade with the Sewer Commission.

Additional Discussions:

The Board continued with a brief discussion of accessory apartments, duplexes and work force housing.

Chair Hebert said the court determined that the Board was reasonable in their approval of the Sea-3 expansion proposal except they were not clear if the safety plans in place after the design would be administrative in nature or not, and the applicant and attorneys would return to the Board the following week. He said the attorneys for both sides were going to Concord the next day and former Board member, Justin Richardson would testify.

Chair Hebert said Mr. Richardson had volunteered to return to the Board as an alternate to cover the Sea-3 review if needed, but he would not be available to serve on a regular basis.

Chris Cross moved to have Justin Richardson return as an alternate as needed. Jim Weiner seconded the motion and all were in favor.

Chair Hebert and Mr. Morgan reviewed upcoming agendas with the Board and Chair Hebert encouraged Board members to attend all meetings.

Chair Hebert said he couldn't keep planning consultant, Jerry Coogan on much longer and asked Mr. Morgan to look at the housing chapter addendum in the Master Plan for March 2016.

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Mr. Morgan said a discussion of the budget was left off the upcoming agendas and he would ask Town Administrator, Martha Roy when the Budget Committee was meeting.

Chair Hebert said the Board of Selectmen informed him that they had to go beyond their budget before the Board of Selectmen could replenish the zero balance.

Chair Hebert said there was only \$400 left in the budget for training, but encouraged members to attend the Planning Board workshops. He said he also hoped to get the intranet into the budget and put all plans in PDF form on the web as a tool for the Planning Board too.

Mr. Weiner asked what the process was to allocate costs to applicants. Mr. Morgan said they had passed bills on to applicants that had been before the Board, but they also needed to begin billing when they came before the TRC.

Mr. Weiner asked if legal and engineering expenses were billed to applicants. Chair Hebert said they were except expenses associated with Eversource's transmission lines were not.

Chair Hebert said he had received a call from the building inspector that he was not able to get into the vault to look at project plans that had been approved and he would like one working plan to be given to the building inspector. Mr. Morgan said the stipulations for all approvals were in the minutes and the building inspector was given a copy of all minutes. He said he typically kept three 3 signed copies, one in the vault, one in his map holder and the third went to the applicant. He said the building inspector always had access to the plans in the vault when he was out, but he could ask the applicant to provide another copy for the building inspector.

Adjournment: *Mr. Pare motioned to adjourn, and Bernie Christopher seconded. All were in favor and meeting adjourned at 9 pm*

Next Meeting: Monday, October 19, 2015

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