

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, November 9, 2015

**Call to Order:** Chair Denis Hebert called the November 9, 2015 meeting at 6:30 PM.

**Present:** Vice-Chair Chris Cross; Bernie Christopher; Jack Pare; Mark Phillips; Alternate Member, Ken Latchlaw; Board of Selectmen Representative, Rick Stern; Town Engineering Consultant, Eric Weinrieb; Interim Planner, Jerry Coogan and Jane Kendall, Recorder

**Absent:** Jim Weiner

**Public Guests:** Denis Messier, Newington Wastewater Treatment Manager; Justin Richardson, Sewer Commissioner; Skip Cole, Sewer Commissioner; Ed Leonard, Project Manager and Jeff Mercier, Project Engineer with Wright-Pierce Engineering; Attorney Alec McEachren; Attorney Christopher Mulligan; Attorney Bernie Pelech; Jarrad Savinelli; John Newick; Joe Coronati with Jones and Beach Engineering; Mr. and Mrs. Peter Drinkwater; Alan Thomas; Michael Berounsky; John Liastis; Jim and Sue Bowles

### 1) Public Hearings:

- A) Proposal by the Newington Sewer Commission for a major upgrade to the wastewater treatment plant, and new access from Wilcox Way. The facility is situated at 115 Gosling Road, Tax Map 27, Lot 4.

Chair Hebert stated that the wastewater treatment plant upgrade was a Town project and Town counsel, Attorney John Ratigan had advised that it did not have to meet all the Town Ordinance requirements like other projects. He said Town engineering consultant, Eric Weinrieb with Altus Engineering had reviewed the proposal along with the Technical Review Committee (TRC).

Newington wastewater treatment plant manager, Denis Messier introduced Mr. Jeff Mercier, Project Engineer with Wright-Pierce Engineering along with Project Engineer, Mr. Ed Leonard.

Mr. Leonard said he reviewed the needs for the project and how to fund it over the course of three years from 2010 to 2013. He added that they received a grant \$1,000,000 Forgiveness loan for funding.

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Mr. Leonard presented plans showing the existing conditions and the proposed expansion to improve the removal of harmful nitrogen levels from Great Bay. He said the plant was not directly on the Bay, but it would help treat the tide coming in and out.

Mr. Leonard said they would also create a new driveway with a "T" configuration to improve access and reduce traffic in the existing right-of-way. He said the new driveway would eventually connect to Wilcox Way, which would extend from the end of Shattuck Way.

Chair Hebert said this had been the second application to be reviewed by the newly appointed TRC and the report was included in Board member's package.

Mr. Weinrieb said he was given a complete set of design drawings, but he only looked at the civil engineering site aspects, not the treatment plant process. Mr. Weinrieb said he provided five items for clarification, which included a question on the wetlands being too close to the site. He said a private application would require a variance, but Attorney Ratigan had said it was not an issue. He also said he was not sure if the use of the natural wetlands inventory rather than field delineation would require a waiver or not.

Mr. Weinrieb raised a question regarding the design and construct of the rain garden and Mr. Mercier said the under drain was good and would only require a minor specification revision.

Chair Hebert pointed out that the Planning Board's suggestions were non-binding, but he wanted to be sure that the Department of Environmental Services (DES) requirements were met and that the plans had a licensed PE stamp on them. Interim planner, Jerry Coogan agreed that RSA 674:54 stated that information and comments could be shared, but Board approval for government uses were not required. Mr. Messier said the plan took into account a study for the State and Federal Environmental Protection Agency's requirements to define future growth.

Vice-Chair Cross asked if the plant could handle treatment if the residential area of the Town converted to the sewer system and Mr. Messier replied that currently they could not by vote of the town. Mr. Leonard commented that it would be tough to predict one hundred years into the future and the plant would probably be upgraded four times in the next hundred years. Mr. Messier added that the plant hadn't been upgraded in thirty-five years and this upgrade was designed for another thirty-five years.

Sewer Commissioner, Justin Richardson asked what the timeline for the Wilcox Way expansion would be and Chair Hebert replied that issues with DES were hanging up the dredge and fill permit and there was no known timeline yet. Mr. Messier said they were still putting in the driveway and gate in preparation.

*Rick Stern moved to recommend the proposal by the Newington Sewer Commission for a major upgrade to the wastewater treatment plant located at 115 Gosling Road, Tax Map 27, Lot 4, and for new access from Wilcox Way. Bernie Christopher seconded the motion.*

*Vice-Chair Cross suggested that there be no further delineation of the wetlands. Rick Stern moved to recommend the amendment and Bernie Christopher seconded. The motions passed with all in favor.*

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B) Proposal by Jarrad Savinelli and John Newick for a 7-lot subdivision at 6 and 34 Fabyan Point Road, Tax Map 47, Lots 5, 6 and 7.

Mr. Phillips announced that he would recuse himself for transparency because he and Mr. Savinelli had penciled out the subdivision previously, but had not been able to come to terms with abutter, Peter Drinkwater at the time. He said he had also worked with Jones and Beach Engineering on a large project in Dover previously as well.

Mr. Coogan handed out Town Planner, Tom Morgan's review of the proposal along with a letter from Town wetlands consultant, Mark West and Altus Engineering's review. He said there was a question regarding the size of Lot 7A, an outstanding alteration of terrain permit and the establishment of a homeowner's association.

Mr. Joe Coronati with Jones and Beach Engineering said they sent their plans to Mr. West and received a letter that said the wetlands was 3,300 square feet, which was smaller than the Town required for a buffer. He also provided a letter from the State for subdivision approval. He said an alteration of terrain permit was required for disturbances over 100,000 square feet, but he thought their disturbance would be less. He said they would apply for the permit if the disturbance turned out to be more.

Mr. Coronati said along with the subdivision, they were proposing to put in a Town designed road over the existing private Fabyan Point Road with the pavement ending at a cul-de-sac in front of John Newick's property, which was designed to continue in the future if the Town chose to do so. He said there would be a separate driveway for Mr. Drinkwater's house, which currently had a driveway easement across Mr. Newick's property. He said they received a variance from the setback requirement for Mr. Newick's steps, and the terrain of the road would not change.

Mr. Coronati said two home lots were already in the development and they would be creating five new home lots. He said they had a letter to serve from the City of Portsmouth Water Department to run water connections down the road.

Chair Hebert said there were still a lot of issues that Mr. Weinrieb had brought up that needed to be resolved, but enough information had been provided to call the proposal substantially complete after the Board asked their questions.

Chair Hebert said he thought he saw something from the fire department engineer saying the cul-de-sac needed to be big enough for a fire truck and he also asked what was going on with lot 7A. Mr. Coronati said Mr. Savinelli lived on lot 7 and wanted to retain the use of the trees to the east on Lot 7A for a privacy buffer. Chair Hebert asked what the square footage of the tree buffer would be and Mr. Coronati said it was about 22,000 square feet. Chair Hebert asked if it was necessary to meet the 80,000 square footage requirement for Lot 7A and Mr. Coronati said it was. Chair Hebert asked if he was suggesting that the neighbor be restricted in the use of his lot so Mr. Savinelli could have a tree buffer on his neighbor's property and Mr. Coronati said there was sufficient buildable area remaining on Lot 7A while retaining the tree buffer. The applicant's counsel, Attorney Bernie Pelech said the Board could grant a common landscape easement that would be akin to a no cut zone that would not reduce the size of Lot 7A.

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Mr. Coogan suggested that the Board determine if the application was substantially complete before getting further into the details.

*Chris Cross moved to accept the proposal by Jarrad Savinelli and John Newick for a 7-lot subdivision at 6 and 34 Fabyan Point Road, Tax Map 47, Lots 5, 6 and 7 as substantially complete based on the Technical Review Committee's and the Town Planner's recommendation. Jack Pare seconded the motion.*

Mr. Stern asked if 65 days would be enough time to address all the issues that had been raised. Chair Hebert said he thought they could, but he could also recommend that the applicant be granted an extension if necessary.

*The motion passed with everyone in favor.*

Chair Hebert opened the public hearing.

Chair Hebert said he was uncomfortable with the suggestion of a common easement for a tree buffer because of how it would encumber the neighboring lot. Board member, Bernie Christopher disagreed because he didn't think it would affect the lot. Vice-Chair Chris Cross said he didn't have a problem with a wooded view easement on the neighbor's property so long as it was recorded, but he did have a problem with Mr. Savinelli using the neighbor's property physically for his own garden for the same reason the Town didn't allow shared drives. Mr. Stern said an easement would take away the use of an owner's property, which he didn't think was right. Vice-Chair Cross said a wooded usescape shouldn't be banned in case the trees needed to be trimmed or cut and they could be replaced one for one.

Attorney Pelech reviewed the history and ownership for Fabyan Point Road and the right-of-way. Chair Hebert asked Attorney Pelech to provide Attorney Ratigan with the documentation and copy Mr. Coogan.

Mr. Weinrieb said form factor calculations were required and needed to be provided to ensure regular shaped lots.

Discussion ensued regarding the placement of the catch basins and detention ponds. Mr. Weinrieb said drainage easements were depicted and he was concerned with outlets in the building envelope areas and suggested extending the easements out to the end of the lot to prohibit development and drainage issues in that area. He said the idea was to spread water flow to mimic pre-development drainage conditions as best as possible. Mr. Coronati said he would revise the calculations. Chair Hebert recommended a swale.

Recused Board member, Mark Phillips of Hodgson Lane said Ms. Kathleen Sullivan of 20 Hodgson Lane could not be present, but asked him to request a tree buffer for drainage.

Chair Hebert asked if they would be installing French drains along the foundation and Mr. Coronati said they were similar, but would only take in the roof runoff. Mr. Weinrieb said because of the marginal soils, it would be preferable to drain the runoff away from the foundation to avoid a bathtub effect draining into the basement.

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Mr. Weinrieb said the applicant's engineers could do the designing, but he suggested extending the culvert 100'.

Chair Hebert said he was trying to use the TRC as a time saving tool. He said there were many items to be addressed, but asked Mr. Weinrieb to discuss the larger issues. Mr. Weinrieb said most of the tests failed so he didn't think they could use infiltration drainage. Chair Hebert said he had confidence in Mr. Weinrieb and he would like the applicant's engineer to work with him. Mr. Coronati said he did not have the authority to flag neighboring wetlands. Mr. Weinrieb said they could assume there were contiguous wetlands from the abutting properties even though there were only a small piece of wetlands on the applicant's property.

Vice-Chair Cross questioned Mr. Weinrieb's recommendation to abandon the existing wells because it was up to the property owner whether they wanted to connect to Town water or not. Mr. Weinrieb said he recommended removal if they connected to Town water. Mr. Coronati said they were proposing to keep the wells, but provide water shutoffs for each lot. Vice-Chair Cross said Mr. Newick's lot was large enough to be subdivided so they should consider putting in stubs for future development.

Mr. Weinrieb said the plans were difficult to read, but Mr. Morgan had noticed that a portion of the road was curbed and he thought it all should be curbed or open drainage, but not mixed. Mr. Phillips of Hodgson Farm Lane said they were proposing half a mile of curbing at \$47,000 when there were no regulations. Mr. Weinrieb said it was the applicant's proposal, with all but 2,200 feet. Vice-Chair Cross said curbing was recommended for the angle at Gundalow Landing, but it was a problem for the school buses, especially during winter snow. He said he would like curbing only on the first 75' similar to Hodgson Farm Lane to retain the rural atmosphere. Mr. Coronati said the notes showed curbing the entire road, but it would actually stop at the State's right-of-way to avoid being hit by plows.

Vice-Chair Cross said he didn't recall a requirement for dead end or speed limit signs on other cul-de-sacs. Chair Hebert said they were not expensive and could prevent unnecessary traffic issues. He said there had been complaints about speeding around cul-de-sacs, but the police said it was not enforceable if not posted. Mr. Stern said it was private property unless the road was turned over to the Town. Mr. Weinrieb said he thought it was still a good idea. Vice-Chair Cross said they should be consistent with other cul-de-sacs, but Chair Hebert said this was the first time the suggestion came up. Mr. Pare suggested the Board of Selectmen post a town speed limit unless otherwise posted. Board members agreed that fewer signs were better, but the stop sign would be fine.

Mr. Weinrieb said tree plantings along the street needed to be approved by the Conservation Commission. Chair Hebert said they would be interested in the caliper and type of tree.

Vice-Chair Cross asked about stonewalls. Mr. Stern said he thought there were State law regulating stonewalls. Mr. Weinrieb said the Board should consider removing the walls for construction and then using them elsewhere in the development.

Vice-Chair Cross said he didn't agree with all the findings from the TRC and thought the Board members needed an opportunity to channel their opinions as well. He

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said the TRC addressed the right-of-way for future extensions and he thought they should consider avoiding consecutive cul-de-sacs in developments. He said it was too late to connect to Hodgson Farm Lane, but there was still potential for development to the north. Mr. Coronati said several abutters were present, and he didn't think they were interested in connecting across John Newick's property to Fabyan Point Road because they could have their own access. Chair Hebert added that it would not be possible to second guess if and when the abutting property owners would do in the future. Vice-Chair Cross replied that Mr. Morgan's suggestion for a connecting bike lane was an example of planning for future development.

Chair Hebert opened the discussion to the public.

Attorney Chris Mulligan said he was representing Peter Drinkwater of 50 Fabyan Point Road, west of the proposed cul-de-sac. He said they were generally supportive, but they would like the Board to keep in mind that their primary concern was that the utilities and water mains be sized for future development down Fabyan Point Road. He said they were suggesting that the applicant shift the road slightly to the south so future development would be better accommodated; otherwise they would need a variance. He said after TRC comments were made, the plan was modified to include a 75' easement from the cul-de-sac off Mr. Drinkwater's property and they would like to see a concept for the future extension of Fabyan Point Road.

Chair Hebert said the Board did talk about future expansion and they wanted to make sure that utilities lined up down road, but they were also concerned with who would pay for redesigning the road for future development, although abutters were invited to contribute. Mr. Weinrieb said the road extension and eliminating the cul-de-sac was discussed at the TRC, but they didn't see what the alignment would look like. Vice-Chair Cross asked if removing this cul-de-sac would be an additional expense for the developer and Mr. Weinrieb said it would be and the right-of-way would be returned to Mr. Newick and the cul-de-sac would be moved further down the road.

Discussion ensued regarding the right-of-way and cul-de-sac if the road was extended. Chair Hebert said there was no problem to keep as Town property because it would be difficult to return to the original owners. Vice-Chair Cross disagreed with not returning property to the original owners. Chair Hebert said it would be especially difficult to return property if it changed hands from the original owner, and taking away frontage would make lots non-conforming. Vice-Chair Cross replied that would be reason for variances. Mr. Weinrieb said in this scenario Mr. Newick's property and the southerly lot wouldn't be an issue. Chair Hebert polled Board members on whether they thought the Town should keep it or return it to the original owners. Mr. Christopher, Mr. Pare and Mr. Latchlaw said they should keep it, while Mr. Stern and Vice-Chair Cross said they should return it.

Vice-Chair Cross said the power line appeared to be on the opposite side of Newington Road and he wanted the applicant to be aware that it was the intent of the Board to have the electric connection go under the road. Mr. Coronati said there was above ground power on the Fabyan Point Road side now. Chair Hebert said he spoke with Eversource and it had already been determined that the existing poles would come down and the connection would come from the other side of the road.

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Mr. Coronati said they discussed standard Eversource style streetlights with the TRC and another light down at the cul-de-sac. Chair Hebert said he had no problem with a light at the end of the road, but other streets didn't have a lot of lighting for the Town to maintain and he wasn't sure if all the residents would want streetlights at the cul-de-sac, which would prevent them from seeing the stars. Mr. Stern agreed. Chair Hebert added that stubs were put in for streetlights on Gundalow Landing years ago, but now they couldn't be found and he didn't think they should go to the expense.

Chair Hebert said the Town's expenses were adding up and asked the applicant to submit the standard \$5,000 to the Planning Department for escrow to cover expenses, noting that any not used would be returned.

Chair Hebert also advised the applicant to continue working with Mr. Weinrieb and to have Mr. Weinrieb submit an update on the Thursday before their next meeting.

Chair Hebert continued the hearing to December 14, 2015, the second Monday of the month

**2) Preliminary Consultation:** Proposal by Michael Berounsky for a 2-lot subdivision at 30 Swan Island Lane, Tax Map 53, Lot 9.

Mr. Michael Berounsky appeared before the Board with a rough sketch of his proposal. He said he would like to change the configuration of the cul-de-sac and extend it to the existing property to provide enough frontage to build another home for his daughter and son-in-law. Chair Hebert said he would need a licensed engineer to draw out the plan, keeping in mind that the Town wanted to eliminate as much asphalt as possible to reduce maintenance and he would need to confirm the frontage as well as the utilities. He advised Mr. Berounsky to work with Eversource and the City of Portsmouth Water Department. Chair Hebert said there was also an issue with fire hydrants and for insurance purposes they should check with the Portsmouth Water Department.

Vice-Chair Cross said a new cul-de-sac design to provide the necessary frontage might also be an opportunity to treat the drainage issue and an opportunity to use it as a settling and containment area for a 100-year storm as well. Mr. Berounsky said the neighbor's runoff from his house drained into the road ditch, but he thought it should drain onto his own land. Chair Hebert said road swales were designed to allow drainage from houses.

Mr. Coogan ask how much acreage was on Mr. Berounsky's lot and Mr. Berounsky replied that there were six acres and the proposed lot would be over two acres. Mr. Coogan asked if would be willing to have no further subdivision clause and Mr. Berounsky said that would be fine.

Chair Hebert discussed the possibility of turning some of his frontage over to the Town. Mr. Pare said they should discuss it with Attorney Ratigan first because there could be some unintended consequences in setting a precedent. Mr. Latchlaw said no further subdivision could minimize the precedence. Vice-Chair Cross said it would still set a precedence on road frontage for a reason and it would also create an odd shape. Mr. Christopher agreed and added that there would also be a problem when the

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property was sold. Vice-Chair Cross said they could also put another cul-de-sac down another road further down on their property. Mr. Berounsky said the property was already willed to his daughter. Chair Hebert said he was not concerned with them, but generations down the road and he was sorry he brought it up.

Mr. Berounsky said he did the mowing because the Town never maintained the cul-de-sac. Chair Hebert said the Town didn't maintain cul-de-sacs and usually made arrangement for that with the developer.

### 3) **Planning Board Budget: FY2016**

The Board discussed budget line item proposals. Chair Hebert said he needed to present the budget to the Board of Selectmen on December 7, 2015 and asked the Board to consider what their needs would be for the next year.

Chair Hebert said the Board of Selectmen asked them to hold the line items as they were, but said they should increase the legal budget because they went over in 2015. He said they cut legal for a long time, but needed to get it back to \$25,000. Vice-Chair Cross commented that they used to have \$100,000 legal bills when fighting Pease.

Chair Hebert said he was also recommending a new line item for contract services to cover consulting expenses.

Chair Hebert said the COAST bus line had a 3% increase even though fuel prices were reduced so he wondered what they did with their unused fuel budget from the previous year.

Vice-Chair Cross said their Route 4 used to go to Exeter, Greenland and Pease Tradeport and had the potential of stopping at the library and down McIntyre and Newington Road in the future, but they did away with that line. He said Exeter, Greenland and Stratham were upset; yet he didn't see them doing much in the way of looking out for future growth.

Mr. Phillips asked if local businesses used the bus line and Chair Hebert said it serviced Shattuck Way and the local industry and malls paid most of the tax base in town. Vice-Chair Cross said the new circle on Pease was in walking distance of Fox Point Road for easy access to the shopping centers. Chair Hebert said there was a stop on the corner of Shattuck Way and they had pick up service if they received a call half a mile from a stop.

Vice-Chair Cross recommended reducing the Coast budget to \$15,000 so they could bring attention to the lack of coverage and have other towns share the burden more. Chair Hebert said he wanted to start with a softer hammer and just say there were not increasing, but there was a moral dilemma if no one contributes and it goes away.

Mr. Latchlaw asked if legal expenses could be consolidated in any way and Chair Hebert replied that it was very difficult because each item required different legal specialties. Chair Hebert said years ago the Board of Selectmen considered taking all legal costs under their control, but people were upset that the Board of Selectmen would control all boards through the power of the purse. He said Mr. Morgan and Mr.



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Coogan did use the Municipal Law Foundation as a resource. Mr. Latchlaw said he was just concerned about the tipping point from legal expenses.

Vice-Chair Cross suggested utilizing the Rockingham County Planning Commission's staff that could do mapping at no charge. Chair Hebert agreed, noting that he had asked Mr. Morgan for a map for Eversource and he said he needed to re-familiarize himself with all the program updates first. Mr. Pare said he was surprised they hadn't paid a licensing fee for the GIS system. Chair Hebert said they could fund the line item \$100 to keep it in.

Vice-Chair Cross suggested putting \$10,000 into legal and the other \$2,500 into engineering.

### **Announcements and Discussions:**

Vice-Chair Cross advocated Board members to attend the Rockingham County Planning Commission's annual meeting to be held on Wednesday, November 18, 2015 at 6 p.m. He said there would be a presentation on coastal flooding and climate change, followed by legislative proposals that could impact planning areas. Chair Hebert said he would like to go and encouraged other members to attend as well.

Chair Hebert said he understood it was difficult for the engineers on the Board who wanted to work on the details of applications to accept that they would be reviewed by the TRC before going to public hearing, but the TRC professional committee was doing a good job in reviewing applications and bringing issues forward so everyone would be informed of required changes. He said the Board needed to put faith in the TRC recommendations so the Board could move through applications quicker. Vice-Chair Cross said he didn't always agree with everything the TRC recommended and Chair Hebert said that shouldn't be a major issue because the TRC only made recommendations, not decisions.

Chair Hebert said the site evaluation committee on SEA-3 gave accolades to the Board and Attorney Ratigan for their diligence on the application review. He said the City of Portsmouth had requested \$3,000,000 in cash for upgrades to training but Portsmouth Fire Chief Achilles from Portsmouth backed Newington Fire Chief Head that training was in place, He noted that there were no additional requirements aside from the original conditions of approval. Mr. Stern thanked Chair Hebert for all his additional time on the application and Chair Hebert said he could thank his wife as well.

Chair Hebert said they were still going to pursue a proposal for Eversource to run their transmission lines along the northern border of Great Bay Wildlife Refuge and the residential boundary to avoid historic buildings other than the buildings on the refuge that were being torn down. He said he spoke with someone at U.S. Fish and Wildlife who said Great Bay Wildlife Refuge manager, Bill Peterson was not the only person that made decisions on what happened in and to the refuge. He said they were also talking with Senators Jeanne Shaheen and Kelly Ayotte about the matter. He said the alternate

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route was 4/10 of a mile shorter than the proposed route, but even if the alternate route was not possible, they would try to put it underground.

Chair Hebert said they brought in an attorney that specialized in the Section 106 laws who said they had the strongest case she had ever seen. He said they were also looking at reviewing Lulu Pickering's property at the State Historic Preservation office.

### **Planner's Report:**

Chair Hebert said there was no planner's report submitted since Town Planner, Tom Morgan was out on leave, but he had done a good job getting information out in the packets for the Board before he left.

Chair Hebert said he thought Mr. Phillip's position was for one year and would be open. He up because one year. He said he would like Mr. Phillips to stay on the Board, but would like to know if he couldn't so he could recruit someone else. Mr. Phillips asked said two meetings a month were doable, but three or four meetings were a bit much.

**Minutes:** *Chris Cross moved to approve the Minutes for the October 19, 2015 meeting with changes as discussed. Mark Phillips seconded, and all were in favor.*

*Bernie Christopher moved to approve the Minutes for the October 26, 2015 meeting with changes as discussed. Rick Stern seconded, and all were in favor.*

**Adjournment:** *Mark Phillips motioned to adjourn, and Jack Pare seconded. All were in favor and meeting adjourned at 9:30 pm*

**Next Meeting:** Monday, November 16, 2015

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

*These Minutes were approved and adopted at the November 23, 2015 Planning Board Meeting.*