

## Planning Board Minutes 07/10/12

### NEWMARKET PLANNING BOARD MEETING JULY 10, 2012 MINUTES

Present: Val Shelton (Chairman), Janice Rosa (Vice Chairman), Elizabeth Dudley, Rick McMenimen, Ed Carmichael (Town Council ex officio), Diane Hardy (Town Planner), Jane Ford (Alternate), Justin Normand, Adam Schroadter (Alternate)

Called to order: 7:01 p.m.

Adjourned: 9:15 p.m.

Agenda Item #1 – Pledge of Allegiance

Agenda Item #2 – Public Comments

Bert Allen, 56 Smith Garrison Road, spoke about the proposal of a nitrate ban 3,000 feet from water. He explained what he thought should be included in that proposal and where it should be.

Agenda Item #3 – Review and approval of minutes: 05/08/12 & 06/12/12

05/08/12

Action

Motion: Rick McMenimen made a motion to approve the minutes of May 8, 2012

Second: Justin Normand

Vote: All in favor

06/12/12

Action

Motion: Rick McMenimen made a motion to approve the minutes of 06/12/12 with amendments

Second: Janice Rosa

Rick McMenimen stated, on page 3, line 32, “they” should be “we”.

Vote: All in favor

#### Agenda Item #4 – Regular Business

Public hearing to consider the issuance of an order, based on a report by the Town of Newmarket's engineer Vanasse & Associates, under RSA 236:13. Vanasse & Associates performed a sight distance evaluation of the intersection of Grant Road and Fox Hollow and recommends action be taken to achieve an acceptable safety condition at this intersection. The report concludes the necessary stopping sight distance and intersection sight distance are currently not provided at that intersection. Under the statute, the Planning Board is authorized to issue an order which "shall describe the hazard, prescribe what corrective action or alteration and the location or configuration of such access shall be required, and set a reasonable time within which the action shall be completed." The statute also provides, "the owner or other responsible party shall be civilly liable to the state or municipality for its costs in taking such action."

This item was originally heard on June 12, 2012 and continued to a site walk on July 9, 2012, then to this meeting date.

Val Shelton explained how the Board would proceed for this item.

She stated Item 1 concerns the issuance of an order.

#### Action

Motion: Janice Rosa made a motion for the Newmarket Planning Board to issue an order under RSA 236:13 based on the Vanasse & Associates report dated October 4, 2011, testimony heard at the Planning Board meeting of June 12, 2012 and the site walk conducted by the Planning Board with the Town Engineer on June 9, 2012. Said order to be delivered to the owner of the private road, known as Fox Hollow, as follows:

1. The necessary stop and sight distance and intersection sight distance are currently not provided at the intersection due to vegetative growth in both directions and a small hillside from the westbound direction. This creates a hazard for the public traveling along the public way, when vehicles are entering and exiting the private road.
2. Correction shall be taken as outlined in the report of the Town Engineer, as stated above, within 180 days from the issuance of the order and shall continue to be maintained in a corrective state by the owner.
3. Should the owner fail to take such corrective actions within the time period specified, the Town shall have the right to all legal remedies, as provided for within RSA 236:13.

Second: Rick McMenimen

There was discussion among Board members of this item.

Vote: All in favor

Chairman Shelton stated there is a lot of history with this subdivision, with the Town plowing and possibly trash pickup, as well as disclosure issues when people bought. She would like to move forward with Diane Hardy give an overview of the Planning Board's role and the Town Council's role relative to private roads, the current status, how a road changes to a private road and how the Planning Board can facilitate that to make it safe for everyone.

Diane Hardy gave an overview of the above items.

Chairman Shelton opened the public hearing.

Mr. Levenstein, 16 Fox Hollow, commented on the moving of the stop line up to Grant Road. He stated the removal of the mound was a better solution for an unobstructed visual. He had taken some photos of the area and explained them.

He stated moving Fox Hollow to the east was mentioned. He was opposed to that for safety reasons. There is a peak of hill at Fox Hollow. You need to be near the peak of the hill to see oncoming traffic.

He stated they would appreciate it if the Town would approve the road, once the corrections are made.

Brenda Wheeler, 4 Fox Hollow, asked if the bond was still in existence. Diane Hardy stated it is not. Mrs. Wheeler asked why it was released. Diane Hardy stated the bond was not released. She stated they had been advised by legal counsel that there is very vague language in the paperwork and it is not clear whether the bond was extended. There is language about the bond extending for a period of a year and then it is not clear if it extends for another period. She stated the Town was under the impression that it was still an active bond until legal counsel looked at the language. Legal counsel felt that the Town would not fare very well if they pursued it with the bonding company. She offered to show Mrs. Wheeler his opinions about that.

Mrs. Wheeler asked about the letter the Board received from Mr. Vecchione. She stated the Homeowners Association is maintained and they pay dues. She did not believe that, at the meeting he references, he handed over the road directly to the Homeowners Association. He never followed the process, he never had it documented and he did not officiate it. The Association is not assuming responsibility for the road. Diane Hardy asked if they had any minutes of those meetings. Mrs. Wheeler stated she would look into it. Diane Hardy stated the letter from Mr. Vecchione was not signed.

John Allen, Smith Garrison Road, stated there is a dangerous situation there and something needs to be done right away. He spoke about trucks going down Grant Road.

Adam Schrodter stated, for the Town to accept and make this a Town road, the final paperwork would need to be filed of the completed as-built drawings. He stated, after recommendations made by the Town Engineer have been completed by the Town, in a sense the road will have been completed properly meeting conditions of a Town road. He would not want to hold that up, because a piece of paper has not been filed. Chairman Shelton asked, when he said "completed by the Town", was he recommending the Town undertake the work. Adam Schrodter stated that was a separate recommendation. He stated most of the recommendations made by the Town Engineer fall within the Town right of way. He would ask the Planning Board recommend to the Town Council that they be taken care of.

#### Action

Motion: Adam Schrodter made a motion that the Planning Board recommend to the Town Council that the Town act upon the recommendations made by the Town Engineer on remedies within the Town right of way

Second: Rick McMenimen

Elizabeth Dudley was not sure what further information they were sending in this motion that was not in the last motion. Diane Hardy explained the first motion was to provide the order to the developer and owner of the right of way.

Vote: All in favor

Russell C. Serbagi, Jr./Acadia Engineers & Constructors – Continuation of a public hearing for an application for major site plan review, at 13 Water Street, Tax Map U3, Lot 4, M2 Zone. The proposal is for the razing of the existing structure and construction of a four-story building with mixed-use development to include retail, commercial (professional office) and residential condominiums.

Diane Hardy explained the reason the applicant had to appear before the ZBA the previous night. The ZBA application was approved.

She stated Tim Nichols, Acadia Engineers & Constructors, had requested a continuance. The sixty five day time period is up for the application tomorrow. Mr. Nichols is requesting another sixty five day period, which would put it to September. By that point, the Technical Review Committee will have completed their work and the Board will be in a position to make some recommendations on the revised plans.

#### Action

Motion: Rick McMenimen made a motion to approve the Russell C. Serbagi Jr/Acadia Engineers & Constructors continuation of the public hearing to review the application of major site plan review to September 18, 2012

Second: Janice Rosa

Vote: All in favor

Rockingham Country Club, Inc./Brian DeVellis, Esq-DeVellis Consulting Group - Design Review, at Route 108 and Ash Swamp Road, Tax Map R3, Lot 23, M4 Zone. The proposal is for an open space subdivision, with fifty-one single family homes on a private road with Town water and sewer. The goal is to preserve the golf course in its entirety and make enhancements to the club house, parking lot, and amenities and create a housing community that complements the course and residential neighborhoods of Newmarket.

Chairman Shelton stated anything discussed was non-binding at this point.

Diane Hardy gave an overview of the open space ordinance and the permitted uses in the M4 zone.

Brian DeVellis, a landscape architect, land use attorney, and real estate developer, represented the applicant. He stated the M4 zone states it is in place to provide the ongoing use of the golf course. They are doing that by proposing 51 residential units on fee simple lots, roughly 6,000 sq. ft. per lot with public roads. The golf course would be maintained as open space. They believe when they get to the yield plan, they will find they could do upwards of 68 residential lots, but that many do not fit to preserve the course. Their goal is to preserve the course as an amenity to the homes and the town. Part of this will be improving the clubhouse, adding a restaurant portion.

He showed a plan of the project and there were general questions from the Board.

Chairman Shelton opened the public hearing.

Bert Allen, 56 Smith Garrison Road, gave his calculations on how many children might be in the development. He stated there would be 26 children in the development. Mr. DeVellis stated, based on the history they have, he would be surprised if they saw five children in the development. They design the house not to have children. Mr. Allen gave his calculations of what children would cost the Town. He stated this would affect the need to build a school. Mr. Allen also stated that he knew the area where the houses were going to be a sand and gravel pit. He asked if they were going to mine the ridge. Mr. DeVellis stated they are not planning to mine anything. They are planning to build a road; the houses will be about 25 feet off the road, with minimal back yards. The rest will be left in a natural state. Mr. Allen gave his calculations of how many yards of sand and gravel would be in there. Chairman Shelton explained to Mr. Allen that this is a design review. The applicant does not have detailed plans yet. Any issues of dredge and fill and the road design will be reviewed at the subdivision review. She stated this is a permitted use under our current zoning regulations. She asked if he had specific questions about the plan or concept or comments to the Board that would be appropriate at this point. The applicant does not have detailed plans yet to be able to give more detailed answers.

Bill Arcieri, 155 Exeter Road, wanted to throw some thoughts out on wastewater. They will have a pumping station to bring it to Route 108, which is fine. This is the first project that extends sewer beyond where it ends. Whatever is done, it would be good to think in a broader sense to have others tie into that system, such as the health club if it does down that far. The Ballroom probably has an antiquated septic system; it would be great to tie that in. He wanted to mention a bigger picture to address other needs in that area.

Jennifer Morton, 180 Exeter Road, was concerned about her children. They live on the main road and the backyard is the only place for her kids and the new road will be close to her house. Mr. DeVellis will take her concern and see how far DOT will let them pull the road back. He will work with her as much as he can.

Mike McNeil, 10 Ash Swamp Road, agreed with Mr. Arcieri about extending the sewer lines. He stated there was a lot of traffic on the corner. He liked hearing about the acceleration and deceleration lanes. He stated he sees his share of golf balls in his yard. He stated this would create more clientele, meaning more golf balls. He understands stray balls happen. His property is really damaged, with holes. He has replaced his roof because of this and car windows, as well as siding. He stated the netting is not enough. He would like to see fencing improved. Mr. DeVellis asked him about dense tree buffers. Mr. McNeil stated years ago there were elm trees and they have all died off. He stated people try to shoot over the house and he comes home to broken windows in his house.

Jeannette Hauschel stated she used to live at the golf course and now lives on 10 Daniel Drive in Epping. She stated there was a lot of wetland. She asked some general questions about the location of surrounding properties. She owns property that abuts the golf course.

Luke Weigel, 8 Griffith Drive, Durham, stated he was one of the golfers that have deposited many golf balls in the McNeil's back yard. He apologized. He stated this was a planned unit development that requires a certain amount of acreage. He asked if this included the swamp or the swamp and the golf course. Diane Hardy stated it includes the entire parcel. Mr. Weigel stated he was trying to figure out how the homeowners association would not have an interest in the golf course. He asked if the golf course could be sold at a later date. Mr. DeVellis stated the rights to operate the course could be sold. All of the parcels will be under the same development. Mr. Weigel stated, if the project was Okayed, the golf course will remain there. He felt that was very important. There are not many small communities that have their own golf course in NH. It is a quality of life issue for residents. Once you lose a golf course, you will never get it back. It is so beautiful when you come into town and see that green area. That is your "Welcome to Newmarket" sign. He stated he liked the initial plan. He gives it a thumbs up.

There were no further comments and Chairman Shelton closed the public hearing.

Chairman Shelton explained the next step in the process.

Elizabeth Dudley asked about recreational hiking and biking trails. Mr. DeVellis explained those uses do not really mesh with a golf course. You could cross country ski.

Mr. DeVellis asked if he could get a gauge from the Board how they felt. He is trying to decide whether to go forward and would like to know if this was something the Board would support a waiver of the 1,000 foot road length. Diane Hardy stated she talked with Fire Chief/Public Works Director Rick Malasky about the road length and he did not feel the road length would be a major issue and he would support a waiver of the road length.

Jane Ford asked if this would change the demographic of the golf course. Would it be upscaled where it would affect the clientele? Mr. DeVellis stated this course will not draw people wanting to hit the ball long. You need more people coming in to support this golf course. This would be for the older golfer who wants to go hit nine holes and be back in 2-3 hours or kids. All the houses in the world will not make this a 7200 yard course. The golfers will stay the same, with maybe an after school program or things of that nature.

The Board was in support of the project and road length. It was mentioned that a developer could come in and have several roads and no golf course.

There were general questions from the Board.

#### Agenda Item #5 – Other Business

SRPC Representative appointment – Sonke Dornblut

#### Action

Motion: Janice Rosa made a motion to nominate Sonke Dornblut, 351 Wadleigh Falls Road, to the position of representative to SRPC for a three year term

Second: Adam Schroadter

There was discussion of whether citizenship was relevant, as he would not be a registered voter and may not be able to legally serve.

#### Action

Motion: Janice Rosa amended her motion to say subject to Sonke Dornblut meeting all of the requirements to serve as an appointment for the Town to a Board, Commission or Committee

Second: Adam Schroadter

Diane Hardy asked SRPC if it was a concern if someone was not a US citizen and Cynthia Copeland had said it was not. Diane Hardy stated, if it was an elected position, the RSAs did not allow it.

Vote: Rick McMenimen abstained

All others in favor

Diane Hardy stated there will be another opening on SRPC in September.

#### Chairman's Report

Chairman Shelton stated there will be a workshop on July 24 and everyone should have received the agenda and she went over it.

#### Advisory Heritage

Elizabeth Dudley stated they did not have a quorum at the last meeting. They have received information about their purpose. They have another meeting to discuss that.

#### Landscape Regulations

Elizabeth Dudley has an interested party to meet with them about this.

#### CIP Committee

Rick McMenimen stated the Town Departments will have their reports in by July 16.

#### Conservation Commission

Janice Rosa stated there is an Eagle Scout project to put walking trails on the Kwaks property.

The Committee has a concern about the lights in Schanda Park that affect creatures that float in the river. If we could keep that in mind when development takes place in the Schanda Park area.

#### Planners Report

Diane Hardy stated there will be a kick off meeting with the consultant for the pedestrian bridge project tomorrow.

The RFP for the MacAllen dam removal feasibility study will be ready on Monday.

She stated Maya's Way's letter of credit will be extended for a year.

#### Other Business

Elizabeth Dudley had questions about nitrates and wastewater treatment.

There was a discussion of putting the members' email addresses on the website. Chairman Shelton explained this was a public board and members should not be commenting or having conversations back and forth independent of this Board. If anyone has any comments, please direct them to the Planning Office. They can be forwarded to the Board and comments back to the Planning Office, so no one is communicating individually. Or, if people have comments, send them to the Planner, so they are presented in public at a meeting or attend the meeting. The Board should not be communicating individually with members of the public on Planning Board matters.

Janice Rosa asked about the number of building permits and the proposal for the new school. Chairman Shelton stated this will come into play when they work on the update on the Master Plan for Land Use later this month.

There was a discussion of how to form a Technical Review Committee. Rick McMenimen was appointed to Chair the committee.

#### Agenda Item #6 – Adjourn

##### Action

Motion: Janice Rosa made a motion to adjourn at

Second: Rick McMenimen

Vote: All in favor