

## Planning Board Minutes 06/12/12

### NEWMARKET PLANNING BOARD MEETING JUNE 12, 2012 MINUTES

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

Absent: Diane Hardy was excused.

Val Shelton announced that Peter Roy has resigned from the Planning Board.

Called to Order: 7:01 p.m.

Adjourned: 9:37 p.m.

Agenda Item #1 – Pledge of Allegiance

Agenda Item #2 – Public Comments

None.

Agenda Item #3 – Review & Approval of Minutes: 04/10/12

Action

Motion: Rick McMenimen made a motion to approve the Planning Board minutes of April 10 with adjustments

Second: Ed Carmichael

Rick McMenimen had one amendment, page 2, last word on line 45, the word should be “to”, not “too”.

Chairman Shelton had an amendment on page 5, paragraph 2, third line, it should say “we”, not “they”.

Vote: All in favor

Adam Schroadter and Justin Normand abstained due to absence at the meeting

Chairman Shelton stated the May 8 minutes have not been proofread and revised by the Town Planner yet, so they will be on the next agenda.

Val Shelton appointed Alternate Adam Schroadter to fill the space vacated by Peter Roy.

Agenda Item #4 – Regular Business

CRC Future Corp. - Continuation of a public hearing for an application for a Design Review for a modification of a final subdivision and site plan approved on 02/24/87, at Durell Woods, Tax Map R5, Lot 132, R2 Zone. The request is to allow the reconfiguration of Lot 132, an 8.9 acre lot, from thirteen 4-unit buildings and one 2-unit building, a total of 54 units, to twenty-six duplex units, a total of 52 units.

Walter Cheney, Jr. stated he was looking for direction from the Board on how to proceed.

Chairman Shelton opened the public hearing.

Justin Normand is President of the abutting Homeowners Association, but did not recuse himself as he felt he could be impartial in judgment. As at the last meeting, the Planning Board did not have any problem with that.

There were no comments at this point, but Chairman Shelton kept the public hearing open, as she felt further discussion may warrant public comments.

She read Attorney Richardson's May 27, 2012 letter. "It is up to the Town Planning Board and the Code Enforcement Officer to examine whether any proposed use or improvements are substantially different from those that are shown on the approved plan to the extent buildings or uses are substantially different from those approved, they are subject to the Town's current zoning ordinance and subdivision regulations. There is some indication that the approved plan is not intended to be conclusive of the final location of the units located on Lot 68. This is a factual determination that needs to be made by the Planning Board or the Code Enforcement Officer during our review of an application to develop the property. Even so, the approved plan shows that three and four unit structures were to be constructed and included designs for typical driveway, parking and lighting for four unit structures. This change would appear to indicate that the proposed development is substantially different from that shown on the approved plan." However, that's a factual determination and the attorney encourages the Planning Board to consider all of the relevant information and make our appropriate determination with that regard. She asked for the members' thoughts on whether the proposed plan relative to driveway locations, access/egress, and reduction in the number of units, would be a substantial change. Fire Chief/Public Works Director Rick Malasky had contacted her and said this was a better plan than what was shown on the approved site plan. The road and access is more user friendly for fire trucks and emergency vehicles. The two unit buildings are easier to manage and a lot less to protect during a fire. During a conversation with the applicant, he said fire hydrants would be put in under the new plan. The water and sewer hookups are all stumped in, but there will be a reduction in some of those lines for the new plan. There would be less impervious surface. The applicant has always done what public works and the fire department has requested on prior projects. She stated Rick Malasky brought up Hillside Drive. That was redesigned in 2000 (built through 2005) and the roads and buildings were moved. What exists is an improved layout for life safety, but he does have an issue with four unit buildings. They are large and difficult to deal with in a fire. There is greater exposure for damage to multiple units. When Hillside was completed, an as-built plan was done. There is some precedence for the project not going through a full site plan review. At Hillside, they did remain four unit buildings.

Walter Cheney Jr. stated the difference between the old plan and new is the pavement has been reduced by 10,000 sq. ft., the rooftops, even though there are more buildings, have been reduced by almost 20,000 sq. ft.

Elizabeth Dudley asked about the topography, the amount of excavation and the management of stormwater. Mr. Cheney stated the stormwater is going to be brought up much closer, if not to, today's standards. They will be designing that to today's standards.

Tim Golde who was accompanying Mr. Cheney, stated regardless of how this board finds the grandfathering of the plan, the project still has to go through State permitting. The NH Department of Environmental Services (DES) has a program called Alteration of Terrain. Anything that impacts more than 100,000 sq. ft. has to go through that process. They have rewritten the rules for that entirely over the last few years. It is not just about managing and detaining stormwater, so the runoff after the rooftops are built and the parking is in is not any greater than before. That will all be done in a variety of ways. They also have to treat for water quality. The rain falling on the rooftops is contaminated. The runoff from the parking is contaminated in a different way. So, they will have to meet those rules. That will be done in a variety of ways,

such as an underground infiltration system, bioretention ponds, and rain gardens.

Rick McMenimen asked if we approve this plan, could they come back in with clearer plans. Mr. Cheney stated they could. Rick McMenimen stated these do not show where fire hydrants are. Mr. Cheney stated they could come back in with more defined plans for fire hydrants and lights. They will try to maintain more of a dark feel based on what else is out there. They do not want to create a big "airport" atmosphere. He has no problem bringing in a more defined plan.

Justin Normand stated, in changing and removing some of the parking, it is not very clear where visitor parking is. He was thinking of snow removal, it may be tricky regarding life safety. He would like to see it laid out better.

There was a discussion clarifying the Planning Board process of determining if the application is substantially different to determine if a new application for a major site plan review is required.

There was a discussion about the number of units and the date of the approved of the plan. A comment was made about the linear nature of the development. It was noted that with the varying topography and the height of units, in three dimensions the design will not appear to be so linear. Mr. Cheney stated they were trying to work within their buffer zones and with the existing terrain to minimize the amount of excavation.

#### Action

Motion: Rick McMenimen made a motion that the CRC Future Corp's request for a modification of the final subdivision and site plan approved on 02/24/87 at Durell Woods, Tax Map R5, Lot 132, R2 Zone, to allow the reconfiguration of Lot 132, an 8.9 acre lot from 13 four-unit buildings and 1 two-unit building for a total of fifty four units to 26 duplex units, a total of fifty two units does not constitute a substantially different plan from the original approval, which would require the applicant submit a new plan for site review based on the following findings of fact:

1. You will provide a detailed plan that is equivalent to the State plan that you are going to provide.
2. You will provide us an answer on additional parking and further the as-built site plan, when the project is completed, is consistent with the site plan submitted under the Design Review hearing.
3. Representations made by the applicant during these deliberations are incorporated into the final as-built site plan.
4. The Town Public Works and Fire Chief provide a written statement of support to the Planning Department that the proposed revisions do not create any additional impact on the public safety or public services as compared to the approved design concept
5. A copy of all required State and federal permits and any corresponding drainage reports and/or engineering plans are provided to the Planning Department prior to the start of construction.
6. The Newmarket Code Enforcement Officer also determines the proposed design is not substantially different than the approved plan.

Mr. Cheney stated he received a letter today from the Police Chief. After the last meeting, he spoke with the Fire and Police Chiefs to have them review the sites and give their opinions as to how the site was or was not improved. He believed the Fire Chief has already commented verbally. Chairman Shelton stated the Board would need something in writing.

Tim stated that Mr. Cheney had spoken to the Code Enforcement Officer about this. Chairman Shelton stated, regarding the attorney's letter, it requires the Planning Board and the Code Enforcement Officer's input.

Second: Justin Normand

Mr. Cheney stated the units would be three or four bedrooms, depending on what the elevations would allow. The current approval had no restrictions on the number of bedrooms.

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.

Janice Rosa stated she received a call tonight from the applicant stating he had tried to get to the Town Hall tonight, but arrived at 5:30, an hour after the Town Hall had closed. He had also tried to call Chairman Shelton. He had left word with Janice that he was not able to be here at the meeting tonight. Chairman Shelton asked for a motion to continue.

Action

Motion: Rick McMenimen made a motion to continue the hearing to approve the Russell C. Serbagi, Jr./Acadia Engineers & Constructors Continuation of a public hearing for an application until the July meeting

Second: Janice Rosa

Chairman Shelton stated the Board will need to decide whether the Planning Board can act on the submitted application relative to the plan submitted for the variance. At the next meeting, the Board will take that up for discussion.

Action

Motion: Rick McMenimen amended his motion to include the date of the meeting, as July 10, 2012.

Second: Janice Rosa

Vote: All in favor

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."

Chairman Shelton directed the audience to the table in front of the podium, where handouts were available containing

information about the pertinent State statute and copies of the Vanasse & Associates report. The original approved plan was also on the table for viewing.

She stated there were two issues the Board may want to deliberate. The first is referred to in a March 6, 2012 memo from the Town's attorney, Justin Richardson. The first issue has to do with the RSA. "A Planning Board shall retain continuing jurisdiction over the adequacy and safety of every existing driveway entrance, exit, and approach to a highway whether or not such access was constructed or installed pursuant to a permit under this section. This statute applies to private roads, such as Fox Hollow, as well as to traditional driveways. Under the statute, the Planning Board is authorized to issue an order, which shall describe the hazard, prescribe the corrective action..." She stated the Town's attorney has gone on to state based on the evidence presented, the Planning Board could vote to order that the necessary improvements be completed as appropriate. This may precipitate the Fox Hollow Homeowners Association or its residents to consider their own claims based on what appears to be a defective design of the road, as stated in the engineer's report.

She stated the second issue is in the letter dated June 8, 2012. It is a repetition of the March information. The Planning Board, at its own discretion, may consider whether to accept Fox Hollow as a Town road, but the Board is not required to do so.

She stated they should start discussion with the RSA issue. The memo received from the Town Attorney goes into all the background of the issue, approval, covenants, homeowners association, the private road status, who will maintain it, and the performance bond.

She asked if the Board had any questions about procedure. Chairman Shelton stated the Board either needs to agree with the Town Engineer's report relative to the adequacy and safety of this private road and provide the notice to comply with the recommendations or make different recommendations or the Board needs to conclude that they do not agree with the Town Engineer.

Chairman Shelton explained when a development is approved, a bond is posted for completion of the road and the developer has to provide an as-built plan to the Town. The Town Engineer reviews that to determine whether the as-built plan matches what was approved. That would have happened years ago had that been done. An as-built plan was never provided to the Town for Fox Hollow. To accept a subdivision road as a Town road, the developer or homeowners need to petition the Town Council to accept that road. The Town Council determines whether to accept the road or if it will remain a private road. The Planning Board does not determine who will pay for any changes to the intersection. The developer still owns the road. It has never been deeded to the Town or homeowners association. The notice from the Planning Board goes to the owner or other responsible party. The responsible parties, according to our Town legal counsel's analysis of the documentation, are the property owners of Fox Hollow. The deeds state that it is a private road. Their deeds also state that their acceptance of the property is subject to their membership in the homeowners association and the rules and the regulations and obligations and responsibilities of the association. It could be determined the association is responsible. That is not in the Planning Board's purview.

Adam Schroadter asked if the Town could adopt a portion of the road. Chairman Shelton stated the Town is accepting the road itself, everything that is on the plan in the public way would be adopted.

Chairman Shelton explained a critical step was skipped when the developer never fulfilled the requirements to make this a Town road, if in fact that is what he wanted to do. We sent a notice to the developer for this meeting and it was returned. The obligation of the Town is to send the notice and make the attempt to notify and that was fulfilled. The office is working on tracking down a new address.

Chairman Shelton stated Vanasse & Associates must have been hired by the Town Council to go out and determine the safety and adequacy of the private road relative to the ingress and egress off of Grant Road. She did not know if that was precipitated by someone who uses Grant Road or the homeowners on Fox Hollow. This came before the Town Council and they took the action to investigate it. The engineer said there is a problem and he made corrective recommendations. Due to the RSA and the Town Council's request, the Planning Board needs to act on that.

The Planning Board's vote tonight is to provide or not provide a notice.

Chairman Shelton opened the public hearing.

Steve Wheeler, 4 Fox Hollow, represented the Homeowner's Association as the President. He referenced an email from Vic Bilodeau, a resident of Fox Hollow (see email attached to these minutes). He stated the position in the email is echoed by all of the homeowners. Over the years, they have all talked about the intersection. It has been seven years since Beth Levenstein started speaking to the Town to do something about it. The Town put up a mirror to the west of Fox Hollow to help see traffic coming, but it was only up three or four months before someone broke it. It has never been replaced. A couple of years ago, Vic Bilodeau took over the campaign to get something done about the intersection. They appreciate that the Town did their own engineering study and a problem was found. You don't need to be an engineer to figure out there is a problem there. You drive in or out about six times and you will know there is a problem there. More than likely one of those times, you will almost get hit, because of the configuration of Grant Road. There is a rise in the road on Grant Road right at Fox Hollow that creates the problem. It was news to him that Fox Hollow was not a Town road. The Town has been plowing it since they moved in. They were the first ones to move in. That was in December of 2004. The Town put up speed limit signs on the road. It was a surprise that the Town did not take the road over. He asked what action the Planning Board recommends to fix the problem.

Elizabeth Dudley stated Grant Road was there before Fox Hollow, so you can't fault Grant Road for its current configuration. She stated it was not adequately designed by the developer. Mr. Wheeler stated he agreed with that, but the Planning Board in 2003 approved the plan for the development to go in.

Mr. Wheeler asked how much the bond is that the developer still has with the Town. Chairman Shelton stated the Town's legal counsel believes that bond is no longer in effect. It was an automatic renewal bond for one year. You pay for a bond ahead of time and that bond was renewed for a one year period. The performance bond was dated September 30, 2004 and that was to secure compliance with the Board's Notice of Decision. The bond provided for an initial term of one year. The Town Attorney's letter said that the bond stated, "...which shall automatically renew for a period of one year and, if the improvements covered by the instrument are not completed and a letter from the Planning Board or its designee had not been issued stating that the required improvements have not been completed in the manner consistent with the Board's approval, then the instrument will remain in full force and effect." The Town Attorney went on to state, "The bond has not been released, however, the bond is unclear as to whether it was intended to automatically renew for a successive one year period or if it simply expired after a single one year renewal period. The question is a difficult one, but I believe the better interpretation is the bond lapsed after a single renewable period on September 30, 2006." "An additional factor to consider is that the bond only secured completion of the improvements required by the approved plans in Notice of Decision. It is my understanding those improvements were completed, but the design that was approved is inadequate." He does not recommend that the Town seek to enforce the bond. Chairman Shelton stated it's okay to have a private road, there is documentation and, in the Homeowners Association documents, it references the fact that it is a private road. The issue is what the developer did that was inadequate and, subsequently why the Board is here tonight.

Steve Wheeler stated a lot of their questions related to who was responsible for the intersection. He stated all you have to do is drive in and out of there a few times and you can see it is a dangerous intersection.

John Nicer, 8 Fox Hollow, stated it will take some time to determine whether the road was built according to the plan. He stated it is a question of responsibility and the responsibility of lives and time. Every day we wait and, with every hurdle put in place, there is the potential of someone getting hurt. He stated they were lucky that no one has gotten hurt. Everyone on the street has experienced the "close shave". Some families have young adults driving for the first time and they do not have the experience, so it is a dangerous situation. He stated if the Town does not adopt the road as a Town road, we will be here in three years still arguing if the road is in the right place and asking where the developer is. Chairman Shelton clarified the Notice of Decision relative to the issuance of an order will have a time period on it for the improvements to be made. If they are not made during that time, the Town will make the improvements and bill the responsible party. If the Board votes to provide the notice stating the intersection is not safe, they will have to come up with a time period. Mr. Nicer stated the time period should be addressed. He stated one of the Homeowners Association suggested a three-way stop be put into place until the intersection is upgraded.

Mr. Nicer stated they have been living with this for about seven years, knocking on different doors to get the intersection addressed. They see police cars going up and down the street, snow removal taking place, they see signage put up by the Town and they have every reason to think this is a public road. There is no reason for a cruiser to go down a private road, but the cruisers do go there.

Adam Schroadter stated if the Board issues the order, there is a risk the expense of fixing the issue falls on the home owners. If the Town Council did not take the road on as a Town road and it was determined the road was unsafe, with the developer gone, it sounds like the expense would fall on the homeowners. Steven Wheeler stated, at this point, it sounds like the developer still owns it. He did not see how the homeowners could be held responsible. Chairman Shelton stated that is the situation from Attorney Richardson's position. The developer still holds the deed, but if the developer has gone bankrupt, the title to the property is somehow now under the ownership of the homeowners. The deeds and covenants talk about the homeowners having responsibility for the maintenance of the Association property. That is going to be a separate issue to be dealt with if the developer does not come forward and the Town has to step in and do the work. Mr. Nicer stated it opens a Pandora's Box, but we are working under a worst case scenario. They may find the plan is accurate.

Sioux Pingree, 314 Grant Road, stated she is directly across the street from Fox Hollow. She stated her driveway used to be directly across the street. She called the Town when the subdivision went in and asked them not to put the road there. She moved her driveway, because it was much too dangerous. She spoke to the Planning Board and asked them to move the road, because of the dip that was right there. She stated that she said it was too dangerous and the Board totally ignored what she had to say. The intersection was an issue before the road went in. Something should be done about it. She stated someone came up Grant Road over the hill the other day and killed one of her chickens. She said it could have been a child walking across the street. Everyone goes very fast on Grant Road.

Rob Leavitt, 323 Grant Road, stated he abuts the subdivision. He assumes this might end up affecting Grant Road itself. If that is the case, he would like to be on record requesting the Town Council take a look at the entire intersection, as well. There is an area that floods in the culvert just before the hill and then it swings in two directions before it crests up and over the hill. If the minimum required number of feet is 130', as opposed to 260', he believes they will have to pick up quite a few feet and it might include Grant Road. He would like to ask them to look at the entire Grant Road area in that spot. He would also like to see a dry hydrant installed in the beaver pond. There are no hydrants within 1,000 feet of their homes and that affects their insurance policies. There is a permanent watershed right there.

Greg Thayer, 332 Grant Road, stated he was on the site walk when that development went in. One of the big issues that came up on the site walk was the road location. There was some property traded between one of the neighbors and the developer to make sure the neighbor kept their blueberry bushes. There were changes in the frontage. The road entrance was one of the big points of the site walk. Right from the beginning, the intersection was an issue. He stated the cars go faster than the speed limits through there.

Mr. Nicer stated whether the as-built comes in as right or wrong, it is not completely wrong. It will not be 20' different one way or the other. He would suspect it will be one or two feet out, it will not be much different than what is there. This is a situation where the previous Planning Board decision was hastily made and may have had some flaws in it. We are trying to correct it with a minimum of impact. Chairman Shelton clarified that this RSA applies not just to a private road, it applies to a driveway. If the Planning Board finds that even a driveway accessing a public road is deemed to be unsafe or not adequate, the Planning Board could issue the same notice to any individual owner. According to the Town Attorney, the Town is not held liable for representations of the developer or the developer's engineering reports. They are reviewed by the Town, but there is no liability on the Town. There is case law relative to that. Mr. Nicer stated the Town could approve something that is not safe and then not be responsible for not making it safe. Chairman Shelton stated according to the Town's legal counsel, yes.

Chairman Shelton closed the public hearing at 8:20 p.m.

Chairman Shelton suggested they deliberate the RSA and the notice first and whether the Board agrees with the testimony that has been given that this is not safe or adequate and whether the Board agrees with the Town Engineer's review. Then, if the Board is in agreement relative to doing a notice and whether we concur with the remedy provided by the Town Engineer and what kind of time period we would put on it.

Rick McMenimen stated he went up and looked at the area and almost got hit pulling out onto Grant Road. He drove on Grant in both directions and came back. He noticed there are no turn signs on the side of Grant Road coming from the Town. The other thing was the mirror was broken and, even with the mirror, he did not know how much they could see. He agreed it was not safe and adequate and action should be taken.

Justin Normand agreed. He felt the three way stop sign was a good solution. He stated the speed limits are not followed out there.

Adam Schroadter agreed. He stated the cost should be taken into consideration as far as taxes. These kinds of questions make it hard to go back and retroactively apply an order like this and it should not be taken lightly. He has sat in on Highway Safety meetings and seen agendas and heard about this area and it does seem to be dangerous.

Ed Carmichael stated it is definitely as safety hazard out there. He suggested speed bumps or stop signs.

Elizabeth Dudley stated she felt signage would help and she agreed a short term measure as soon as possible, such as a hidden driveway sign or stop sign.

Janice Rosa stated the area is a death trap. There are other places in town with the same problem and they should look at their choices of putting safety devices in for the short term and move forward with improving the area. A reasonable time limit should be in place.

Chairman Shelton agreed with these comments. The Town did paint the stop line at Fox Hollow. It is a full count of five from that line, where you do not see a car coming toward town. At the edge of the pavement, it is a count of two. She was purposely in a low car to get the worst case scenario. Many of the stop lines are at the edge of the pavement on streets coming onto Grant Road, not in almost ten feet. Even having the line closer to Grant Road would cut the time of not seeing an oncoming car.

Chairman Shelton stated she had a conversation with the Public Works Director and he was not in agreement with the location of the road, at the time this was approved. In 2010, it was reported that the road had not been accepted by the Town, there was no as-built. He did have an issue with that. It was his opinion the as-built should be done and reviewed by the Town Engineer. He told her there had been no accidents associated with the subdivision.

She stated it seems like the Board is in agreement that a notice should be issued, because of the findings. The next action by the Board is to give the notice. If the Board wants to continue the discussion as to what the notice will contain, there may be some merit to that. The second issue for discussion is what the Board wants to put forth to the Town Council for any recommendations for immediate action, whether to accept the road, and what conditions we may have prior to them accepting the road.

Adam Schroadter stated, in reviewing the Town Engineer's report, it sounds like some things are currently within the Town's purview to institute, such as clearing vegetation. The Board could make recommendations of that to Town Council tonight and then continue discussion on issuing the notice to see whether, after they have implemented those changes, the intersection remains unsafe. The immediate steps could remedy the situation. Elizabeth Dudley questioned whether these steps would be sufficient to solve the problem. There is a dip in the road and factors that may be more involved.

Chairman Shelton asked that the Board stay focused on the notice itself at this point. They reviewed the RSA to see what the Board needed to do relative to the notice. She read the RSA. Elizabeth Dudley felt the Board did not have the engineering information to prescribe what should be done, but the Board could prescribe that something does need to be done. Chairman Shelton stated the Board did have the engineering report. Elizabeth Dudley stated the engineering report was not sufficient. Chairman Shelton stated she was not an engineer and she was not qualified to say whether the road meets the requirements of the RSA in site distances. That is why they hired an engineer. Elizabeth Dudley stated she felt, because of the dramatic changes between the hill and driveway, the engineer's recommendations were not sufficient. They may want to move the entrance to Fox Hollow. Chairman Shelton read the recommendations from the engineer describing the ways to make the public safe there. Elizabeth Dudley stated she thought those were only attempts by the engineer. She felt the Board should move to limit the hazard as soon as possible, but not rush to a solution without getting a more complete engineering study. Chairman Shelton suggested a site walk with the Town Engineer. Elizabeth Dudley stated that or a second engineering report. Chairman Shelton stated they would also ask Rick Malasky to attend.



Adam Schroadter wondered how the residents would feel if the Town cut vegetation and tried some other remedies before going forward with anything else. The Board could make recommendations to the Town Council that some of these things be completed by the Town.

Justin Normand supported the site walk. He felt they all needed to see exactly what these recommendations are and how they physically might change the safety of the area. He suggested the Board postpone the issuance of the notice pending the site walk and issue the Board's recommendations to the Town Council tonight stating things like removing vegetation, signage and whatever else should be done to reduce the hazard.

There was discussion of whether to have a site walk or issue the notice. Elizabeth Dudley felt the Town should get a more detailed account of what needs to be done at the intersection from a different engineer. She wanted more details and plans for corrective measures. It was stated, before spending on another engineer's report, the Board would like Rick Malasky's input and have him there for the site walk. Chairman Shelton stated any costs incurred on this would be billed to the responsible party. Elizabeth Dudley stated she did have that in mind, but she found the assessment very odd that the engineer would talk about the mound/hill, as if it were an ant hill.

#### Action

Motion: Adam Schroadter made a motion to continue the hearing on the issuance of an order based upon the Town of Newmarket's engineer, Vanasse & Associates, under RSA 236:13 to July 10, 2012 and to schedule a site walk prior to

Second: Rick McMenimen

Vote: All in favor

Chairman Shelton asked if the Board wanted to submit, through the Town Administrator, recommendations for immediate action to address this issue and what those will be and continue discussion on acceptance as a Town road.

Adam Schroadter stated there should be immediate action on some of the bullets from the engineer, such as clearing vegetation and sight distance, particularly that which is already in the Town's right of way. Chairman Shelton stated the Town cannot do work on private property, so it would be clearing vegetation in the Town right of way to improve the line of sight as referenced in the Vanasse report. Justin Normand suggested, should that not be sufficient, maybe the Association would look into having additional vegetation cleared as well.

Ed Carmichael stated some clearing was done. An abutter stated a few trees were cleared from around Sioux Pingree's property heading toward Epping. Ed Carmichael stated he thought the Town Council and Rick Malasky had all walked the site before.

Chairman Shelton stated the recommendation for the Planning Board is that the Board would recommend the Town Council take action to clear the vegetation in the Town right of way in the vicinity of Fox Hollow and Grant Road to improve the line of sight, as recommended in the report of Vanasse & Associates.

There was discussion of installing an additional warning sign visible heading west on Grant Road and adding the three way stop sign. Ed Carmichael asked if this would go to the Highway Safety Committee, too. Chairman Shelton stated it probably would.

There was discussion of hiring another engineer to review this issue. Elizabeth Dudley stated there is a lot of substantial grading that needs to be done and she wants clarification of his recommendations. Justin Normand stated the engineer from Vanasse & Associates is licensed and it appears that we are trying to second guess his findings. Elizabeth Dudley stated it was just her interpretation of his grammar; she was not trying to second guess his findings.

#### Action

Motion: Rick McMenimen made a motion that the Planning Board recommends to the Town Council that the Town take immediate action on the following recommendations:

1. Clearing of vegetation in the Town right of way.
2. Install additional warning signs of intersection on the Newmarket side.
3. Clear vegetation prior to any warning signs in existence.
4. Have intersection as a three-way stop intersection with additional warning signs until such time as the line of sight corrections are implemented.
5. Move stop line to Grant Road to be consistent with Hilton Drive.

Second: Janice Rosa

Vote: All in favor

Action

Motion: Adam Schroadter made a motion to take up the issue of recommendation relative to the Town Council deliberating on accepting Fox Hollow Road as a Town road and continue that to July 10, 2012

Second: Janice Rosa

Vote: All in favor

Chairman Shelton stated it was difficult to schedule the site walk now, because we will need to coordinate the engineer and Public Works Director. She stated the site walk would be publicly noticed.

She stated they hoped the homeowners could appreciate how the Board's hands are tied on some of this and have to follow regulations. She encouraged them to attend meetings when any of these issues come before the Town Council or send letters.

Val Shelton stated the email sent to her by Victor Bilodeau was supposed to be read into the record and she apologized for the oversight. It will be included with the record of the meeting (see attachment to these minutes).

Agenda Item #5 – New/Old Business

Master Plan Update

Chairman Shelton stated Cynthia Copeland, from Strafford Regional Planning, was supposed to come in tonight and speak about Master Plan Land Use and Future Land Use updates. She spoke with her earlier today about having this at

a workshop. She would like to schedule a couple of workshops during the year for these items; otherwise trying to do this at a regular meeting would cause us to be here very late. She asked if everyone might be willing to do that, perhaps on the fourth Tuesday of the month on an as-needed basis. She stated she would talk to the Planner. Regarding the updates, Cynthia Copeland sent over a note on that. She is waiting for the NH Coastal Program to be signed off and they will be ready to begin work in July. They will assist the Town in preparing updates to those chapters. The Master Plan is on the website. Cynthia was in agreement to do this at a workshop. We will probably approach this as we have before with a small Task Force of Planning Board members assigned to work on this.

### Landscaping Regulations

Elizabeth Dudley updated everyone on the Landscaping Regulations. She stated she has been busy with care giving and has not had a lot of time to pursue this at this point. She has not heard from any interested public members for this committee, so far it is just Janice Rosa and herself. The regulations are largely done, but she would like help from the public to assist with this update and to contact her if they are interested. Chairman Shelton suggested someone from the Newmarket Gardeners may be interested. There are some people at Bryant Rock who have an interest in landscaping.

### CIP Committee

Rick McMenimen stated the committee met and he was appointed Chairman. They have started to ask the Town Department Heads to submit their needs for the coming year. They should be in by July 16 and they will hold their first meeting on July 17. They will meet every two weeks after that on a Thursday. They are going to tour all of the Town buildings. They need another person from the Planning Board to be an Alternate member. He will provide the information they have so far. Jane Ford stated she would be willing to do this.

Chairman Shelton appointed Jane Ford as the Alternate to the CIP Committee.

### Advisory Heritage Committee

Elizabeth Dudley stated they have had one meeting and are arranging for another. She did not believe anything of material interest transpired at their first meeting. She has asked for a copy of the mission statement.

### Conservation Commission

Janice Rosa stated the fishing derby is on June 16. The Commission has outlined their goals and Susan Labrie is going to speak at their next meeting on her role and Conservation's roles and responsibilities. The Commission gave some money to the oyster reef being done in the bay.

### Technical Review Committee

Peter Roy was chairing the TRC and Chairman Shelton stated they are looking for a replacement. Chairman Shelton stated they would form the committee as applications come in, based on who was available. She explained a typical Planning Board review process.

### Election of Vice Chairman

## Action

Motion: Rick McMenimen nominated Janice Rosa as Vice Chairman

Second: Adam Schroadter

Vote: All in favor

## Other New Business

Janice Rosa stated they had some people fairly new to the Board; it would not hurt to have a workshop to review our roles and be aware of the questions we should be asking applicants. She stated the old members would also benefit. Chairman Shelton stated that was a good suggestion. She stated Local Government Center runs Planning and Zoning workshops, which are held throughout the state, and they are incredible workshops to go to. They are day-long workshops, there is a lot of useful information and there are certain sessions set aside for the roles of new Planning Board members. Every so often there are different seminars that LGC or Strafford Regional host. The Town will pay for the costs associated with your attendance. Please take advantage of that. Diane's office also has a plethora of information about the roles of Planning Board members. She hopes, when we start having workshops, these are the kinds of discussions they will be having, things like reviewing roles and responsibilities, what is working and what is not and what needs to be changed.

## Strafford Regional Planning Commission

Chairman Shelton stated there was an opening on the Commission. A Planning Board member could do it or, if there is an interested member of the public, they could be on it and they should contact the Town Planner.

## Zoning Update Committee

Justin Normand stated they were focusing on the northern end of Route 108 in the B1 Zone. It has several residential properties with some multi-unit buildings. They did feel the one parcel in the center of that did not really fit into the character of that zone. It was zoned commercially and it does not fit. They are making recommendations that be rezoned to fit the current zone. That is located in the Elm Court, Nichols Ave, Washington, and Lincoln area.

Adam Schroadter stated he likes the village feel where there are some commercial sprinkled through the house lots, such as L&M Variety. It is good to have the opportunity to have little stores go in.

## Black Bear TIF

Chairman Shelton stated they had a meeting, but it was cancelled in light of what is happening at the Town Council. There have been no meetings and she did not think there would be until the Town Council takes action on that.

#### Town Council/Economic Development

Chairman Shelton stated Chapter Six of the Master Plan was on the Town Council's agenda. There were recommendations for Council action. She went to the Town Council meeting and spoke on the Planning Board's behalf. As that chapter was adopted last year, there were specific recommendations relative to the implementation of Chapter Six and identification of the responsible parties, as well as time frames based upon priority levels. The chapter was adopted last August, yet nothing has happened since that time. To move the recommendations that are in Chapter Six forward, the first tasks fall on the Town Council. Hopefully, they will move that forward.

The biggest issue is identifying who is responsible for economic development in Newmarket. The Town Council is the only one who can determine who that is, whether they hire an Economic Development person or put the responsibility on the existing committee, make a new commission, or give the responsibility to a current employee. The Town Council needs to decide.

She stated another priority item is having a vision session to see what the residents of town do want to see relative to economic development and where they want to see it. Once that phase is done, then the Planning Board can ensure the regulations provide for it. The Planning Board is doing something short term with this zoning update to facilitate economic development, but to do something town-wide needs the input of the town.

Someone needs to be the voice of the town and talk to potential developers and find developers to come in. She stated she thought they would be hearing more from the Town Council on this.

Ed Carmichael went over some recent Town Council business. He stated Sean Greig went over some water and sewer issues on Bay Road and some work will need to be done there. The Town Administrator search is ongoing. They are close to making a decision.

#### Agenda Item #6 – Adjourn

##### Action

Motion: Janice Rosa made a motion to adjourn at 9:37 p.m.

Second: Rick McMenimen

Vote: All in favor

