

## Planning Board Minutes 01/24/12

### NEWMARKET PLANNING BOARD MEETING JANUARY 24, 2012 MINUTES

Present: Elizabeth Dudley, Janice Rosa, Val Shelton (Vice Chairman), John Badger (Chairman), Peter Roy, Rick McMenimen (Alternate)

Absent: Eric Botterman (Town Council ex officio), Adam Schroadter (Alternate), Justin Normand

Called to order: 7:02 p.m.

Adjourned: 8:14 p.m.

Agenda Item #1 – Pledge of Allegiance

Agenda Item #2 – Public Comments

None.

Agenda Item #3 - Review & approval of minutes: 12/05/11

Chairman Badger appointed Rick McMenimen to replace Justin Normand.

Rick McMenimen stated he had been left off as being present at the meeting. Also, on page 4, line 25, “with accessibility” should be “about accessibility”.

Action

Motion: Peter Roy made a motion to accept the December 13, 2011 minutes, as amended

Second: Rick McMenimen

Vote: All in favor

Agenda Item #4 – Regular Business

Vice Chairman Shelton gave an overview of the Zoning Update Subcommittee meeting, held the previous evening.

The Committee held an informal public session. About eight members of the public attended and they provided some good comments. It was a very productive meeting. She stated the Committee is in the process of scheduling another

informal public meeting.

Most of the input from the public was concern about additional multi-family residential being built in town. She stated a lot of time was spent on that discussion. There is a strong hesitancy to move forward with doing anything in the short term on the M4 zone. It was consistent that, given the large land mass and that area being a gateway into town, they need to look at that more as a long term approach, with a more thorough planning process, as well as getting much more community input in developing any type of changes to the existing zoning there.

Vice Chairman Shelton described the locations of these potential changes, so the public would understand exactly what areas would be affected and went over permitted uses in those zones.

She stated they are looking for public input.

There were some general questions about various properties and their zoning.

John McSorley, Tax Assessor, gave a presentation and answered the Board's questions on taxing multi-family housing.

Chairman Badger stated the Planner had given everyone an update of changes the Zoning Subcommittee is considering. One of those changes concerns multi-family housing. The questions continue to come up of how apartment buildings are taxed and whether they are paying their fair share. The Board asked Mr. McSorley to come in and answer some questions. They had posed questions to him by email ahead of time and his responses were appreciated. They would like to get this information out to the public via this meeting.

Chairman Badger stated, about two years ago, the same questions came up. The previous tax assessor did respond to the issues, but they are coming up again.

John McSorley, Tax Assessor, stated, when a property is appraised, they use a technique known as "mass appraisal". This is a hybrid approach. There are three basic approaches to value: the cost approach, sales comparison approach, and the income approach. Those methods are used by an appraiser primarily for single property appraisal. Typically, on residential property, the income approach is not appropriate, as it would not be applicable to a single-family residence. It is easy to appraise one property, but there are over 3,200 parcels in Newmarket. To appraise that many properties as of April 1 of any given year, it is not practical to use a single method. A technique has been developed, which is a hybrid of the sales and cost approaches. It starts with the cost approach. It is generally recognized that a building has intrinsic value that can be measured by taking the measurements of the building, listing its attributes, computing its square footage, and using different tables. You can come up with a replacement cost on that building. To that, you apply depreciation, which is a function of aging condition. The older the property, the more wear and tear it has. Typically, older properties are not in as good shape as newer properties, it depends on how well the buildings have been maintained. You start with the replacement cost new less depreciation. That is referred to as RCNLD. Insurance adjusters also use that method. You can take any structure, and using manuals and data from the property, you can reproduce that property and depreciate it. Applying that principle to the mass appraisal, how do you get the market value? They use a process known as extraction. They look at sales over a specific period of time, usually the two years prior to the revaluation date. In NH, the revaluation date is April 1, also known as the lien date. They look at the sales that occur in town for all types of property, generally going back two years. From those, you go to those properties, appraise the buildings and take the values and subtract them from the sale price. If it is a good market sale, the sale price is going to exceed the replacement cost new less depreciation of the building. So, you get a residual. What is left over is attributable to the land. Then, you lump the like properties together, residential together, commercial together, mobile homes, and, in this case, multi-family units, which are usually four units and above. Once you have isolated those properties, you can analyze the residual values and determine what overall land value should be attributed to the non-sale properties. So, you take what you've learned from the sales and then, once you have a handle on that, you apply that to all of the other properties within that class. Another thing you have to look at is location. Once all that work is done and you have created a model, that information is fed into the computer and it is distributed to all of the properties in town.

Chairman Badger stated the multi-families on Elm Street would be appraised the same as the multi-families at Great Bay Woods. John McSorley stated that was correct. Vice Chairman Shelton clarified that location would factor into the calculation. John McSorley stated what makes location important is perception i.e. the perception people have of a specific location and what those locations offer in terms of amenities and what buyers are looking for. A buyer with a young family will be looking at proximity to schools, playgrounds, and things beneficial to children. Older people looking for retirement homes are not necessarily concerned about schools and playgrounds, but other types of recreational activities, such as golf courses, bowling alleys, and walking trails. This contributes to the marketplace.

Elizabeth Dudley asked about condominiums that have actual property with them. land. She asked how they are assessed. John McSorley stated condominiums and apartment buildings are two different types of ownership. Apartment buildings are owned by individual owners or a group of owners, who own the whole thing, land, buildings, and units and rent them out. Condos may look like an apartment building, but the type of ownership is different. The units are individually owned. If you own a condo, you typically don't own the land. You own the unit and the rights to use the land, generally called common areas. If you own an apartment building that sits on three quarters of an acre, you own the building, the units, and the land. In a condo, you only own the unit. Chairman Badger stated this was called "inside the paint". Elizabeth Dudley asked about garden apartments, where the person owns land. John McSorley stated there are detached condos, which look like single family homes on little tiny lots. In that case, you do own that specific amount of land.

Peter Roy asked if there have been many sales of multi-unit buildings. John McSorley stated they do track deeds in his department. Peter Roy asked if he had to go outside of Newmarket to find comparable sales to utilize. John McSorley stated he tries not to, because neighboring towns may be right next door, but they may not be similar.

Chairman Badger asked about the methods of assessment required by the State of NH. John McSorley stated NH state law does not dictate the method to be used, with the exception of low income housing and associated tax credits. State law requires that assessments be at market value and the State Constitution going back to 1789 suggests they only be at market value and be proportionate.

He stated we look to the ratio, which tells what the level of assessment is. The last two years, since the 2009 revaluation, the level of assessment and the market have been 100%.

Chairman Badger asked if there have been enough transactions in Newmarket to establish what the market level is. John McSorley stated there have been a fair amount of sales. Typically, single-family homes are going to be the greatest number of sales. Newmarket has a disproportionate number of condominiums. There are too many here, in terms of the type of town that it is, it is a fairly small town. In terms of proportions, he had a sense that, if he took the number of single-family homes, mobile homes, condos, apartment buildings and other types of commercial/retail/office and consider those each as a class of property and then graph them, you would see condos would be on average higher than in most towns, except for some of the resort towns up in the lakes region. He did not feel this was true for apartments. He did not believe the number of apartments is unusually disproportionate. He stated he could look at this.

Chairman Badger stated there was a feeling that Newmarket has an overabundance of rental units, whether they are apartment buildings, or Victorian homes divided up into apartments. A number of us have done some research and, anecdotally, roughly 50% of the residences in Newmarket are rental units. John McSorley stated there may be something to that. He stated we are in proximity to the college and that supports that and the fact that there is a defined central business district, which typically has a fair concentration of those types of properties. He stated we probably do have more rental than other towns, not necessarily cities, because you would expect that in a city. This is a fairly complex town. It is like a small city, because of the distribution of properties and the range that we have. The properties range from mobile homes to large houses on the Bay. A lot of towns do not have that kind of diversity.

Vice Chairman Shelton stated he had mentioned there are more than 3200 properties in Newmarket. She asked if he was referring to 3200 distinct tax cards, taxable properties. John McSorley stated that was correct, it would be 3200 individual parcels. She stated he had spoken about market values. John McSorley stated the 1789 Constitution talks about market values and its vision of fairness, as far as the values being proportionate. Vice Chairman Shelton stated, historically, the concern in Newmarket is that we have lost some significant tax abatement cases that landlords had brought against the Town, because their evaluations were not based upon the income approach for an appraisal. How is that playing out in the courts or at the Board of Tax Appeals when landowners are filing abatements using the income

approach when they may have a large number of vacancies? John McSorley stated this is a sore subject. Even though the Assessors Association attempts to get legislation passed that would support landlords to submit income and expense statements, as the basis for property values, the Legislature has never gone along with it. They cite privacy reasons. When it goes to appeal and beyond the local level, you can petition the court to order companies to submit their income/expense data. That is at the end of the process and, ideally, it should be at the beginning of the process.

Vice Chairman Shelton also stated he had made the statement that Newmarket has a disproportionate number of condos. Is that a bad thing? John McSorley stated he tracks the sales by class of properties. Right now, in this market, in terms of that level of assessment he had talked about, condos are suffering the most. They are the ones where the sales values are proportionately lower than the assessed values, as compared to the other classes. Vice Chairman Shelton asked if we were looking at a much larger decline in assessed values across the town, because we have that level of condos. John McSorley stated that is going to help to drag us down over all. The condos are not selling at the level that they were three or four years ago.

Peter Roy asked, regarding an owners appeal, if the vacancy rate was part of the appeal process as it relates to a particular property or class of properties. John McSorley stated if you are taking a class about income approach and the instructor puts examples on the board, invariably they are going to use a vacancy rate of 5%. If someone asked for an abatement based on a vacancy rate, he would be sure to flag that card for the following year to see what their vacancy rate is for that year. That is the textbook model. If you are doing generalized income approaches and not looking at specific properties, you are probably still going to use 5%. Peter Roy stated they could have four or five units offline for renovation that are vacant; there may be a mismanagement problem that could have a bearing on his ability to pay taxes to the Town. John McSorley stated, when you are looking at properties the more you have of them, you have to remember there is only one tax assessor working one day a week, trying to visit every single property is tough. So, you put out the fires and do the basic things you have to do to keep things moving, but sometimes you just can't get into every single detail that you would like to get into. That's why it is called mass appraisal, it will never be perfect. If he had a staff of ten people, maybe it would be perfect. Tax assessing does not garner a lot of budget dollars.

Vice Chairman Shelton asked about a multi-family property that filed for an abatement on Elm Street, which was denied. She asked if it had been appealed. John McSorley stated it has not been appealed.

Elizabeth Dudley asked what type of ownership brought in the most money for the Town in terms of tax revenue, on a square footage basis, including land. Do private residences with land bring in the most tax revenue? John McSorley stated when you pose the question that way, saying what type of property produces the most revenue for the Town, it is high value property, usually on waterfront, that is owned by someone out of state, who does not have local children to educate. Elizabeth Dudley asked what percent apartments per square foot generally bring in compared to a single-family residence. John McSorley stated a single-family house valued at \$200,000, one family, two kids, compared to a ten unit apartment building, broken down at \$30,000 per unit, is bringing in a lot more money than one apartment building. If the people in a ten unit apartment building were living in single-family homes instead, you would be getting two million dollars worth of value.

A gentleman in the audience asked if foreclosures were included in sales data. John McSorley stated there is a list of properties that do not qualify as fair market sales. When property is owned by a lending institution, it is disqualified. The NH Department of Revenue does the equalization ratio studies for all of the towns. They publish an instruction sheet that lists properties that should be excluded from fair market sales and foreclosures are among those.

#### Agenda Item #5 – Other Business

Elizabeth Dudley asked about landscape regulations. Diane Hardy stated there was a presentation at the December meeting by Cynthia Copeland and she has put together a draft regulation for the Board to consider. She asked the Board for their reaction to the presentation and if there was interest in getting those on the docket for consideration. Chairman Badger stated there will be a new Board in March and they should handle that.

Vice Chairman Shelton asked for an update on the Town Council's vote on the impact fees. Diane Hardy stated they had a vote, but the motion did not carry. It may be considered at a future meeting. There is a resolution being considered for future processing of impact fees.

Diane Hardy gave an update of upcoming Planning Board projects. She stated the applicant for 13 Water Street, the old Joyce's Kitchen location, is working on a site plan application that will be coming to the Board soon. There is also a proposed boundary line adjustment on Hamel Farm that will be in, possibly in March. There is also a cell phone company that would like to co-locate on the tower on Route 152 and they will be coming in with an application. There is also a proposal for a take-out restaurant at the former Cornerstone Gallery at 170 Main Street, which is the stone building at the intersection of Routes 108 and 152. So, those are four projects coming up in the next one to two months.

Diane Hardy also gave an update of her work on the Skybridge project. They had gone out for requests for proposals and they interviewed four firms. They selected Dubois King. Since then, they have been trying to get an independent cost estimate done for the engineering services. This is a new requirement from the New Hampshire Department of Transportation. Before you start negotiations with your engineering consultant, you have another independent cost estimate prepared by someone qualified to do so and that cost estimate is used as the basis for your negotiations to determine the reasonableness of the cost. She has been in touch with an engineering firm who is willing to do this. She is waiting to hear from the DOT, as there is a question of whether the cost associated with doing that independent cost estimate can be taken out of the grant.

Diane Hardy stated the grant from NOAA/CLF for \$40,000 for the feasibility study regarding the removal of the Macallen Dam has been approved. They have been waiting for a letter on this for three months and expect it tomorrow.

There was a question regarding any prospective commercial development in town. Diane Hardy stated there had been no recent inquiries on commercial development, but someone expressed interest in doing a residential development at the Rockingham Country Club. They are not considering townhouses or an open space development. Part of the concept involved upgrading the existing facilities at the golf course and making it a more upscale version of what is there, with a housing component. There are a couple of proposals out there, but no formal applications have been filed at this time.

Janice Rosa asked about the animal crematorium that had been proposed for the old Town DPW property. Diane Hardy stated the Town had received Planning Board approval for the subdivision of that property a few months ago, with several conditions. The site plan was revamped in accordance with the Planning Board's recommendations. One of the things that was discovered is there is no septic system subdivision approval on the books from the State of NH, so the Town has hired a surveyor/designer to do the test pits and we are waiting for their results to be submitted to NH DES, which is supposed to happen fairly soon. It will be another month before we would hear back with the approval. She has met with one of the partners in the group associated with the crematorium and they are still interested.

#### Agenda Item #6 – Adjourn

##### Action

Motion: Janice Rosa made a motion to adjourn at 8:14 p.m.

Second: Peter Roy

Vote: All in favor