

TOWN OF NEWPORT, NH
Minutes of the Planning Board Meeting
August 10, 2021 – 6:00 P.M.
Board of Selectmen's Room
15 Sunapee Street
Regular Meeting and Public Hearing

MEMBERS PRESENT: David Burnham, Chairman; Ken Merrow, Vice Chairman; Ray Kibbey, Sean Glasscock, Tobin Menard, Herbert Tellor, Jr., BOS Representative; Bert Spaulding, Sr. alternate

MEMBER ABSENT: John Hooper, II, BOS Representative Alternate; David Kibbey, alternate

VIDEOGRAPHER: NCTV

STAFF PRESENT: Christina Donovan, Planning and Zoning Administrator

COMMUNITY MEMBERS PRESENT: Susan Leavitt/Clement, Tom Dombroski

CALL TO ORDER: Vice Chairman Merrow called the meeting to order at 6:03 p.m. followed by a roll call of sitting members. He appointed Bert Spaulding, Sr. to sit for the vacant seat.

ORGANIZATION OF BOARD: Vice Chairman Merrow asked for a nomination for Chairman. Mr. Tellor made a motion *to elect Mr. David Burnham to be Chairman of the Planning Board.* Mr. Glasscock seconded the motion. *The motion passed 7-0-0.* Vice Chairman Merrow asked for a nomination for Vice Chairman. Mr. Kibbey made a motion *to elect Mr. Ken Merrow as Vice Chairman of the Planning Board.* Mr. Glasscock seconded the motion. *The motion passed 7-0-0.*

The meeting was turned over to Chairman Burnham.

CONTINUED BUSINESS:

Mr. Spaulding, Sr. stepped down for case 2021-SPFP-005.

2021-SDFP-002: Susan Leavitt: Request a final review for a minor subdivision property identified as Map 116 Lot 029 located at 16 Fourth Street in the Rural (R) Zoning District.

Chairman Burnham opened Case 2021-SDFP-002 and acknowledged Ms. Donovan.

Ms. Donovan read aloud the Administrative Review. Chairman Burnham asked for a motion to accept the application as complete. On a motion by Mr. Merrow, seconded by Mr. Tellor; *the Board voted to accept the Case 2021-SDFP-002 application as complete. The motion passed 6-0-0.*

Mr. Tom Dombroski addressed the Board and using a site plan explained what the applicant wanted to do. He explained that some of the paperwork noted the applicant as Susan Leavitt, others as Susan Clement. The recorded deed will be changed to Susan Leavitt.

The Board and Mr. Dombroski discussed the discrepancy in the zoning district from the tax card enclosed with the Board packets and the zoning district map in the Planning and Zoning office (tax card said Rural, the map said R1). Ms. Donovan would address the discrepancy with the tax department.

During discussion, Chairman Burnham asked if the applicant wanted to merge ten lots into one lot. He was told that the proposal was to create two conforming lots from the ten nonconforming lots.

Mr. Spaulding, Sr. explained the statute for involuntary merged lots and how it affects the applicant.

The Board members discussed the process the applicant will go through with Mr. Dombroski. There was additional discussion between the Board and Mr. Dombroski on the discrepancy in the zoning district from the tax card and the zoning district map in the Planning and Zoning office.

Mr. Spaulding, Sr. read aloud RSA 674:39-a and RSA 674:39-aa.

The Board listed the next steps the applicant will have to take to create two conforming lots from the ten nonconforming lots:

- 1) Go to the Selectboard to request a voluntary merger of her (10) lots under RSA 674:39-aa.
- 2) Verify that land is in R1 Zone

Ms. Donovan was asked to read aloud the description in the Zoning Ordinance Handbook for the R1 Zone. There was none. In searching, Ms. Donovan found:

- A description for the Kellyville (K) Zone
- No description for the RC Zone
- No description for the B1 Zone
- No description for the R1 Zone
- No description for the R2 Zone
- No description for the Heavy Commercial Zone

Mr. Spaulding, Sr. requested that the Board accept the case with conditions.

After a brief discussion, Chairman Burnham called for a motion on Case 2021-SDFP-002. On a motion by Mr. Kibbey, seconded by Mr. Tellor; ***the Board voted to accept Case 2021-SDFP-002 subject to:***

1. ***A voluntary merger by the BOS***
2. ***The R1 District is verified***

The motion passed 5-0-1(Merrow abstained).

Chairman Burnham reappointed Mr. Spaulding, Sr. to sit in the vacant seat.

NEW BUSINESS:

Mr. Merrow asked for a Point of Order and adjustment to the agenda. He asked for a discussion on Board makeup and member participation of alternates versus full members. Chairman Burnham stated there was a motion ***to discuss the Planning Board makeup and member participation of alternates versus full members.*** He asked for a second. It was seconded by Mr. Tellor. ***The motion passed 7-0-0.***

Mr. Merrow stated the background for the request. At the July 13, 2021 meeting two alternates, Mr. Spaulding, Sr. and Mr. David Kibbey sat for an absent member and vacant seat. As Acting Chairman, he had not technically appointed them to sit on the Board. This technicality had been brought to Ms. Donovan's attention. He had stated to Ms. Donovan he did not remember having an alternate sitting on the Board being appointed by the Chairman. He explained the use of alternates on Boards to ensure a quorum at meetings.

The Planning Board Rules of Procedure (amended 2016) state what an alternate can do sitting on the Board. He read aloud from the Rules of Procedure (page 1, under MEMBERS AND ALTERNATES) number 5; the duties and responsibilities of an alternate as stated in RSA 673:6. Also in the Rules of Procedure, Mr. Merrow read aloud from page 2, under MEETINGS, number 4. Quorum. Mr. Merrow questioned the Newport Rules of Procedure and the problem it brought to the Planning Board.

Ms. Donovan explained that the alternate(s) had to be designated (appointed). Mr. Merrow addressed her and stated his opinion and memory of the Board working with alternates without official appointing. He stated it had been a very loose rule.

Chairman Burnham addressed Mr. Merrow and read aloud in the Rules of Procedure from page 2, under MEETINGS, number 4 Quorum: the rights and responsibilities of an alternate when appointed by the Chairman. There was a discussion between Chairman Burnham and Mr. Merrow concerning this item.

Mr. Spaulding, Sr. made a motion *that the item be put on the agenda for the September 14, 2021 Planning Board meeting*. Mr. Merrow said it will take a restructuring of the Rules of Procedure to solve the problem of the contradiction of: The Rules of Procedure (page 1, under MEMBERS AND ALTERNATES) number 5; the duties and responsibilities of an alternate as stated in RSA 673:6 and from page 2, under MEETINGS, number 4 Quorum.

After further discussion on the Rules of Procedure, Mr. Spaulding, Sr. stated he had a motion on the floor to review the Rules of Procedure. Mr. Merrow seconded it. Chairman Burnham called for a vote. *The motion passed 7-0-0*. Chairman Burnham stated the item will be tabled to the September 14, 2021 Planning Board meeting for discussion.

Mr. Merrow said he believed the Planning Board could not continue with the amended Shed Ordinance the Board

PUBLIC HEARING: 2022 Shed Ordinance

Chairman Burnham read the Public Notice into the record:

PUBLIC NOTICE **Town of Newport, New Hampshire**

Notice is hereby given that the Newport Planning Board will hold a meeting on **August 10, 2021 at 6:00 p.m.** in the Selectmen's Room at 15 Sunapee Street, Newport, NH at which time a public hearing will be held on the following proposed zoning ordinance amendment.

Proposed Shed Zoning Ordinance - May 2022

Article IV – General Provisions

Section 421 – Sheds (200 square feet or less)

A Shed can have a 5-foot setback from side and rear property lines. Required front yard setback for specific zone still applies. No shed can be greater than 20 feet in high, measured from ground to peak. This applies to only one shed per parcel. All other sheds or accessory building must comply with setbacks required for their specific zone.

Chairman Burnham stated a change the Public Notice as posted. 20 feet in high...should read ...20 feet in height.

Chairman Burnham opened the hearing to the Board.

Mr. Spaulding, Sr. objected to the proceedings. There had been a motion on the ordinance as changed and it passed. Chairman Burnham explained the Board was in a technical violation (Rules of Procedure) at the July 13, 2021 public hearing. The alternates were not appointed at the beginning of the meeting. The August 10, 2021 Public Hearing was the first one on the Shed Ordinance. The Board could now accept changes from the Board and input from the public. Continuing, he said that if there were changes the Board would hold more public hearings in September and October 2021.

Mr. Kibbey made the motion *in a separate paragraph, "subject to Article 5 Special Provisions"*. Mr. Merrow seconded the motion. *The motion passed 6-0-0*.

Mr. Tellor asked if the previous change discussed of single story should be in the ordinance or single floor. There was a discussion on the terminology. Chairman Burnham stated he had checked the height of newly purchased sheds and they were just under 20 feet. There was a discussion on the appropriate size of a shed.

Mr. Merrow made a motion *to amend the shed ordinance wording to:*

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The Board and Ms. Donovan reviewed the procedure for the next public hearing(s).

Chairman Burnham closed the public hearing at 7:30 p.m.

The rewording of the Public Notice is:

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CORRECTION IN July 13, 2021 MINUTES:

Ms. Donovan told the Board the technical error made with the cases at the July 13, 2021 meeting could be corrected by a vote of the Board at the August 10, 2021 meeting.

On a motion by Mr. Merrow, seconded by Mr. Tellor; *the Board voted to accept Case 2021-SDFP-005 as finalized at the July 13, 2021 Planning Board meeting.* The motion passed 6-0-0.

On a motion by Mr. Merrow, seconded by Mr. Tellor; *the Board voted to accept Case 2021-Annex-002 as reviewed and discussed at the July 13, 2021 Planning Board meeting.* The motion passed 6-0-0.

MINUTES: June 8, 2021; July 13, 2021

July 13, 2021

On a motion by Merrow, seconded by Mr. Tellor; ***the Board approved the minutes of the July 13, 2021 Planning Board meeting with the following amendments:***

1. ***Page 2, sentence 1 change sentence to read: "... difficulties in compliance that a shed on a lot 100' x 100' and 5 feet...." (The motion to amend passed 7-0-0)***
2. ***Page 2, line 2; change "motor home" to "mobile home" (The motion to amend passed 7-0-0.)***

In discussion, Mr. Spaulding, Sr. proposed two changes on the Proposed Shed Zoning Ordinance:

Page 1, in Shed Ordinance, Line 3 of Proposed Shed Zoning Ordinance should read, "**The** required front yard setback for **a** specific zone..." Mr. Merrow explained that the Board was working on the minutes. If Mr. Spaulding, Sr. wanted to change the wording of the Shed Ordinance he would have to wait until the Public Hearing. There was a discussion on the two grammar articles (The, a). The Board asked they be added to the proposed ordinance; a vote would not be needed.

The finalized motion for the minutes passed 4-0-3 (Spaulding, Menard and Burnham abstained).

June 8, 2021

The Board tabled the minutes of the June 8, 2021 Planning Board meeting to September 14, 2021. The motion passed 7-0-0.

ADMINISTRATION:

General Residential (R2) Zone-Review Rear Setback Alteration

After discussion, Mr. Merrow asked that the Zoning Board put their request in writing. He asked that information explaining the reason for reviewing the rear setbacks in R2 be given. Ms. Donovan explained that it was the Planning Board's purview to make changes to the Ordinance (which then will go before the voters). After further discussion, on a motion by Mr. Kibbey, seconded by Mr. Menard; ***the Board voted to table the R2) Zone-Review Rear Setback Alteration to a future Planning Board meeting. The motion passed 7-0-0.*** Ms. Donovan will request written information from Mr. Kessler (BOS Representative, ZBA) for the Planning Board to review.

COMMUNICATIONS:

Board:

Public Participation: One Credit Union

Ms. Donovan addressed the Board and said representatives from One Credit Union were not in attendance to speak to the Board. The Board members and Ms. Donovan stated that One Credit Union had not put up what they proposed in their presentation (to the Planning Board) or followed the conditions set by the motion accepting their application. Ms. Donovan will request that the Town attorney write the next letter to One Credit Union informing them they are not in compliance with Newport zoning ordinances.

Mr. Spaulding, Sr. spoke concerning the new store/gas station beside McDonald's restaurant and it being rebuilt in the floodplain. He asked that future applicants proposing to build in the area be made aware of the water issue. There was discussion on the water issues at the John Stark Highway.

Mr. Tellor said that in the July 13, 2021 minutes under communications there were several items (9) that were to be on the August 10th agenda. Some were not addressed (#7, #8 and #6). There was discussion on all nine items. Mr. Merrow asked that the Board members and Ms. Donovan have a phone conversation with the attorney on 674:39-aa II (the Board wanted clarity). Ms. Donovan was directed to set up the phone conversation.

Mr. Spaulding, Sr. asked that the Board receive their packets earlier than they have been. Others concurred. Ms. Donovan was directed to send out Board packets so they are received five days (Thursdays) before Planning Board meetings. They will also be sent electronically to those individuals who request it.

Mr. Spaulding, Sr. asked that Ms. Donovan use a black pen on documents and information instead of blue.

Public: (Participation shall pertain to topics within the purview of the Planning Board).

Mr. Merrow apologized for the technical error made in not appointing the alternates at the July 2021 meeting. Ms. Donovan stated that as Administrator she should have known the Rules of Procedure and should have addressed the appointing of the two alternates.

With no more business in the public meeting, on a motion by Mr. Merrow, seconded by Mr. Menard; ***the Board voted to adjourn at 8:26 p.m. The motion passed 6-0-0.***

Respectfully submitted,

Maura Stetson
Scribe

Approved: September XX, 2021

The next meeting of the Planning Board will be on September 13, 2021 at 6 pm in the Board of Selectmen's Room.