

TOWN OF NEWPORT, NH
Minutes of the Planning Board Meeting
February 9, 2021 – 6:00 P.M.
Board of Selectmen's Room
15 Sunapee Street
Regular Meeting and Public Hearing
Remote Access:
Zoom.com - Meeting ID: 812 9945 3469 Password: 795764

MEMBERS PRESENT: David Burnham, Chairman; Ken Merrow, Vice Chairman; Ray Kibbey, Sean Glasscock, Herbert Teller, Jr., BOS Representative Alternate; *(via zoom for participation only)*: John Hooper II, BOS Representative

MEMBER ABSENT: Tobin Menard

VIDEOGRAPHER: John Lunn, NCTV

STAFF PRESENT: Christina Donovan, Planning and Zoning Administrator

COMMUNITY MEMBERS PRESENT: Richard Hamm, abutter

CALL TO ORDER: Chairman Burnham called the meeting to order at 6:07 p.m. followed by a roll call.

AGENDA REVIEW: Accepted as presented.

NEW BUSINESS:

2021-SPFP-001: Cheshire Oil Company: Request a final review of a site plan for the property identified as Map 105 Lot 013. The proposed installation of a commercial solar array. The property is located on Sunapee Street, Heavy Commercial (B-2) Zoning District.

Chairman Burnham opened the hearing. He addressed Ms. Donovan and asked if she had received comments from any of the Town departments. Ms. Donovan told him the departmental comments had been sent to Board members via email, the Conservation Commission review will be on February 17, 2021. Chairman Burnham read aloud the department's comments into the record.

1. Police Department-no comment
2. Public Works-no comment
3. Fire Chief and building inspector- suggest gate at entry and fencing around perimeter. Driveway should be at least 12 feet wide.
4. Conservation Commission will review on February 17, 2021

DOT: application sent to DOT on January 15, 2021 (driveway permit)

The Board members read over the material submitted by the applicants. The applicants asked for the following waivers and conditional approval:

- NHDOT Driveway Permit (application will be submitted concurrently with approval)
- Mylar (will submit upon approval)
- Department of Environmental Services (DES) Report

Mr. Merrow asked Ms. Donovan if the Zoning Office had a copy of the application sent to the New Hampshire Department of Environmental Services (DES). Ms. Donovan explained the information she had sent to the New Hampshire Department of Transportation (NHDOT). She stated NHDOT was reviewing it. Mr. Merrow explained copies of the NHDOT and NH DES applications should be included in the Board packets. They were not there. He explained to Ms. Donovan and applicants what needed to be submitted to the Board. When the Board had all the information the application will be complete. Items necessary for approval of the project had not been provided.

Mr. Will Davis, Verizon's Engineering; addressed the Board and stated the company was in attendance at the meeting because they wanted the Planning Board members to look at the information they had, state whether they had enough for conditional approval or whether they needed to have more information for a conditional approval. He said the company typically acquires their state and local permits concurrently. They had not submitted the applications; they understand they are conditions for approval. Mr. Merrow asked if they had filled out the applications for DOT and DES. He was told yes, but they had not been submitted. After the February 9, 2021 meeting the company would be submitting all of them; including Alteration of Terrain and the Shoreland Protection permit applications. The Town will get a copy of all permit applications.

After a discussion between the Board members, Chairman Burnham addressed the applicants and asked if they would agree to have the meeting as informational only. Mr. Troy McBride of Norwich Solar Technologies stated they would not mind coming back to the next Planning Board meeting and/or having an informational meeting to go over all material to ensure they would be in compliance and approval for the March 9, 2021 meeting.

Mr. Davis stated they would like to do a quick informational meeting.

Mr. Merrow stated that technically the application was not complete. Chairman Burnham asked for input from the Board members. After a lengthy discussion by the Board on the merits of accepting or not accepting the application as complete, on a motion by Mr. Tellor, seconded by Mr. Merrow; ***the Board voted to not accept the application as complete. The motion passed 5-0-0.*** Chairman Burnham stated the case was deferred to the March 9, 2021 Planning Board meeting in the Selectmen's Room at 6 p.m.

The applicants proceeded with an informational meeting to ensure they would have all required material for their Planning Board hearing on March 9, 2021.

Mr. Troy McBride gave the history of the solar arrays in Newport (bringing the municipality and school system to net zero with electricity costs). The solar array at the Sunapee Street site would be used to credit electricity for the school system.

Mr. Davis reviewed the site plan and explained how the applicant (Cheshire Oil Company) has covered all the necessary regulation requirements. He then answered all questions from the Board.

The Board and applicants went over all aspects of the application and project.

Mr. Sean Glasscock asked if the applicants had any digital photos showing what the arrays would look like from Paradise Road/ Route 103. He was told that from Paradise Road it would be noticeable; the trees would be cut down.

Mr. Glasscock said that there are old growth trees in that area. If they were taken down, he would be able to see the array from his property. He was told that there would be trees left all around the property perimeter, especially near the trail and river. He was also told that the land slopes to the river; the applicants were therefore able to leave trees on all sides and not have substantial shading of the solar array.

Mr. Glasscock asked if a chain link fence would be constructed around the arrays (only), not the whole property. He was told it was a deer (fixed knot) fence that would be erected around the arrays (only). Mr. McBride explained how the fence worked, that it was around the array and that it met the National Electrical Code.

Mr. Glasscock asked if the energy was supplied to Public Service. He was told yes, to Eversource with the net metering credits going to the Newport schools.

Mr. Merrow asked where the connection point (for Eversource) was. Mr. McBride explained where it was. Mr. Merrow stated its placement was not illustrated on the site plan. He asked that it be added for the March 9, 2021 Planning Board meeting.

The Board members requested the applicants provide the following information in their packets for the next meeting:

- 1) NHDOT Driveway Permit application
- 2) Department of Environmental Services (DES) Report
- 3) Alternation of Terrain Permit application
- 4) Shoreland Protection Permit application
- 5) Add transformer and gear air break connections to the site plan

A Mylar will be provided upon approval of the Planning Board

The applicants stated per the departmental requests the following would be added:

- A gate
- Fencing (deer fence)

The applicants asked for clarification of the following:

1. The Board wanted DOT approval. They were told to provide the submitted DOT and DES applications to the Zoning Office. The Board asked that the applicant email a copy of the submitted applications to Ms. Donovan for their file and the Board packets. If the applications were in the Board packets, the applicant could receive an approval conditional upon approval by the state (DOT and DES).

Chairman Burnham addressed the applicants and stated that there were no further questions. The Board would see them in one month to hear their case (**2021-SPFP-001: Cheshire Oil Company**).

2020-SPFP-001: Summit Distributing, LLC: request change to approved site plan for the property identified as Map 114 Lot 127. The proposal is to remodel the existing building to re-establish the convenience store and drive-thru use, and construct a new retail motor fueling facility with three fuel dispenser islands and a new overhead canopy. The property is located at 16 John Stark Highway in the Heavy Commercial (B- 2) Zoning District.

Chairman Burnham the hearing. He stated it was a change (sidewalk) to an approved case. Mr. Merrow made a motion to accept Case 2020-**SPFP-001** as complete. It was seconded by Mr. Glasscock. ***The motion passed 5-0-0.***

Chairman Burnham asked who would be presenting the case. (via zoom) Mr. Tom Frawley, President of Summit Distributing, LLC; addressed Chairman Burnham and introduced himself and Mr. Huseyin Sevincgil, GPI (Greenman-Pedersen, Inc.) Engineering. He stated Summit Distributing, LLC was looking to amend the approval of Case 2020-SPFP-001 by changing the sidewalk that abuts John Stark Highway. The LLC realized the raised sidewalk created a tripping hazard for customers. They therefore are requesting an amendment to change it. They propose creating a safety barrier for customers and people traveling on the sidewalk in front of the convenience store and overhead canopy as is indicated in new plans submitted to the Planning Office and Planning Board

members. Mr. Frawley showed a PowerPoint presentation of the old curb and the proposed safety curb (go to www.nctv-nh.org Planning Board meeting February 9, 2021 for full presentation and discussion).

There was a discussion with the Board members and the applicants of the best safety curb to install for protection of the customers, walkers and Town liability.

Chairman Burnham opened the hearing to the public. Mr. John Lunn asked Mr. Frawley to explain the taper on the edge of the area around the dispenser islands as well as the size and location of the proposed ballads to the island edges (whether the location to cars would make it a trip hazard or the ballad location would be close enough for a car door to hit one).

Mr. Kibbey asked Ms. Donovan if the Public Works Director had been asked for comments. She stated neither the Public Works Director nor the building inspector had been asked for comments.

The Board members and applicant discussed the sidewalk, traffic delineators and removal of curbing in front of the islands.

Chairman Burnham returned to the Board members for questions. Mr. Tellor asked if the approval should be conditional on the approval of the Public Works and building inspector. Mr. Kibbey said he would like to have their comments.

Chairman Burnham asked the applicants if the safety delineators would be on their land. He was told they would be on the property line. There was discussion between the two parties of what would be done; the site work was not complete at this time.

Mr. Merrow made a motion *to accept case 2020-SPFP-001A as presented with the condition that there be an additional stripe line added to designate the sidewalk from the gas pump lane such as is shown on the attached photo*. Chairman Burnham addressed the applicants and stated the attached photo showed two lines with diagonals in them. He asked if lines like those could be added. Chairman Burnham was told, for clarification, yes, they would be put on both sides. Mr. Tellor seconded the motion. Chairman Burnham called for a vote. *The motion failed 3-2-0 (Glasscock and Kibbey voted no)*. Mr. Kibbey stressed he wanted to hear what Public Works Director Todd Cartier said.

The Planning Board needs four yes votes to pass a motion.

Mr. Merrow addressed the applicants and asked if they would be able to wait until the next meeting (March 9, 2021). Mr. Frawley explained their construction timeline. Waiting until March would delay their reopening. Mr. Merrow explained they would like to get departmental comments from the Public Works (Town Highway) and the Building Inspector for a final blessing on the “as proposed” motion.

Mr. Merrow made a motion *to continue Case 2020-SPFP-001A to the next meeting, March 9, 2021, pending Highway Department review*. It was seconded by Mr. Kibbey. *The motion passed 5-0-0.*

Chairman Burnham thanked them for their presentation. The applicants would attend the March 9, 2021 meeting.

CONTINUED BUSINESS: None

MINUTES: August 18, 2020 Amended minutes; January 12, 2021
August 18, 2020 amended minutes

After an explanation of the amended minutes in the Board's packet; on a motion by Mr. Merrow, seconded by Mr. Tellor; ***the Planning Board voted to approve the amended minutes of the August 18, 2020 meeting as presented. The motion passed 4-0-1(Kibbey abstained).***

Mrs. Stetson thanked Mr. Glasscock for his proofing of the minutes of the August 18, 2020 Planning Board meeting. Ensuring the minutes are an accurate record of the meeting is important.

January 12, 2021

On a motion by Mr. Merrow, seconded by Mr. Glasscock; ***the Planning Board voted to approve the minutes of the January 12, 2021 meeting as presented. The motion passed 4-0-1(Kibbey abstained).***

ADMINISTRATION: For the complete discussion of all administrative items, go to www.nctv-nh.org.

Update: One Credit Union in regards to exterior lighting.

Ms. Donovan addressed the Board and described the steps she has followed to ensure the company follows Newport's Zoning Ordinance. There was a discussion and explanation by Board members of the specific provision not being followed. The lighting has been changed, but still does not meet the Town requirements that the lighting be shielded and downcast on and around the building. Ms. Donovan informed the Board they had asked to have their lighting design waived at the Planning Board hearing. After discussion with the Board, she will continue to follow up with this infraction.

Shed clarification in regards to zoning setback-Get examples from surrounding Towns.

Ms. Donovan directed the members to the mock shed ordinances in their packets. Ms. Donovan gave examples of what she had to enforce. She had spoken to legal counsel and they had stated the Planning Board could not change any wording in an ordinance without it being voted on by the townspeople at Town Meeting. Mr. Merrow reviewed the shed discussion from the January 12, 2021 for Mr. Kibbey (absent in January).

There was a lengthy discussion on sheds and setbacks. For the full discussion, go to www.nctv-nh.org.

Mr. Ray Kibbey expressed his concern of a change in the Ordinance. He was in favor of postponing any decisions by the Board to a future meeting. The Board concurred with Mr. Kibbey's request.

Length at which the Planning Board can alter definitions contained within 2019 Zoning Ordinance-No changes Allowed

Ms. Donovan addressed the Planning Board members and stated she had contacted Town counsel concerning changes to 2019 zoning ordinances. The Planning Board needed to bring proposed changes to Town meeting for voting by Warrant Article if they decided an ordinance needed to be changed, updated or added to the Newport Zoning Ordinances. There was a discussion on the deadline for submitting a proposed Warrant Article to the Board of Selectmen.

Solar Arrays-Addition of State Guidelines- Consult with legal

Ms. Donovan told the Board that in discussion with Town legal counsel an addition of a solar array zoning ordinance is not necessary because the Town of Newport follows the state NH RSA. *(From the minutes of the January 12, 2021 Planning Board meeting: Zoning- Address Solar Arrays After a lengthy discussion, it was suggested and agreed upon that Newport change its solar array zoning to the state guidelines.)* There was a discussion on changing or adding to the solar array ordinance. The Board members concurred again to use the NH RSA for solar arrays.

Create "draft" of Newport Lot Line Adjustment Application

After a lengthy discussion, Mr. Merrow stated that Ms. Donovan's Lot Line Adjustment packet was a good start for the Board to adopt. The Board concurred to revisit the agenda item at the March 9, 2021 Planning Board meeting.

COMMUNICATIONS:

Board: The subject of changing the number of Board members was raised. Ms. Donovan asked if the members would like her to write a Warrant Article for their approval for voting at Town meeting. In discussion, it was stated that additional members had joined since the original concern. Mr. Kibbey asked if the Board members could recruit for new members and alternates. A change in the number of members on a Board would have to go before the voters for approval.

Public: none.

On a motion by Mr. Merrow, seconded by Mr. Tellor; *the Board voted to adjourn at 8:37 p.m. The motion passed 5-0-0.*

Respectfully submitted,

Maura Stetson
Scribe

Approved: March XX, 2021