

TOWN OF NEWPORT, NH
Minutes of the Planning Board Meeting
March 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; Sean Glasscock, Tobin Menard, Herbert Tellor, Jr., BOS Representative Alternate

MEMBER ABSENT: Ray Kibbey

VIDEOGRAPHER: John Lunn, NCTV

STAFF PRESENT: Christina Donovan, Planning and Zoning Administrator

COMMUNITY MEMBERS PRESENT: Bert Spaulding, Sr.

GUESTS PRESENT VIA ZOOM: Troy McBride, Norwich Solar Technologies; Mr. Will Davis, Verizon's Engineering; Evan Weaver, Norwich Solar Technologies; Brendan Mallory (Case 2021-SPFP-001). Mr. Huseyin Sevincgil, GPI (Greenman-Pedersen, Inc.) Engineering (Case 2020-SPFP-001A)

CALL TO ORDER: Chairman Burnham called the meeting to order at 6:02 p.m. followed by a roll call.

AGENDA REVIEW: Accepted as presented.

NEW BUSINESS:

Mr. Sean Glasscock recused himself from Case 2021-SPFP-002 due to conflict of interest.

2021-SPFP-002: Pinnacle Sports, LLC: request a final review of a site plan for the property identified as Map 107 Lot 032. The proposed addition of commercial space. The property is located on 22 Coitview Dr., Light Commercial (B1) Zoning District

Chairman Burnham opened the hearing on Case 2021-SPFP-002. Addressing Ms. Donovan, Chairman Burnham asked for her Administrative Review. Ms. Donovan stated there were no issues with the Planning Office. The Zoning Board of Adjustment (ZBA) will review a variance (request for setback of 15 feet opposed to required 25 feet) at their March 18, 2021 meeting. There was a comment that the Planning Board was hearing the Case first instead of the ZBA. The approval of the Planning Board would therefore be conditional on the ZBA's decision on the requested variance.

Mr. Merrow made a motion to *accept the application for Case 2021-SPFP-002 as complete.* It was seconded by Mr. Tellor. Chairman Burnham called for a vote. *The motion passed 4-0-0.*

Chairman Burnham addressed Mr. John Hooper (owner) and asked him to present his case. Mr. Hooper stated that the case was to construct an addition onto the existing structure on Coitview Drive (he explained that although the building's frontage faces Sunapee Street, the address is on Coitview Drive thus the need for a variance from the ZBA). He currently has 7-8 ft. ceilings in the store which is not conducive to the items he sells (fishing rods and firearms). His proposed plans for the addition include: 10 ft. ceilings, a full basement as in the

original building and commercial grade building materials. The parking area and spaces or signage will not change. Continuing, he explained that impervious space and drainage will not be changed-the area to be built on is currently paved. As stated, Department Heads have gone out to the sight and have no issues.

Chairman Burnham asked how large the addition would be. He was told 32 feet x 40 feet. After its completion, delivery trucks will have an obvious place to park for off street deliveries.

Mr. Merrow asked if the light in the Board packets was for the garage door. Mr. Hooper stated a light fixture similar to the one in the Board packet (downcast and shielded) would be used. They discussed the other locations exterior lighting would be placed.

Mr. Tellor asked if it was a windowless warehouse-type of building for the addition. He was told yes, adding there weren't any stairs.

Chairman Burnham asked if there would be a full cellar. He was told yes, that the addition and the original building cellars would be joined during construction.

Chairman Burnham opened the hearing to the public. There were no comments or questions. Returning to the Board, he asked the pleasure of the Board.

Mr. Merrow made a motion to ***accept Case 2021-SPFP-002 with the condition it gets the variance approval from the Zoning Board of Adjustment (ZBA).*** It was seconded by Mr. Tellor. ***The motion passed 4-0-0.***

Mr. Sean Glasscock returned as a sitting Board member at this time.

2021-Annex-001:Kathleen Gestay/Brent Johnson: Request a final review of a site plan for an annexation of 18.37 acres from Map 239 Lot 038 to Map 239 Lot 039 in the Rural (R) Zoning District.

Chairman Burnham opened the hearing on Case 2021-Annex-001. Reading the Administrative review aloud, he stated there were no concerns from staff.

Mr. Glasscock made a motion to ***accept the application for Case 2021-Annex-001 as complete.*** It was seconded by Mr. Merrow. Chairman Burnham called for a vote. ***The motion passed 5-0-0.***

Mr. Tom Dombroski, agent, addressed the Planning Board members and explained the surveyed lot and what Ms. Gestay and Mr. Johnson would like to do. Ms. Gestay will keep the house and annex the land.

He pointed out the:

- Frontage
- House with land (lot)
- Land to be annexed

Mr. Merrow asked, for clarification, the process the Board was going through. He stated that the applicants were annexing a piece of the land and merging it at the same time. There was a discussion among Board members about it being an annexation, merger or lot line adjustment. They questioned whether the Board could do the requested annexation in one step or two. The Board discussed the process with Ms. Donovan and Mr. Dombroski who informed the Board that Mr. Johnson does not plan any subdivision of the property.

Chairman Burnham opened the hearing to the public.

Mr. Bert Spaulding, Sr. asked Mr. Dombroski if he resurveyed the westerly line of the property. Mr. Dombroski stated he had surveyed it previously; he did not resurvey it for the current (annex) case. Mr. Spaulding, Sr. addressed the Chairman Burnham and stated he was in attendance in strong support of the case. Mr. Johnson was a good neighbor (he abuts the property). Mr. Spaulding, Sr. addressed Chairman Burnham and stated he believed the Board was hearing the case incorrectly. The Board had a subdivision case before them and he did not want Mr. Johnson to go through the process and have it be done incorrectly. Mr. Spaulding, Sr. and the Board

members discussed the case and the different avenues to use. Mr. Dombroski informed the Board that before the deed can be filed it needed DES approval. The application has been sent to the DES.

Mr. Spaulding, Sr. reiterated his two points to the Board:

1. He strongly supports anything the applicant wants to do. He knew Mr. Johnson would do it right.
2. He stood up for the decision that the case needed to be heard as a subdivision.

Mr. Merrow, Mr. Dombroski and Mr. Spaulding, Sr. discussed the process needed to be followed as well as what the applicant wanted to do. Mr. Spaulding, Sr. asked that a legal opinion be added (to the deed) to protect the owner and land for the future.

When asked, Ms. Donovan stated she could:

- 1) Have the applicant do a nonconforming subdivision
- 2) Second, he could do a voluntary merger or a lot line adjustment

Explaining, Ms. Donovan stated an individual was allowed to own a nonconforming lot. Ms. Donovan asked the Planning Board how they wanted to proceed.

Mr. Merrow requested that:

1. The Planning Board get a legal opinion,
2. Mr. Dombroski can then be directed as to the procedure.

Mr. Merrow stated the Board should do it right so the landowner is protected. They had time; the applicant was waiting for DES approval.

Mr. Merrow and Chairman Burnham addressed Mr. Dombroski and repeated they wanted to do the case correctly. Mr. Dombroski was asked to return to the Planning Board meeting on April 13, 2021. Ms. Dombroski asked that the Board continue the case.

Mr. Merrow made a motion *to continue Case 2021-Annex -001: Kathleen Gestay/Brent Johnson to the April 13, 2021 Planning Board meeting*. It was seconded by Mr. Tellor. *The motion passed 5-0-0.*

Mr. Dombroski asked that he be given the legal opinion concerning the case. Ms. Donovan stated she would call him. The Board thanked Mr. Dombroski for attending the meeting.

CONTINUED 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 read the Conservation Commission review from their February 17, 2021 meeting. Chairman Burnham read aloud the Town department's comments into the record.

1. Police Department-no concerns
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.

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

Chairman Burnham asked if the applicants had sent an application to DES. He was told no.

The applicants stated that the DES application was not part of the requested information by the Planning Board.

There was a short discussion on a conditional approval by the Planning Board that DES permits need to come back approved before the decision is signed. Mr. Merrow stated that the DES and DOT applications have not been submitted concurrently (as is stated as a requirement on the checklist).

Chairman Burnham asked for a motion to accept the application as complete. On a motion by Mr. Merrow, seconded by Mr. Menard; ***the Board voted to accept the application as complete. The motion passed 4-1-0 (Teller voted no).***

Chairman Burnham requested the applicants present their case.

Mr. Evan Weaver addressed the Planning Board, gave a brief history of the net zero goal for the Town and School. The Sunapee Street location would create the electrical energy for the Newport school district. Mr. Davis reviewed the site plan and explained how the applicant (Cheshire Oil Company) has covered all the necessary regulation requirements necessary for the Board. He then answered all questions from the Board.

The Board and applicants went over aspects of the application and project, including:

- 1) The closest the project would get to the Sugar River. Answer: 140 ft.
- 2) If the applicants were building in the wetlands area. Answer: They were not.

Chairman Burnham opened the meeting to the public. There being no questions, he returned to the Board.

Mr. Merrow made a motion ***to approve 2021-SPFP-001: Cheshire Oil Company for approval with the following conditions:***

- 1) NHDOT Driveway Permit application is approved***
- 2) Department of Environmental Services (DES) Report comes back clean with no issues***
- 3) The addition of a (minimum) twelve ft. wide gate at the Sunapee Street road entrance***

The motion was seconded by Mr. Menard. Chairman Burnham called for a vote. ***The motion passed 5-0-0.***

The applicants thanked the Planning Board for their time.

The Board members held a discussion on the checklist and its use in the future.

2020-SPFP-001A: 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 opened the hearing. He stated it was a continued case from the February 9, 2021 meeting and asked the applicant to present his case. Mr. Huseyin Sevincgil, GPI (Greenman-Pedersen, Inc.) Engineering addressed the Board and stated that he had had discussions with Department of Public Works (DPW) and with Ms. Donovan for an approved plan. The applicant described the sidewalk and a 6" vertical granite curb along the property line in the front that will be installed. Although there was a concern by the applicant concerning a tripping hazard, in conversations it was decided that the proposed would be the best option. When asked, he stated the greenspace along the sidewalk would not be affected.

Because of the construction season, his client believes the sidewalk might not be constructed (completed) in time for his store reopening. With the sidewalk construction that was necessary, it might not be done until mid-April 2021, worst case scenario mid-May 2021. Mr. Sevincgil stated that because the store reopening is scheduled for before the sidewalk timeline, his client might request a temporary Certificate of Occupancy (CO). The Board and Ms. Donovan discussed the issuance of a temporary CO. Ms. Donovan stated she wanted the Planning Board's approval (as well as hers) to issue one. She asked, for clarification, if they would approve her granting a

temporary CO. Ms. Donovan stated she and the building inspector would note the construction progress for the Planning Office.

Mr. Merrow made a motion *to accept Case 2020-SPFP-001A as submitted*. It was seconded by Mr. Tellor. *The motion passed 5-0-0.*

The Board thanked Mr. Sevincgil for his time. Chairman Burnham thanked him for his patience.

MINUTES: February 9, 2021

February 9, 2021

On a motion by Mr. Tellor, seconded by Mr. Merrow; *the Planning Board voted to approve the minutes of the February 12, 2021 meeting with the following amendments: Under Case 2021-SPFP-001, page 2 the last two paragraphs and page three, first two paragraphs: 'Mr. Glasscock' should read 'Mr. Hamm'. The motion passed as amended 5-0-0.*

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

Minutes to review motion to make Planning Board only 5 members

Ms. Donovan addressed the Board and stated she had looked at the minutes of the July 28, 2020 Planning Board meeting. *A member had made a request to change Planning Board from 7 to 5 members. Ms. Donovan was asked to submit a letter to the BOS in January 2021 requesting this change (via Town sponsored Warrant Article).*

The Planning Board members discussed submitting a request for a Warrant Article to the Board of Selectmen for the 2021 Town Meeting ballot. Ms. Donovan was asked to inquire if a Warrant Article from the Planning Board could still be submitted for this year. If so, she was directed by the Planning Board to address the BOS (on March 15, 2021) with their request for the following: "To make the Planning Board a five member board". The reason for the change in members was ensure there would be a quorum at every Planning Board meeting (now and in the future).

Updated checklist without Mylar

Ms. Donovan addressed the Board and asked for comments on the revised Site Plan Review Checklist. She had:

- 1) Deleted the need for a Mylar in Section A. and inserted it on page two at the bottom of the page.

Additional changes made at the March 9, 2021 meeting were in formatting and renumbering:

- 2) Section B. 1. All ~~material~~ **applications** submitted to ~~and approvals by~~ the New Hampshire Department of Environmental Services (DES) for sewage disposal system approval; 2. Approved Wetlands application ~~and permit~~ **submitted to DES**.

Applications have to be applied for before coming to their Newport Planning Board case hearing. There was discussion concerning the procedure by other Towns before the case went to the Planning Board as well as a change to Newport's procedure, including the right of the Planning and Zoning Administrator to deny them access to the Planning Board until their application is completely filled out.

The Planning Board then reviewed the procedure for the applicant:

1. Conservation Commission (advisory board to the Planning Board)
2. All DOT and DES permitting applications (copies) sent to Conservation Commission and Planning Board

The Board members and Ms. Donovan had a lengthy discussion on the paperwork and applications necessary for a case and the roles of both.

Lot Line Check List

Ms. Donovan requested that the Board members review and mark up the Lot Line Adjustment Checklist as well. Mr. Merrow stated some of the information needed to be updated due to information given by Town legal staff.

Chairman Burnham reiterated his understanding of counsel's explanation. They mentioned the applicant's lawyer (Sue Manchester) for Avanru's case. The Board concurred that they needed the lot line adjustment in writing from Newport's Town counsel (Shawn Tanguay or associate). There was further discussion between Ms. Donovan and the Board concerning the use of lot line adjustment, merger and subdivision. Board members were again asked to review, add or change requirements on the checklist as required and bring them back to the next meeting. *At the March meeting, the addition of Deed was made to the Lot Line Adjustment Checklist under Submission Requirements.* Ms. Donovan would bring the annexation checklist to the April 13, 2021 meeting for comparison as well as clean definitions of everything under Planning Board approval from Town counsel.

2021 Proposed Shed Ordinance

Ms. Donovan passed out a draft 2021 Proposed Shed Ordinance to the Board members. She asked if they would like any changes made. It was under Other Provisions; Article IV. Over 200 sq. ft. is considered a building in Newport. Ms. Donovan stated she would review it with Town counsel and start the process to get it on the ballot as a Warrant Article. She would bring it to the BOS meeting on March 15, 2021.

Mr. Merrow listed the items he had found in the Newport Ordinances that did not need permitting. He listed them for the Board. Mr. Merrow and Mr. Glasscock explained the use of the international building code (IBC) to Ms. Donovan. Ms. Donovan asked about a zero fee permit for sheds; the Town could keep track of them and their placement but there would potentially be no fee. The sheds would also be assessed by the Town as outbuildings.

Update: One Credit Union in regards to exterior lighting.

Ms. Donovan addressed the Board stated the last conversation she had had with them was their frustration in getting a building permit if they could not have lighting as has been placed. Her response was that unfortunately One Credit Union had waived their lighting plan. If it had been presented to the Planning Board it would have been changed at the site plan review. It is the builders and owners responsibilities to meet all the (Newport) zoning ordinances and planning requirements. She sent a copy of the ordinances, she has not heard from them.

Mr. Merrow stated in the (motion for) approval the Planning Board is always thorough with conditions. Ms. Donovan agreed, stating she would have to check the minutes for conditions.

COMMUNICATIONS:

Board: none

Public: none.

On a motion by Mr. Merrow, seconded by Mr. Menard; ***the Board voted to adjourn at 7:55 p.m. The motion passed 5-0-0.***

Respectfully submitted,

Maura Stetson
Scribe

Approved: March XX, 2021

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