

Revised and Approved
TOWN OF NEWPORT, NH
Minutes of the Planning Board Meeting
September 27, 2016 – 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; Howard Dunn, Bert Spaulding, Sr.; David Kibbey, Alternate; Erna McCormick, Alternate; David Hoyt, BOS Representative

MEMBERS ABSENT: Bill Walsh, Ray Kibbey

VIDEOGRAPHER: Louis Cassorla, NCTV

STAFF PRESENT: Julie M. Magnuson, Planning and Zoning Administrator

COMMUNITY MEMEBERS PRESENT: none

CALL TO ORDER: Chairman Burnham called the meeting to order at 6:00 p.m. followed by a roll call. Ms. Erna McCormick was appointed to sit for absent member Bill Walsh.

MINUTES: August 9, 2016

Mr. Spaulding, Sr. requested that the agenda items be heard out of order. He made a motion that the minutes be heard after New Business. Chairman Burnham stated he had a motion and asked for a second. Mr. Hoyt seconded the motion. Chairman Burnham called for a vote. The motion passed 5-0-0.

Mr. Spaulding recused himself from Case 2016-SPFP-004.

CONTINUED BUSINESS: none

NEW BUSINESS:

2016-SPFP-004: RHTL Partners, LLC. (Owners) and Mark Stewart, RA (Agent) request review of a site plan for a proposed 45' x 110' (approx.) addition to the rear of the existing Newport Chevrolet-Buick-GMC building. The property is identified as Map 233 Lot 004 and is located at 320 John Stark Highway in the Industrial (I) Zoning District.

Chairman Burnham opened Case 2016-SPFP-002 and read the Administrative Review into the record. Chairman Burnham stated that the applicant was requesting a waiver of a Mylar.

Ms. Magnuson addressed the Chair with a Point of Order. She stated the Board should decide whether the application was complete before opening the public hearing. She asked if the Chair would like her to comment on the completeness of the application before the Planning Board. Chairman Burnham stated yes.

Ms. Magnuson stated that in the Administrative Review the Board had been instructed to read the comments by Mr. Larry Wiggins, Public Works Director as well as later submittals in regards to the concerns raised by Mr. Wiggins. She stated the letter dated September 21, 2016 by Jeffrey Olesky, P.E. of Wilson Consulting Engineers, PLC satisfies the comments made by Mr. Wiggins. If the letter does in fact satisfy the concerns, then the application would appear to be complete.

Ms. Magnuson then reviewed the email correspondence and the submittals by Mr. Stewart in response to the concerns raised by Mr. Wiggins. She said that Mr. Wiggins' concerns were of storm water runoff and drainage. Mr. Stewart had a third party P.E. look over their project and draft a letter which was submitted to Mr. Wiggins about his concerns (September 21, 2106 to Larry Wiggins "Drainage Evaluation for Proposed Building Addition"). Ms. Magnuson stated that her last email from Mr. Wiggins stated he had no comment on the subsequent submittals by Mr. Stewart.

Ms. Magnuson stated it was therefore the determination of the Planning Board as to whether the information and letter from Wilson Consulting Engineers, PLC (WCE) properly satisfies any concern there would be regarding drainage and that if it satisfied the concerns the application would appear complete.

Mr. Dunn asked if the drainage was shown on the site plan.

Mr. Stewart addressed Mr. Dunn and the Board and asked if they would like him to explain. He was told yes.

Mr. Stewart explained his firm's relationship with Mr. Olesky and WCE. Mr. Stewart stated he had felt the Newport project was a minor one. He explained the current and proposed drainage to the Planning Board members. The proposed drainage would be the same as was currently (and was acceptable to the Town of Newport). Using a site plan he indicated the proposed new roofline, the internal runoff from the roof and the exit of the runoff water to the same swale as was currently being used.

The construction would not increase the impervious area, would not increase the runoff. He had not initially submitted a Drainage Evaluation for Proposed Building Addition; but upon Mr. Wiggins' request, had acquired one from a competent certified engineer that has a professional working relationship with Mr. Stewart's firm.

Mr. David Kibbey arrived at the meeting at this time and was appointed to sit for absent member Ray Kibbey.

Mr. Stewart continued to address the Board and explained the customary procedure taken by his firm when seeking approval from a Town's Zoning and Planning Boards.

Mr. Dunn addressed Ms. Magnuson and asked, for clarification, that Mr. Wiggins had sent a letter requesting the additional submittals. Ms. Magnuson concurred. She then stated that Mr. Wiggins had stated that at the very least he would like to see a letter from an engineer. Ms. Magnuson had consequently contacted Mr. Stewart and asked for a statement from an engineer.

Mr. Dunn asked if Mr. Wiggins was still looking for the other items requested. Ms. Magnuson stated she could not speak for Mr. Wiggins. He had stated he had no comments on the submittals by Mr. Stewart.

Ms. Magnuson explained the new submittals to the Planning Board members and stated that everything she had asked of Mr. Stewart he had provided.

There was a discussion among the Board members about the project; there was not additional impervious areas proposed, asphalt was being traded with rooftop. Runoff was being directed the same way and would not be an increased amount. Mr. Hoyt asked where the runoff in the downspouts would be directed. Mr. Stewart explained the current and proposed drainage on the addition. He also explained the size of the addition and proposed roof functions.

Mr. Dunn asked, for clarification, if the plans submitted to the Planning Board were to answer the concerns of Mr. Wiggins, Public Works Director in his August 19, 2016 letter. The plans would be presented to the Town when you apply for a building permit. Mr. Stewart stated that was correct. He fully intended to supply the Town with the requested plans with a completed building permit application.

Chairman Burnham asked for a motion to accept the application as complete. On a motion by Mr. Dunn, seconded by Ms. McCormick; ***the Board voted to accept the application as complete. The motion passed 6-0-0.***

Mr. Mark Stewart addressed the Planning Board and explained the purpose and the area of the proposed construction to the Board members. He stated that the dealership would be losing three service bays with the addition. The addition would house three medium duty bays which would allow them to service trucks and vans, areas for tool storage and waste oil storage and indicated the areas on a posted site plan. He explained the equipment which would be installed in each new bay and the type of heating in the addition.

Mr. Stewart then explained the proposed exterior of the addition to the Planning Board members; the siding, lighting, egress and ingress to the bays as well as the existing building and the drainage off the roof into the swale. Mr. Dunn asked if all the details would be on the plans submitted to the Planning and Zoning office when applying for a building permit. Mr. Stewart said yes.

Mr. Stewart reviewed the proposed improved drainage of the building for the Board members. Mr. Dunn asked for an explanation of the trench drain and the internal drain work on the addition. Mr. Stewart explained.

Mr. Merrow addressed Mr. Stewart and stated that one of the comments from the fire Chief was the need for a fire lane around the building. He stated that one corner of the building had a door and asked Mr. Stewart if a bullock would be placed there. Mr. Stewart indicated where bullocks would be placed around the proposed addition. Mr. Merrow addressed Chairman Burnham and stated that one condition might be to require posted signage for no parking for fire truck egress or access around the building.

Mr. Stewart discussed the proposed addition with the Board members. He stated the proposed condition would be acceptable to his client.

Mr. Kibbey addressed Mr. Stewart and asked if there was going to be any additional land cleared; any additional parking. There was a short discussion between the Board and Mr. Stewart on the subject of clearing and the project in general.

On a motion by Mr. Merrow, seconded by Ms. McCormick; ***the Board voted to approve Case 2016-SPFP-004 with the following conditions:***

- ***There will be a designated fire lane with fire lane signage around the building.***
- ***All outside lighting will be downcast and shielded.***
- ***A waiver of the Mylar.***

The motion passed 6-0-0.

Three Planning Board members signed the site plans.

Mr. Spaulding, Sr. addressed the Chair and asked if there would be public participation. Chairman Burnham acknowledged Mr. Spaulding, Sr.

Mr. Spaulding, Sr. stated his opinion that it was great that Newport Chevrolet-Buick-GMC had come to Newport, to see what they have done and that they were doing more, and that they were not somewhere else. Chairman Burnham concurred.

The Board and Mr. Stewart held a general discussion on the project and possible future plans at the dealership.

Mr. Spaulding, Sr. returned as a sitting Board member.

MINUTES: August 9, 2016

Chairman Burnham asked for a motion to approve the minutes of the August 9, 2016 Planning Board meeting. Mr. Spaulding, Sr. stated, ***“I make a motion that we table these minutes until the minutes can be made to reflect the meeting that was held.” Dave Burnham, Okay. Bert Spaulding, “I would so move”.*** On a motion by Mr. Spaulding, seconded by Mr. Dunn; ***the Board voted to table the minutes of August 9, 2016 until the October 11, 2016 Planning Board meeting. The motion passed 7-0-0.***

ADMINISTRATION:

Chairman Burnham stated the Planning Board would discuss Administration.

Legal Opinion and discussion regarding the authority of the Newport Planning Board as it pertains to Site Plan Review

Ms. Magnuson stated the Board had been given the confidential letter from the Town’s Attorney, Christine Filmore regarding the authority of the Newport Planning Board. Ms. Magnuson stated the Board could discuss it in public or in NPS.

Mr. Dunn made a motion to not discuss the letter.

His reason was the subject is a matter that needs to be decided by each member each time there is a case before the Planning Board. Continuing, Mr. Dunn stated that the Planning Board was a quasi-judicial group; each case was separate and the Board acts on each case separately. Each Board member is a judge; each member must interpret what the law is for his own sake. He stated that the Board members should not prejudge any applicant and that was the reason for his motion.

Mr. Dunn asked for a second. Mr. Merrow seconded Mr. Dunn’s motion.

There was a lengthy discussion between the Board members Mr. Dunn’s motion, the relevance of discussing the legal opinion given to the Planning Board members and the Newport 1986 warrant article on site plan review. Chairman Burnham stated there was a motion on the floor requested that the motion be repeated.

On a motion by Mr. Dunn, seconded by Mr. Merrow, ***the Board voted to not discuss agenda item Legal Opinion and discussion regarding the authority of the Newport Planning Board as it pertains to Site Plan Review; to pass over the agenda item and go to the next item on the agenda. The motion passed 4-3-0 (Spaulding, Kibbey and Hoyt voted no).***

Mr. Kibbey gave his opinion on the vote.

Mr. Spaulding, Sr. asked what would happen to the confidential document the Board members had been given. Chairman Burnham stated it was for “your eyes only”. There was a discussion on its being allowed into a public forum under RSA 91-A. Chairman Burnham and Mr. Spaulding, Sr. discussed who could access the confidential legal opinion.

Chairman Burnham then moved on to the next agenda item.

Amendments to the Planning Board Rules of Procedure:

Change in order of business and Discussion of adding a Public Forum

There was a discussion on the change in the order of business and the discussion of adding public forum. Mr. Spaulding and the Board members brainstormed the order of items for the agenda.

Mr. Spaulding made the motion:

- 1) **Call to Order**
- 2) **Roll Call**
- 3) **Continued Business**
- 4) **New Business**
- 5) **Minutes**
- 6) **Administration**
- 7) **Communications:**
 Board
 Public
- 8) **Adjournment**

Agenda Review would be changed to Communications. There was discussion on the proposed motion and possible changes.

Mr. Spaulding revised his motion to change the agenda order to:

1. *Call to Order*
2. *Roll Call*
3. *Agenda Review*
4. *Continued Business*
5. *New Business*
6. *Minutes*
7. *Administration*
8. *Communications*
 8.1. *Board*
 8.2. *Public*
9. *Adjourn*

Mr. Kibbey seconded the motion. Chairman Burnham addressed the Board and asked for discussion. There was no discussion. *The motion passed 7-0-0.*

Ms. Magnuson addressed the Chair and stated that her agenda format used letters instead of numbers. She would continue to use letters unless directed by the Board to use numbers. The order of agenda items would be as amended in the passed motion.

Mr. Spaulding stated that he wanted to discuss the insertion of public participation into the agenda. It was stated that the addition of the public comments and participation was now a part of the agenda. There was nothing to discuss. There was discussion on insertion of public participation.

Mr. Spaulding made a motion to amend 8.2. Public. A suggested wording for 8.2. was: Public Comments on subjects within the purview of the Planning Board. Other suggestions were made for the wording. Chairman Burnham asked Mr. Spaulding to repeat his motion. He did.

On a motion by Mr. Spaulding, Sr.; seconded by Mr. Kibbey; *the Board voted to change the wording of agenda item 8.2. Public to 8.2. Public Participation shall pertain to topics within the purview of the Planning Board. The motion passed 7-0-0.*

Ms. Magnuson asked for clarification of the order and wording of the new agenda. There was clarification from the Board. Mr. Merrow stated it did not have to have a separate agenda item but he would like to have the next meeting on the agenda as well.

Mr. Spaulding, Sr. stated he would like to have the Board packet arrive earlier to the Board members. Julie explained the timeframe for sending the Boards packets. There was a discussion by the Board and Ms. Magnuson. Ms. Magnuson stated if she was directed by the Board, she would send information out. Ms. Magnuson stated that she always tried to put the applicant first.

Mr. Spaulding, Sr. brought a complaint about TOPAZ to the Planning Board from a townsperson. Chairman Burnham stated it was not in the purview of the Planning Board. He addressed Ms. Magnuson and asked if she would like to read the letter provided by Mr. Spaulding, Sr. Ms. Magnuson respectfully declined, stating it had nothing to do with the Planning Board. She had responded to her boss who was satisfied with her process and procedure. Mr. Merrow agreed that the subject had nothing to do with the Planning Board and that the Board should move on to the next item; adjournment. Chairman Burnham began reading Ms. Magnuson's memorandum response. Ms. Magnuson respectfully interrupted the Chair and stated it was not a document open to RSA 91-A. She would, however, be happy to discuss it in her office during business hours with anyone interested.

The Board moved on to the next agenda item.

Discussion of Goals for the Planning Board

Materials provided are the page of Recommendations from the Assessment of the Planning & Zoning Office dated March 31, 2016 by Gerald Coogan. Also included are the Goal Setting by Primax.

There was a general discussion

Mr. Dunn stated that the Goals for the Planning Board was an important subject. He wanted to give adequate time for discussion. the goals of the Planning Board were to: judge Cases, is involved with the Master Plan, is involved with the CIP (we are activating it now). He suggested that tonight the Board might discuss the subjects that the goals should be. He requested that the Planning Board have another meeting to discuss the topic.

Mr. Merrow stated that the Board had had a meeting in which were listed goals for the Planning Board. Those were the things that were going to be focused on this year as time permitted and were within our means. We have a list that is not from a third party. He requested that the Board take out the list and go over it.

Mr. Spaulding, Sr. made a request of Ms. Magnuson for the list that she read to the Planning Board at a previous meeting of the Planning Board objectives. He then asked for the document which the list came from. Ms. Magnuson stated she did not believe there was one.

There was a discussion between Mr. Spaulding, Sr. and Ms. Magnuson on the document that originally listed the Planning Board goals. Ms. Magnuson stated the official document was the minutes of the meeting. Mr. Dunn requested that the Planning Board members be given a copy of that meeting's minutes in their next packet. Ms. Magnuson agreed to the request.

Mr. Spaulding, Sr. gave his opinion on establishing the goals of the Planning Board. There was a discussion on the necessary work of the Planning Board during the winter months.

The need of a framework of work was discussed. The information needed for October's meeting was also discussed.

On a motion by Mr. Merrow, seconded by Mr. Dunn; *the Board adjourned at 7:50 p.m. The motion passed 7-0-0.*

Respectfully submitted,

Maura Stetson
Scribe

Approved on: November 15, 2016