

**TOWN OF NEWPORT, NH**  
**Minutes of the Planning Board Meeting**  
**January 26, 2016 - 6:00 P.M.**  
**Board of Selectmen's Room**  
**15 Sunapee Street**  
**Regular Meeting and Public Hearing**

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**MEMBERS PRESENT:** Howard Dunn, Chairman; David Burnham, Vice Chairman; Ken Merrow, Bill Walsh, Karen Dewey, Todd Fratzel, BOS Alternate Representative, Jeff North

**MEMBERS ABSENT:** Erna McCormick, Alternate; David Kibbey, Alternate; Gary Nichols, BOS Representative

**VIDEOGRAPHER:** Louis Cassorla, NCTV

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

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

**AGENDA REVIEW:** Chairman Dunn stated that the TOPAZ staff suggested moving Continued Business before Administration. The Board members concurred.

*Mr. North joined the meeting at this time.*

**MINUTES:**

**December 8, 2015**

On a motion by Mr. Burnham, seconded by Mr. Merrow; *the Board approved the minutes of the November 10, 2015 meeting with the following correction: page four, paragraph two, line two: "artisan well" should read "artesian well". The motion passed 4-0-1 (Mr. Fratzel abstained).*

**CONTINUED BUSINESS:**

**2015-SPFP-004: Tekoa Missions, Inc. (Owners), Paul E. Lindgren (Agent)** request final review of a site plan consisting of a proposed two story, 30 x 82 addition on an existing lodge. The property is identified as Map 242 Lot 071 and is located at 5 School House Road in the Rural (R) Zoning District.

Chairman Dunn opened Case #2015-SPFP-004. He asked for the spokesman of the case, Mr. Chris Kennedy. Mr. Kennedy had not attended the December 8, 2015 meeting but was fully apprised of what happened. Mr. Kennedy addressed the Chair and stated that he was the principle architect of the project. Chairman Dunn then acknowledged Ms. Magnuson for her Administrative Review. Ms. Magnuson stated that she had outlined the new documents her office had received from the applicants on January 4, 2016 for Case #2015-SPFP-004. Ms. Magnuson then read her Administrative Review into the record. She stated she had sent pertinent information to the Fire Department, Public Works Department and Highway Department. She noted for the Chair and Board that the Public Works Director had not been able to

submit a peer review drainage report (that concern had been raised at the December 8, 2015 meeting). Without the drainage report the Administrator and TOPAZ office suggested that any approval of Case #2015-SPFP-004 be made conditional upon the requirement that all drainage be contained within the parameters of the parcel and not have any adverse (drainage) effects upon any abutting parcels or roadways (and their drainage systems).

Ms. Magnuson stated that the application was accepted as complete at the December 8, 2015 meeting. No new waivers had been requested.

Ms. Magnuson told the Board that on the plans there were areas for meeting halls or training spaces. These required different number of parking spaces. She differed to the applicants to verify the types of areas and the necessary number of parking spaces.

Mr. Kennedy stated they had taken note of the questions the Board had raised and gotten information on them.

#### Drainage

Engineering Ventures, P.C. of Lebanon, NH had been hired to show the complete existing topographic information. Included for the Board was a Civil Engineering Site Plan for site Drainage. He explained.

#### Lighting

The property has existing exterior lighting that will remain. Any new lighting will be fully shielded cut-off fixtures and lit to the minimum required footcandle.

Chairman Dunn asked if lighting was shown on the plans. He reiterated his question. Referring to the plans, Mr. Kennedy explained which page it was shown on. There was a short discussion among Board members concerning the identification of the lighting on the plans.

#### Geotechnical report

A complete geotechnical report was completed by S.W. Cole Engineering, Inc. It has been submitted to the TOPAZ office. He explained the reason for a geotechnical report to the Board. The proposed change in topography and site grading is shown on Engineering Venture's site plan.

#### The separation between buildings

It has been noted on the Architectural Site Plan that the buildings (house and barn) are separate and connected by a breezeway roof.

#### Water quantify the demands to be put on the system

In a letter presented to the TOPAZ office on January 4, 2016, UK Architects outlined the classification and requirements for the applicant's well.

The following has been removed from the original site plan proposal: The accessory buildings.

New information :

#### Well

In response to the concern of the water supply and the need for a "Public Water System", per the State of NH requirements: NH RSA 485-1A. The well and water system available at the property would serve the needs of the Tekoa Missions by number of connections, occupants and maximum usage. The Tekoa Missions will install a water meter to measure their actual water consumption. They will replace all existing fixtures and install all new fixtures with "low flow" water saving plumbing fixtures.

Chairman Dunn addressed Mr. Kennedy and asked him to remind the Board what the use of the addition was. Mr. Kennedy stated that the lower floor was an audio visual (AV) studio. The second floor was a training area. There were also two small classrooms, one on each floor. The primary use would be the AV and the training rooms.

Chairman Dunn addressed the Board and asked for questions.

Mr. Merrow stated he had a question on the site plan. He stated that the applicants had indicated the septic system for the barn, but at the December 8, 2015 meeting there had been discussion concerning a separate system for the house. He did not see it located on the plans they had submitted. Parking had been expanded, but the location (and potential parking on top of the septic tank) was not noted. Using the site plans, he explained the omission to the Board members and the Board's request of having it indicated on the site plans. There was a short discussion among the Board members.

Mr. Paul Lindgren addressed the Board and stated they had not been able to find a document showing the location of the septic system. His understanding was that it went out to the front yard. Continuing, he stated the applicants were not adding any new pathways or parking area that had not previously been there.

Mr. Kennedy stated that if the Planning Board wanted the applicants to locate the house septic system, they would. He requested that if it was necessary, that the Board make it a condition and they be allowed to submit the document to the TOPAZ office and not be required to return to the Planning Board.

Mr. Merrow requested that it be made a condition. Chairman Dunn concurred.

Chairman Dunn acknowledged Ms. Magnuson. Ms. Magnuson asked that the Planning Board address if the training areas would have seats; if so how many? She explained that the site plans showed two training areas one small, one large. She asked that the plans show the seating capacity.

Mr. Lindgren addressed the Board and Ms. Magnuson and stated at that this time there would probably be no more than fifteen to twenty occupants at one time at a single session. Mr. Kennedy explained further that the rooms would probably not be used simultaneously. Ms. Magnuson asked, "No more than twenty at a time is what you are saying?" Ms. Magnuson addressed the applicants and stated that for clarification for the record she needed to know to verify the parking requirement.

Chairman Dunn addressed Ms. Magnuson and asked what she was looking for. Both Mr. Kennedy and Ms. Magnuson stated she wanted a definitive number of individuals in the training rooms. She explained the calculations used by the applicants to figure the number of parking spots differed from the way she would have arrived at the necessary number of parking spots.

Chairman Dunn addressed Ms. Magnuson and asked if their statement satisfied her. She stated yes.

Mr. Fratzel apologized for any redundancy from the last meeting and asked if there was concern of the capacity of the septic system being used. Mr. Kennedy addressed Mr. Fratzel and stated that their position was that they were not adding bodies to the septic system. Mr. Fratzel asked what the original septic system was designed for and approved by the State of NH. He stated that it was potentially a problem with abutters who would be impacted.

Mr. Lindgren stated the applicants had discussed it extensively. It had been pumped out. If it did become a problem they had sufficient land to expand or replace it.

Mr. Merrow addressed Mr. Fratzel and stated the Board had discussed it. Under the building code its use would dictate what was necessary. He explained further.

Chairman Dunn acknowledged Ms. Magnuson. Ms. Magnuson stated she had an approval for a twenty person bed and breakfast issued in 1994. Mr. Fratzel asked that the record show that information.

There were no further questions from the Planning Board.

Chairman Dunn addressed the public in attendance and asked if they had questions. He acknowledged Mr. Spaulding.

Mr. Spaulding addressed Chairman Dunn and stated that if the group (twenty proposed) hit the twenty five number capacity they would trigger the NH approved water supply set by DES. He stated that Mr. Kennedy stated the law correctly in his presentation. Continuing, he stated that he wanted to ensure that the applicant knew how close they were to the threshold. They understood it. He thanked the Chair.

There being no questions from the Board, Chairman Dunn asked the pleasure of the Board.

On a motion by Mr. Burnham, seconded by Mr. Walsh; ***the Board voted to approve the site plan with the following conditions:***

- 1. Requirement that all drainage be contained within the parameters of the parcel and not have any adverse (drainage) effects upon any abutting parcels or roadways (and their drainage systems)***
- 2. The existing house septic system be located on the site plan***

***The motion passed 6-0-0.***

Mr. Burnham and Mr. Fratzel were appointed to sign the revised plans.

Chairman Dunn thanked the applicants. Mr. Waller thanked the Board members and Ms. Magnuson.

Chairman Dunn addressed Ms. Magnuson and discussed signing the Notice of Decision without the conditional document.

Ms. Magnuson asked if she had his permission to sign his name to the Notice when it was ready.

Chairman Dunn stated yes.

## **ADMINISTRATION:**

Chairman Dunn stated that the Town on Newport Site Plan Review Regulations that were amended and adopted by the Planning Board on December 8, 2015 needed to be signed. Each Board member would sign it at this time.

For clarification, Chairman Dunn stated that the Board members would sign their name and date it on the signature page provided.

Ms. Magnuson stated that she would have the Town Clerk certify the document and she would give copies to each Planning Board member. The Planning Board Regulations would also be posted on the Town website. There was a discussion between Chairman Dunn and Ms. Magnuson on the website and how it could be improved. Ms. Magnuson stated that it was an ongoing process.

Ms. Magnuson stated she would defer to the Chair concerning the last item on the Administrative agenda. Chairman Dunn asked for clarification. Ms. Magnuson addressed the Chair and stated that at the December 8, 2015 meeting she had been directed to consult with the Town counsel concerning the legal requirements for boundary line adjustments.

For clarification, Chairman Dunn asked if the Board was still in Administration. Ms. Magnuson stated yes.

Chairman Dunn stated that the subject was Mr. Spaulding's site plan and boundary line adjustment. He explained that he and Ms. Magnuson had been working on the subject together. There had been question on Mr. Spaulding's part concerning the need to file a Mylar with the Registry of Deeds.

Chairman Dunn addressed Mr. Spaulding and stated that with a site plan you are not adjusting the boundary line of the lot. Mr. Spaulding tried to interrupt... Chairman Dunn continued, stating that with a boundary line adjustment you are changing the boundary of the lot. That did not happen in a site plan approval. It seemed as though Mr. Spaulding felt the Planning Board should waive the boundary line adjustment because they waive one in site plan approvals. There was a thing called the official map. Under RSA 674:38 any change of a boundary line of a lot... Chairman Dunn gave historical information that it went back to when the Planning Board first enacted subdivision regulations and zoning. Before that everyone just conveyed the land; they described the land and conveyed it. When the regulations were put in place, going forward if a person wanted to record a deed at the Registry of Deeds and the official map was modified, (Mr. Fratzel stated it was the Town's official map) the person had to record a Mylar that was provided by a surveyor. The reason was because the official map was changed. Chairman Dunn reiterated it was stated in RSA 674:38. He concluded, stating that was the difference between the two and that was why the Mylar was required.

Chairman Dunn addressed Mr. Spaulding and asked if he wished to speak. Mr. Spaulding stated no.

Chairman Dunn then asked if there were any comments or questions. There being none, Chairman Dunn moved on to Public Comment. He asked Mr. Spaulding if he wished to speak.

Mr. Fratzel interjected and stated that there was one more item to discuss.

Ms. Magnuson stated that it was:

**RSA 673:10; "The Planning Board shall hold at least one regular meeting in each month."**

Chairman Dunn brought the subject up to the Board. He asked for comments or questions regarding the subject. Chairman Dunn addressed Mr. Spaulding and asked if he wanted to speak to the subject. Mr. Fratzel stated he wanted to make a comment first. He asked if the RSA said "shall". He was told yes. He stated that it was easy-the Board should meet. That was the way the law was written. That was the Planning Board's job.

Chairman Dunn stated he thought the Board shouldn't do it. He cited that if there wasn't an application, it would be a pointless exercise to come and have a meeting. Mr. Fratzel argued with the Chair and stated the RSA was very specific.

Chairman Dunn rebutted by explaining that RSA intent and strict adherence were two different things. He stated that if there was an application for the Planning Board there had to be a meeting. He acknowledged Mr. Walsh.

Mr. Walsh stated that after thinking about the question, and the intent of the law; he thought the intent was requiring monthly meetings to prevent the Planning Board from preventing development by scheduling meetings of varying intervals. Continuing, he stated that just going to the Town Office, convening, adjourning and then going home was farcical.

Mr. Merrow stated he agreed with Mr. Fratzel with compliance, however as a calendar driven submission process and review process, if there was nothing to be reviewed, nothing that had met the calendar deadlines, then to have to show up for a meeting was inane.

Mr. Fratzel refuted it.

Chairman Dunn expressed that members of volunteer Boards serve the community. Becoming a member of a volunteer Board was not punishment. It was an opportunity to serve. To have a pointless exercise to go to the Town Office to satisfy the statute –he did not think there was anyone of standing to complain.

Mr. Fratzel continued to agree with the necessity of having a monthly meeting as well as public comment on the agenda.

Mr. North addressed Ms. Magnuson and asked how often there was a canceled meeting due to no applications. Several individuals stated a few times a year. Mr. North replied that it therefore was not a big deal.

Ms. Magnuson addressed the Chair and asked to speak. She was given the floor. Ms. Magnuson stated that the deadline for the February 9, 2016 meeting had resulted in no applications. There should be a decision at the January 26, 2016 meeting on the question of monthly meetings.

The Chair asked for a motion on the subject. Mr. Fratzel interjected and asked if the Board could talk about the next topic, public comment, first. There was a discussion among the Board members about the public comment and its discussion before the vote on monthly meetings.

The last portion of the meeting was laced with profanity spoken by community member Bert Spaulding after he lectured the Newport Planning Board and declared his “right to free speech under the 1<sup>st</sup> Amendment of the Constitution of the United States of America”. The words *aggressively*, *negatively* and *rebutted* indicate some of the instances when profanity was used.

Mr. Spaulding lectured the Board members on the necessity of holding monthly meetings. He became agitated and used profanity in addressing Chairman Dunn.

Mr. Spaulding continued to address the Board with his complaints. Chairman Dunn addressed Mr. Spaulding and stated that the Planning Board had already done the things he had listed. He gave further explanation.

Mr. Spaulding gave additional comments on the subject.

Chairman Dunn called for the next subject.

Mr. Spaulding stated that the next subject was the Planning Board’s rules of procedure and public comment on the agenda.

Chairman Dunn addressed Ms. Magnuson and stated that the agenda did not have a comment section. Ms. Magnuson stated that she would be happy to add it to any agenda. Chairman Dunn asked that future agendas contain one.

Mr. Spaulding asked if public comments would be allowed at the meeting of January 26, 2016. Chairman Dunn asked him to proceed.

Mr. Spaulding addressed the Chair and Board. He spoke aggressively and negatively to Chairman Dunn and Mrs. Dewey.

Chairman Dunn took the floor and factually debated his allegations.

Mr. Spaulding aggressively spoke to Chairman Dunn.

Board members then spoke to the topic. They spoke in support of Chairman Dunn and addressed Mr. Spaulding and stated they did not appreciate his behavior nor share his views.

Mr. Spaulding aggressively rebutted the subject and spoke negatively to the Planning Board members that did not agree with him.

On a motion by Mrs. Dewey, seconded by Mr. Walsh; *the Board voted to adjourn at 6:58 pm. The motion passed 6-0-0.*

Respectfully submitted,

Maura Stetson  
Scribe

Approved on: February 16, 2016