

TOWN OF NEWPORT, NH
Minutes of the Planning Board Meeting
March 1, 2016 – 6:00 P.M.
Board of Selectmen's Room
15 Sunapee Street
Regular Meeting

MEMBERS PRESENT: Howard Dunn, Chairman; David Burnham, Vice Chairman; Ken Merrow, Bill Walsh, Karen Dewey, Gary Nichols, BOS Representative

MEMBERS ABSENT: Jeff North, Erna McCormick, Alternate; David Kibbey, Alternate

VIDEOGRAPHER: Louis Cassorla, NCTV

STAFF PRESENT: Shane P. O'Keefe, Town Manager

CALL TO ORDER: Chairman Dunn called the meeting to order at 6:00 p.m. followed by a roll call.
(NOTE: By majority vote, the Board may elect to hold the hearing immediately after the roll call in order to accommodate the public.)

MINUTES:

February 16, 2016

On a motion by Mrs. Dewey, seconded by Mr. Walsh; *the Board approved the minutes of the February 16, 2016 meeting. The motion passed 5-0-0.*

AGENDA REVIEW: Chairman Dunn addressed the Board and public and stated that the Planning Board would discuss the amended Rules of Procedure of the Planning Board/Town of Newport during "Unfinished Business" Continuation of hearings on subdivisions or site plans. The Board concurred.

Mr. Nichols requested that the Hearing of Case 2016-ANFP-001 be moved to the next item of business. On a motion by Mr. Nichols, seconded by Mrs. Dewey; *the Board voted to move the agenda item Case 2016-ANFP-001 to the first order of Business. The motion passed 5-0-0.*

NEW BUSINESS: Hearings on subdivisions or site plans:

2016-ANFP-001: Robert & Cheryl Dombroski & James & Dorothy Collins (Owners) request review of an annexation/lot line adjustment of .14 acres of land from property identified as Map 242 Lot 084 (Collins) to Map 242 Lot 085 (Dombroski), and located at 57 & 61 East Mountain Road in the Rural (R) Zoning District.

Chairman Dunn opened Case #2016-ANFP-001. Chairman acknowledged Mr. Robert Dombroski as spokesman for the Case. He stated that the site plan was posted on the white board and asked if he could look at Mr. Dombroski's (large) copy. Addressing Mr. Dombroski, Chairman Dunn asked if the site plan was a Mylar. Mr. Dombroski stated no.

Addressing the Planning Board, Mr. Dombroski explained the site plan, current lot line and proposed lot line. Mr. Nichols addressed Mr. Dombroski and asked if he was expanding his lot. He stated yes, .14 acres.

Chairman Dunn addressed the Board and asked if they had any questions regarding the application. There were none.

Chairman Dunn addressed the public in attendance and asked if anyone would like to speak to the application. There was none.

Seeing no hands, Chairman Dunn addressed the Board and asked for a motion. On a motion by Mr. Nichols, seconded by Mr. Burnham; the Board approved the annexation for lot line adjustment as presented. The motion passed 5-0-0.

Chairman Dunn signed the Notice of Decision and. He explained to Mr. Dombroski he needed to get a Mylar filed at the Sullivan County Registry of Deeds. Ms. Magnuson would then give Mr. Dombroski his Notice of Decision. On Mr. Dombroski's request, Chairman Dunn explained what a Mylar was and directed him to his surveyor, Cliff Richer, for more details and explanation. Chairman Dunn then appointed Mr. Nichols and Mr. Burnham to sign the Mylar.

Chairman Dunn thanked Mr. Dombroski.

COMMUNICATIONS TO THE PLANNING BOARD:

Chairman Dunn addressed the letters sent to the Planning Board.

- Letter regarding 2015-ANFP-001 Spaulding annexation/lot line adjustment

Chairman Dunn read the letter drafted for the Planning Board to Mr. and Mrs. Bert Spaulding, Sr. Addressing the Board members, Chairman Dunn stated that the letter called for the signatures of the Planning Board members.

Mr. Merrow addressed the Chair and asked if the Mylar was not recorded, if the Planning Board decision ran out. He asked if the decision was good for a limited timeframe or was it open for an indefinite timeframe. Chairman Dunn stated he did not know the answer to the question.

Chairman Dunn acknowledged Mr. Spaulding. Mr. Spaulding spoke at length on RSAs for Subdivisions. He addressed the Chair and stated he would limit his statements to three minutes.

He read Statute 676:18 and made the argument that a Mylar was not necessary for his case; he would not accept the decision, appeal it or do it.

Mr. Merrow addressed Chairman Dunn and asked if the procedure was in the Planning Board Rules of Procedure. Citing the Rules of Procedure, Chairman Dunn stated yes. He then explained that he had practiced law for thirty five years, he read the law differently from Mr. Spaulding, it was important to keep the lot lines updated and the concept of a subdivision could be argued. In the case of 2015-ANFP-001, a Mylar should be recorded.

Mr. Walsh addressed the Chair and stated he thought contesting the decision of the Planning Board was for a higher level. Chairman Dunn concurred. He then stated that he had a letter stamped *DRAFT*. Addressing Mr. O'Keefe, Chairman Dunn asked if the Planning Board had a version of the letter ready to sign. After a short discussion, Chairman Dunn addressed the Planning Board members and called for a motion to sign the letter. On a motion by Mrs. Dewey, seconded by Mr. Walsh; ***the Planning Board voted to sign the letter and send it to Mr. and Mrs. Bert Spaulding, Sr. The motion passed 5-0-0.*** The Board members present signed the letter.

Mr. O'Keefe stated that the letter needed to only be signed by a majority of the Board. Chairman Dunn thanked him for the information.

- Letter dated February 22, 2016 from Gary E. Nichols to the Planning Board

Chairman Dunn told the Planning Board members that the letter from Mr. Nichols stated that the Board of Selectmen (BOS) had refused their petition to request a declaratory judgement, but did agree to the

Planning Board's second request to write a letter to the Members of the Newport Legislative Delegation. Chairman Dunn read the proposed language to be discussed by Newport's representatives in Concord.

- Letter dated February 22, 2016 from Gary E. Nichols to the Members of the Newport Legislative Delegation. (See above).

Chairman Dunn read from the letter to the Planning Board. "The Selectboard appreciates the significant time and effort that the Planning Board members dedicate to the betterment of the Newport Community, and looks forward to continued mutual support and cooperation." Chairman Dunn thanked the BOS for the letter.

Mrs. Dewey addressed Mr. Nichols and Mr. O'Keefe and asked how the legislative part of their request would be followed up. Mr. Nichols explained that in correspondence with two in the delegation that it probably would not be acted upon until next year (2017). There was a general discussion on the proceedings.

COMMITTEE REPORT: none

UNFINISHED BUSINESS:

Continuation of discussion of amendments to the Planning Board Rules of Procedure

Chairman Dunn stated that the Planning Board needed a vote to the BOS the amendment be put on the Warrant for action. Chairman Dunn acknowledged Mr. O'Keefe. Mr. O'Keefe stated that there was no requirement to have a Public Hearing on the subject. If the Planning Board was interested in advancing the amendment, they would send it to the BOS and request that they put it on the Warrant. Chairman Dunn thanked Mr. O'Keefe. Addressing the Board, he stated that the matter was before the Planning Board. For clarification, he stated that it was a modification of the authorizing language in the Newport Planning Board regulations with respect to the site plan approvals to conform our site plan regulations to the state legislation that authorizes a site plan control.

Chairman Dunn acknowledged Mr. O'Keefe. Mr. O'Keefe stated that the Town attorney had reviewed that language and approved the language with conformity with statute. Mrs. Dewey asked, for clarification, that the discussion and signatures were only formalizing what had been discussed by the Planning Board at the December 2015 meeting. Chairman Dunn said yes. He asked for a motion.

On a motion by Mr. Walsh, seconded by Mr. Merrow; ***the Board voted to recommend to the BOS that this Article be placed on the Warrant for the Town Meeting in 2016. The motion passed 4-0-1 (Nichols abstained).***

Continuation of discussion of amendments to the Planning Board Rules of Procedure

Chairman Dunn continued with the Planning Board Rules of Procedure and directed PB members to the marked-up copies in their packets. Explaining, he stated that the read strikethroughs were what the PB had asked Ms. Magnuson to eliminate in order for the PB to consider an amendment. For clarification, Chairman Dunn stated they could not act on the potential changes at the March 1, 2016 meeting. The Board was to review it, agree with what had been changed, make any additional changes the Board thought necessary and then a Public Hearing would be set up. There would be a Public Hearing because Newport's Rules of Procedure mandated it.

There was a general discussion concerning the proposed changes to the Rules of Procedure document by the Board. The Board then went through proposed changes to the document. Chairman Dunn expressed that Section H. 3) the revision should read ... "*other members* of the Board *should vote*..." and a typographical error had been found in Section H. 3) ... "wxcept" ... should read ... "except"...

Chairman Dunn addressed the Board and asked if there were any other items. Mrs. Dewey addressed the Chair and asked if the motion would be to move the Rules and Procedures document forward for a Public Hearing to be held at the next Planning Board meeting. Chairman Dunn said yes.

Chairman Dunn stated that he had one more potential revision to discuss. Page 5, Section J. 8) Public comments. Addressing the Board, he stated that there had been discussion concerning not having public comments. Chairman Dunn explained. He asked for input from the Board. Mrs. Dewey stated she would not want to eliminate public comment, but she thought it needed to be focused. Chairman Dunn stated that the Planning Board could limit comments to items within the purview of the Planning Board. There was a general discussion on the subject of topics allowed in a public forum between the Planning Board members and Mr. O'Keefe.

After conferring with the Board, Chairman Dunn acknowledged Mr. Spaulding. Mr. Spaulding addressed the Chair and stated that case law stated that the Board could limit content. He explained his viewpoint.

The Board members discussed revision of Section J. 8) b) Public comments ...to add... "within the purview of the Planning Board."

Chairman Dunn stated he was sure that the Town Manager would have Town legal counsel review the proposed wording.

Mr. O'Keefe stated that he wanted to respectfully disagree with Mr. Spaulding. He stated that the Planning Board was under no obligation of law to let anyone to speak other than itself, except during a Public Hearing. He reiterated that the Board was under no obligation, it was a meeting of the Planning Board.

Mr. Spaulding stated his viewpoint to address an individual's government. His view was that the Planning Board was local government. He gave a short dialogue concerning his standpoint.

Chairman Dunn addressed the Board and asked if there were any other changes they would like to propose to the Rules of Procedure. There were none.

There was a discussion on the date of the April meeting. Mrs. Dewey stated it would be the second Tuesday of the month. April's meeting would be on the 12th. Chairman Dunn requested that the motion read at the April 2016 Planning Board meeting (there was no definitive proof of the date). Ms. Magnuson would schedule for the correct date.

On a motion by Mr. Merrow, seconded by Mrs. Dewey; ***the Planning Board voted to move the Rules and Procedures document be notified for a Public Hearing to be held at the April 2016 Planning Board meeting. The motion passed 5-0-0.***

Continuation of hearings on subdivisions or site plans: None

Continuation of hearings on other matters: None

HEARINGS ON OTHER ITEMS:

Discussion of de-funding the Town's Building Inspector

Mr. Walsh addressed the Planning Board members and stated there had been discussion at the BOS budget meeting on de-funding the Town's Building Inspector. They had reconsidered. He went on to explain what would happen if they again tried to terminate the position and what statutes Newport would

be breaking. He explained the steps he had taken to inform relevant parties. Mrs. Dewey stated she was pleased the BOS had reconsidered de-funding the position. There was general discussion on the subject.

ANY OTHER MATTERS THAT COME BEFORE THE BOARD:

Informational requests: None

Public comments:

Chairman Dunn addressed the Board members and discussed the subject of limiting the length of speech during the public comment section. There was a short discussion between the Chair and Mr. O'Keefe as to why there could not be a limitation during a regular public meeting, but there could during a public hearing. There had to be a public comment section because the present Rules of Procedure required it.

Chairman Dunn stated he would not limit public comments to three minutes. He asked if there was anyone in attendance who would like to speak. He acknowledged Mr. Spaulding.

Mr. Spaulding addressed the Chair and spoke on public comments and swearing. He repeatedly asked for answers from the Chair. Chairman Dunn repeatedly answered, "Your comments, Bert".

Chairman Dunn addressed Mr. Spaulding and stated that the subject was in litigation and that neither he nor anyone on the Planning Board would be commenting on it.

Mr. Spaulding restated his comments and reiterated words found offensive by others in previous Planning Board meetings. Addressing the Chairman, he stated he was done speaking.

Chairman Dunn acknowledged Mr. O'Keefe. Mr. O'Keefe stated that Chairman Dunn had alluded to a case in litigation. He offered to get copies court case papers for the Planning Board. Chairman Dunn requested that it be sent to the Board members via email. Mr. O'Keefe agreed.

Miscellaneous: none

On a motion by Mrs. Dewey, seconded by Mr. Burnham; ***the Board voted to adjourn at 7:05 p.m. The motion passed 5-0-0.***

Respectfully submitted,

Maura Stetson
Scribe

Approved on: April 12, 2016