



Town of Enfield

Planning Board Minutes

May 14, 2014

APPROVED July 23, 2014

Present: Dan Kiley- Vice Chair, John Kluge-Selectmen's Representative, David Saladino, Kurt Gotthardt- Secretary, Paula Rowe, Minute Taker, Paul Withrow, Scott Osgood-Town Planner.

Regrets: Tim Taylor-Chairman, Suzanne Laliberte.

Guests: Ryan Gallien, Jeff Williamson (Etna), Leah Wood, Joby Plante, Paulette Dunbar, Don Plante, James Bonner, Sharon Kiley, C. C. Vlahakk, Wayne Aldrich, Jim DeHaven, Jon Fox, Julie Rose, David Beaufait, Harrison Trumbull, Lois Gardner, Shawn Huck, John Downing, Dan Bergamini, Anastasia Seyer, Wendy Huntley, Nancy and Lindsay Smith, John Donnelly, Anna Gado, Peter Depalo, Timothy Rich, Dave Stewart, Elise Rich, Larry Stone, Bruce Hettleman, Ben Sarro.

I. CALL MEETING TO ORDER

II. APPROVAL OF MINUTES – April 23, 2014

Paul Withrow made a motion to accept the Minutes of the April 23rd meeting, with a second from John Kluge.

Kurt Gotthardt noted some typographical errors that should be corrected.

Motion passed with one abstention.

III. SELECTMEN'S REPORT

John Kluge – Selectmen's Representative reported. David Saladino attended the last Selectmen's meeting regarding requests for tax abatements. Tax Exempt applications were reviewed and decisions made. Acoustics of the Community Building will be reviewed. A professional firm will be contracted to do the work.

Noted a request to use a Class VI road for a driveway access will be part of an upcoming subdivision request.

IV. CITIZENS FORUM

Dr. Beaufait, Town Moderator and resident of Enfield, proposed that the board abide by the accepted procedures for public hearings this evening.

V. PUBLIC HEARING

a. Continue Enfield Outing Club Site Plan Review.

Planning Board Alternate Member Paula Rowe was named as a voting member of the board due to the absence of a standing member. Ms Rowe noted she has a personal and professional association

with the Outing Club, and needed to decide on whether she should recuse herself. She said she would recuse herself if there were any Enfield Residents in the audience who would prefer she was recused. One resident, Mr. Don Plante, stated he would prefer she recused herself, and Ms Rowe stated she would recuse herself for the Outing Club Hearing. She would remain as minute taker, and have all the rights of an Enfield Resident during the hearing.

The Public Hearing was then opened.

Dr. Hettleman, an abutter, presented maps of his land which abuts the Outing Club Property. The maps show wetland delineation and general soil types of the area. He posted them to the backboard. He showed the specific area of the wetland. Dr. Hettleman noted his concerns with the property being polluted with lead. He reiterated his understanding that it is not lawful for a shooting range to shoot into wetlands. Dr. Hettleman left the plans with the board for their use. The Board thanked him and noted they will return them after making copies of what is not already in Board files. Dr. Hettleman noted that this wetland map was done by an engineer.

Anna Gado asked if the outing club is a commercial business or not. The Town Planner noted this question was asked of Town Counsel who feels the EOC qualifies as a non commercial entity. This would apply even if groups were allowed to provide services through the Outing Club for a fee.

Donald Plante feels that profits are being generated on the property and questioned the legal opinion. Vice Chairman Dan Kiley explained to Mr. Plante using other local non profits as examples. Mr. Plante said that there are commercial endeavors being done on the property of the Outing Club.

Lindsay Smith of Shaker Hill Road asked the Planning Board to start with the number of items that ended at the last meeting – there were a number of them. She would like to see a bona fide wetland scientist signed document as well

Ryan Gallian, Range Master of the Enfield Outing Club, addressed the question regarding the deed note on a right of way easement. He asked Club member David Stewart to give his understanding of the easement. Mr. Stewart said there is a general right of way over the property by whatever means neighbor Jean Harvey would like. David Stewart said there is nothing that indicates a right of way other than the deed language. Mr. Stewart said there is no clearly delineated route or path for a right of way.

Selectman Kluge advised the Enfield Outing Club to obtain a survey and find where the right of way is for now and in the future for their own protection. Kurt Gotthardt said the language is clear that there is a right of way described in the deed. Vice Chairman Kiley suggested the club consider taking steps to abandon the right of way in writing and have the deed registered with the Grafton County Registry of Deeds.

Ryan Gallien said that they have been in negotiations with Jean Harvey for purchasing land behind the Enfield Outing Club.

The Club provided copies of two manuals to the Board which guides the design and maintenance of the property. These are the “Best Management Practices for Lead at Outdoor Shooting Ranges” from EPA and one from the US Department of Energy on Design of Shooting Ranges.

Gallien has brought the Range Master from the Fish and Game Club in Lebanon to the meeting this evening. He provided the Planning Board members with a handwritten design with statistical information on the pH and liming the site which reduces possibility of lead leaching into the soil and water table. He informed the audience that he places the lime and tests the soils in the range area.

Dr. Hettleman asked about liming the area when there is a low pH. He noted when the soil is acidic the site should not be limed.

Vice Chairman Kiley said that when reviewing the EPA standards he noted that the lead is solid waste. Abandoning this material on site is similar to leaving garbage in your back yard. He noted that removing and recycling is the proper way to minimize hazardous waste pollution. An option to reduce the lead contamination is to use bullets made from an alternate material than lead. One group noted that 6,000 rounds of ammunition can be expended in two days of certain types of activity. (Note – Ryan reported that this activity has not occurred at the Enfield Outing Club) Mr. Kiley noted that is a lot of lead expended – perhaps consideration should be given that that using this volume of lead is asked to use the alternative. Ryan stated these alternatives are not fully viable as yet and that there really isn't an alternative for lead. This could not be enforced with this being an open club; it is not supervised at all times.

Kluge asked if the lead has ever been cleaned from the site. Gallien said he has been a member for 10 years and does not know of this being done.

Vice Chair Kiley is concerned that the addition of more lime to take care of the problem may not be adequate in protecting the surrounding environment for lead pollution.

Anna Gado said she has looked at the bylaws of the Town and felt that the activities at the club are commercial. She interpreted the laws indicating this alteration of terrain not grandfathered. She asked about the noise be looked at. Members of the Board noted the current State RSA's, Chapter 159B, severely limit the power municipalities have in controlling noise from shooting ranges.

Don Plante asked her to read to the public Zoning Regulation Section 401.1 I, which is the section noting the allowed use the board feels is definition of the acceptable use. She read the section "401.1 R1 District ... land may be usedfor the following purposes only...

- I. Non Commercial outdoor recreational activities such as hunting, fishing, hiking, cross country skiing, snowmobiling and sailing groups."

Don Plante asked her to read to the public the brochure for the MAG -40 course. (*Information on the goals of the course and equipment and activity involved were read. As this is a commercial brochure, copies are available through the group named.*)

Don Plante said he has spoken with the Town Manager about water contamination and noted that perhaps the State could clean this up.

Don Plante noted that there is a huge public safety issue. He noted that he had seen a police officer, running back and forth with a rifle in the air and questioned what would happen if he tripped.

Julie Rose, who lives across from the Outing Club, noted that the rules are no shooting before 9 a.m. and noted that two Saturdays ago someone was there shooting at 6:30 a.m. David Stewart

said if that happens to let them know so that they could address this, as they do not allow shooting that early. The President of the outing club Dan Bergamimi said they would certainly address this.

Lindsay Smith said that there are no records and paperwork for statistics and that they need to have an action plan and abide by it. She is concerned and feels it is a big red flag when they have no records.

Mr. Gallien said that the action plan is in place and the first part is enacted. Gallien said that shooting is a hobby for some, for others it is for defense. Mr. Gallien assured the group that they have safety in place.

Vice Chairman Kiley asked if the other ranges that he has been too across the country are in a residential area. Gallien described a few that were. Gallien said our berm is taller than most. David Stewart said they can deconstruct the berm and clean it up step by step. He feels that the range is a good resource for this town and area.

Harry Trumbull said he felt the range is a great resource for this area and important. He feels it is safe.

Dr. Hettleman said when the range started not many used it. He questioned if the club should be allowed to expand. He asked where they get the right to expand and why should they be allowed to expand. He felt that 6,000 rounds in two days is not what the original people who started the Outing Club had in mind.

Don Plante wants to know what year the club starting renting to others, what year did the police department receive permission to use the club?

Board member Gotthardt asked when the club invited outside groups for special events, with large caliber and rapid fire guns to use at the club.

Mr. Gallien said in the late 80's and 90's classes were being instructed. Training existed back then as well as Hunter Safety. The Youth Shooting Team started in 1999 per Scott Thompson. Competitions were held throughout the 90's.

Selectman Kluge said that there are individuals who do not live in town now coming and using this range. Board member Saladino asked how that has anything to do with the berm. Mr. Gotthardt said a lot as the lead is evident. Dr. Hettleman said the noise has increased. Mr. Kluge reminded him that we can not address the noise. David Stewart explained Ayoob, a training vendor, comes 4 times a year, Appleseed, a shooting group, comes up to 4 times a year. One instructor uses the range with small classes up to 6 people.

Questions were raised as to when did they start renting, and when did they start selling guns and ammo? Gallien said that they do not do this. Mr. Plante said that their statements show gun sales. Gallien noted this was a correction to a procedural problem for the youth shooting team. They have never been in the business as buying or selling guns.

Mr. Plante pointed out that this is the R1 zone for non conforming use as of 1990. Mr. Plante read the zoning ordinance for non-conforming uses. Any expansion of a non conforming use needs to go before the Zoning Board of Adjustment. Plante said that there is hard core stuff going on at the end of his driveway and there is no protection to the public.

Mr. Kluge reiterated that we are here to discuss the expansion being proposed. We are not here to discuss what happened 21 years ago.

Larry Stone said that money was obtained for the club to get water, tables, etc., some time ago. Now there is an opportunity to make a better berm.

Julie Rose, who lives across the street, said there is a safety issue – anyone can go into the club and shoot. She noted that there has been shooting at night and she called the police, but she was told they were too busy. They came two hours later, but no one came to her house. She stated someone needs to address safety issues

Gallien said to call the club or police department if someone is shooting during the hours beyond what is posted by the club.

Ryan stated the number of shooters on site at one time could be up to 18 but is typically 1 to 4.

Lindsey feels there is no proof of who is using the club. She wants to see records showing it. The club is not showing responsibility in this sense.

Nancy Smith, said that there is extra activity, maybe there shouldn't be anymore. She further noted that not many people are using the range, so why build it? She stated she does not think tactical shooting is appropriate in the middle of Enfield. If they didn't have this outside activity maybe they wouldn't need to expand.

Gallien stated that the second berm is so two people can shoot two different disciplines at one, i.e. pistol, and rifle. This also gives the club to ability to be working on one berm, and have the other available.

Gallien pointed out that one of the classes that Plante said occurred did not; it was slated to, but did not happen. This was the Ayooob Massad training sessions.

Gallien continued and said that he is from Grantham and noted, for comparison, that Grantham's shooting range is into the side of I-89. .. and has plenty of trash.

Dr. Beaufait felt that all avenues have been discussed and pointed out that the Planning Board needs to move on with their part in the hearing.

Plante said he stands firm in his belief that this request requires a variance

Ben Sarro, an Enfield resident who enjoys the outing club to shoot, said that it is a right, per the constitution, to do this. He asked what would happen if this type of berm is not allowed. There are activists in the State asking gun clubs to expand and not shoot in their yards and further noted that the club is safe.

Anastasia informed the board and public that the club is more than willing to take complaints at any time. It would be more convenient if she and her husband could shoot at the same time – this would be allowed by having two ranges in front of this berm. This would allow her to not have to wait and spend less time at the club.

Larry Stone asked the Vice Chairman if the word “expansion” be changed to “updating the berm.” Vice Chair Kiley noted that the application looks to be an expansion as well as an upgrade to the berm.

John Kluge made a motion with a second from Paul Withrow to close this public hearing. Motion passed unanimously.

David Saladino said he has not seen a site plan and did not think the application was complete. Kurt Gotthardt showed him the map that is designated as the site plan. This map, CAD and hand drawn sketches and the application were accepted as a complete Site Plan Review Application at the meeting of April 23rd.

Kurt Gotthardt wanted to read for the record the submitted documents from the IOC the reason for the expansion. The berm is at the end of a 100 yard range and is used on a first come and first served basis. Gotthardt listed the uses of the range. The proposed berm allows for two entities to use the berm at a time. He stated that it is his understanding that the log in process is voluntary and has been in use for the last two years. Gotthardt pointed out that they do not know if the log is being used or not and questioned if they are monitoring this range or not. He recommended there be a sign in place which displays phone numbers to call for complaints or to report actions that are viewed from the road. Mr. Kluge asked if the hours of operation are posted and visible from the road. Gallien said no. Osgood said there is a sign in place, but it is faded.

Vice Chairman Kiley spoke with some of the “older” members who said that they brought people there to site in. He noted they sited in their rifles typically within 5 shots prior to hunting.

Mr. Gotthardt said he use live close to the range on Lockhaven Road. His experience in the past was of shooting on the weekends and you knew when it was close to hunting season. He said the dump made more noise than the range. Gotthardt said that the club has far more use and activity now. Gotthardt said the public has the right to ask when these other groups come in.

Mr. Saladino used the example of lottery ticket sales at convenience stores as a comparison in showing that this is not expanded use.

Mr. Gotthardt said they need more range space because there is more activity. Mr. Saladino asked Mr. Gotthardt how that impacts the board’s decision.

Discussion ensued on the physical expansion of the range. The issue of noise can not be part of it. Gotthardt stated other activities need to be looked at.

Town Planner Osgood went over those items that needed addressing from the past meeting as follows:

- Is there a change of use in having additional outside groups participating? Can the board limit uses by outside groups invited by the Club? Town Planner Osgood has reviewed these questions with the town counsel. The Board directed Osgood to get this in writing from Town Counsel.
- Can the board place noise restrictions? The board’s ability to restrict activity due to noise as addressed in the RSA’s.
- Public Safety issues are addressed in the EPA document submitted by the club, and addressed by an abutter at the last meeting. Pertinent issues here are:
 - Ground water contamination due to lead
 - Personal exposure of lead dust.

- Proper disposal of hazardous waste.
- What is the soil type and chemistry? Does it contribute to lead leaching into the soils and runoff and groundwater?
- What are the site specific issues that apply directly to the ability of the lead waste to get into the environment? Should the board ask for more detail on site drainage, and soils types and chemistry?
- The Outing Club was directed to provide:
 - a detailed plan of the management of the waste. This had not been submitted prior to the meeting of the 4th.
 - A parking plan. This had not been received prior to tonight's meeting. The club will need to show that there are enough spaces to accommodate the users or is there a plan to provide transportation from an acceptable parking area when attendance exceeds normal usage.

Vice Chairman Kiley asked the Board to decide if this is an expansion of an allowed use or an expansion of a non conforming grandfathered use? If so, he noted this needs to go before the Zoning Board and that with an approved variance the club could come back to the Planning Board. The application would need to include an acceptable lead remediation plan, as well as the wetland delineation, easement clarifications and the parking and site drainage plans.

Paul Withrow said the club has been in existence since 1955 and it is due for some upgrading. He said he understands how the neighbors feel too and feels sorry for them.

Kluge asked if the Planning Board can weigh in on the safety issues, environmental issues, and how the board would do this.

A discussion was held as to the status of the Site Plan review application. Town Planner Osgood noted the issues that needed to be settled are: Is the current use of the land an acceptable use under the current Zoning Regulations or is it a grandfathered non conforming use. The closest reference to the use is in the R1 District allowed uses. Section 401.1 I Non Commercial outdoor recreational activities such as hunting, fishing, and hiking, cross country skiing, snowmobiling and sailing groups. They are allowed uses in R1. Scott Osgood stated the Town Counsel said the Board could find that the request could be seen to be an allowed use.

Selectman Kluge asked what the opinion of the Town Counsel was in regards to this being a Non Commercial Use. Town Planner Osgood stated that the Town Counsel's opinion is that it is a Non Commercial use, and that the fact that the club allows outside groups to come in and charge a fee for services i.e., Training, Hunter safety, Gun Cleaning, etc. does not change this classification. Mr. Osgood was directed by the Board to ask Town Counsel to provide this response in writing.

A vote was then taken on whether the board felt this was a grandfathered, or non conforming use. The Board voted unanimously the Use is a Conforming Use. The Board then agreed that the hearing was in regard to an expansion of a conforming use.

John Kluge made a motion that this is an allowed use, David Saladino seconded this.

Gotthardt asked for a reading of allowed use. Osgood read them from the book.

Motion passed unanimously.

Vice Chair Kiley turned to the second part of these revisions asking if they have to vote on the public safety, wetland opinion, lead issues. Kluge would like to see documentation of a soil scientist. This would include wetland delineation. Vice Chair turned to Donald Plante and said he would like to see his documentation of his well; to the Town Manager and a copy to Town Planner Osgood. Osgood said a more complete property survey would include all of these items.

Mr. Gotthardt would like to see the site plan to scale. Gallien said he would provide this. Gotthardt would like to see the parking addressed. Vice Chair Kiley asked for specifics.

David Saladino noted that everything under section 4.2 of the Site Plan Regulations be addressed by the EOC.

Vice Chairman Kiley noted documentation on ROW is to be provided.

Scott Osgood a property survey is to be submitted.

Vice Chair Kiley informed the EOC that they need to go out to NH DOT Division 2 and obtain a letter saying that they do not have an issue with the driveway into the EOC.

Vice Chair Kiley informed the EOC they can ask for a waiver of a traffic survey.

Town Planner Osgood will provide the EOC a list of what is required from this point.

Things need to be accomplished:

- Wetland Survey
- Boundary Survey
- Soil Analysis
- Parking Plan
- Acceptable Maintenance Plan

The Enfield Outing Club agreed to continue this meeting to complete the items listed above. Gallien said that they will talk to a surveyor and see what kind of time they need to do the survey and let the board know. Gallien said that they need 6 weeks. The fourth Wednesday in June on the 25th was decided upon by those present.

9:25 p.m.

VI. BUSINESS DISCUSSIONS

- a. Master Plan Update – Town Planner Osgood met with Nate Miller of the UVLSRPC. Discussed the options to completing required Sections. Nate recommended a Town wide survey be taken. Osgood will have a selection of questions for the board to view at the next meeting.

VII. COMMUNICATION

- a. Greely House walkway – The walkway design that we previously approved does not work for this property. Town Planner Osgood provided a rough sketch of a revised layout. The Board had no issues with the revision.

VIII. INFORMATIONAL ITEMS

- a. CDBG Grant – Grant request is in with minor corrections. We are still hopeful of being accepted.
- b. Evenchance Conditions – Progress has been made, with some revisions to the plan. Fire Department approval has been given. The new plan has a number of lots on a Public water system.
- c. Intent to Excavate – Crate, approved, Greenlinks to be viewed.
- d. DES Wetlands Permit renewed for the Beach work.

IX. NEW BUSIENSS

- a. David Saladino asked about the checklist being on line for future applications.

X. NEXT MEETING

- a. Regular Planning Board Meeting – June 11th, 2014 7 p.m. Followed by the June 25th, 2014.

XI. ADJOURNMENT

John Kluge made a motion to adjourn at 9:50 p.m. with a second from Paul Withrow. Motion carried unanimously.