

**TOWN OF LYNDEBOROUGH
PLANNING BOARD MEETING MINUTES
July 15, 2010**

MEMBERS PRESENT: Chairman Bob Rogers, Bill Ball, Tracey Turner, Mike Decubellis, Bret Mader, Selectmen's Representative Arnie Byam and Alternates Larry Larouche and Julie Zebuhr

Bob Rogers asked that the discussion concerning the change to the chairman's position be taken up first and he began the meeting at 7:30 p.m.

OLD BUSINESS:

Extension of term for Chairman's position

Taking up the issue concerning the rotation for the chair's term, B. Rogers said that according to the RSA regulations, a new chairman should be chosen annually. B. Ball then made a suggestion that the Board review the motion that was agreed upon at the April 2009 meeting and read the following from the 4-2-09 minutes.

“to adopt a new procedure for selecting the Planning Board chairman and vice chairman from one of popular vote to that of a rotation system and have it go into effect on 6-4-09, the rotation will consist of regular Board members in good standing; appointments will be based on seniority; term of office to be one calendar year; the vice chairman will replace the chairman upon completion of the year term or the chairman's inability to complete his or her term; a replacement vice chairman will be appointed at the regular Planning Board meeting each June.”

T. Turner asked whether the new vice chairman would be the next person in seniority. B. Ball replied that it would be.

B. Rogers stated that Tom Chrisenton was next in line for the chairmanship but will not be available to conduct any meetings during the months of August and September. Bret Mader was next in line in seniority; therefore as the new vice chairman, he would be presiding over the meetings until October. The Board also agreed that T. Chrisenton's chairmanship should terminate in June of 2011 to avoid having to amend the language adopted in April 2009.

B. Ball made a **motion to appoint Tom Chrisenton as Chairman and Bret Mader as Vice Chairman, in accordance to the language mentioned above which was adopted on 4-2-09.** T. Turner seconded the motion. B. Rogers asked if there was any discussion or comments; then he asked if this motion would be effective as of this meeting. The Board agreed that it would and the vote in favor of the appointments was unanimous.

At this time, T. Turner asked how the meeting was to proceed and suggested that the new vice chair, Bret Mader, be excused from presiding over the issue of work force housing because he was not present for the discussion at the July 1st work session. B. Rogers said that he would preside over this discussion and B. Mader's appointment would become effective at the end of the meeting.

Drafting of Work Force Housing Ordinance

Having passed around an e-mail from T. Chrisenton for the Board's review, B. Rogers said that the e-mail included the language for a proposed Work Force Housing ordinance which the Board worked on early in 2009 but withdrew as a warrant article. Referring to the 2009 draft, B. Rogers said that the language was "pretty basic."

B. Rogers made reference to the July 1st work session at which time Town Counsel, Dwight Sowerby recommended that the Board include a Waiver of Specific and General Conditions for Work Force Housing in the draft of any proposed ordinance.

T. Turner asked if the waiver meant that the Planning Board would be able to waive any requirement of the zoning regulations without "throwing out the whole ordinance." She wondered if that was what Atty. Sowerby meant by his reference to the totality of the ordinance.

B. Rogers read the following language from the Waiver: **"The Planning Board is hereby empowered to approve a project and waive any or all of the above list of standards but only when it has been demonstrated that the construction of a work force housing project (as that term is defined below) is incapable of being feasibly constructed because of those standards and economic reasons."**

T. Turner understood that the Soil base zoning regulation would be maintained and the Planning Board could waive this requirement for a work force housing project, if needed.

B. Rogers stated that, under the zoning regulations, the Planning Board can not waive zoning requirements, but in the case of work force housing, the legislature would allow the Planning Board to waive requirements.

T. Turner pointed out that the draft developed last year did refer to a requirement for "slight to moderate rated soils." This requirement should remain in the ordinance but that it could be waived.

B. Rogers, again referring to T. Chrisenton's e-mail read the following from the draft: **"This section shall not be applicable until the Planning Board determines that the requirements of 674:59 III are not met."** He did not think this part of the draft should be included.

M. Decubellis thought that it was town counsel's intention to have that type of statement because it is up to the developer to prove that the Planning Board does not meet the requirements in the statute.

B. Ball commented that he had the feeling that Atty. Sowerby would prefer to see some kind of ordinance rather than no ordinance at all.

T. Turner stated that after reading the 7-1-10 minutes, she thought that the Board had the same problem with this legislation as she had. In her opinion, this legislation suggests that most towns just want to keep their pristine character and keep away low income housing. She said that Lyndeborough's zoning allows trailers in any residential zone.

B. Ball said that he was not surprised that an outsider would think that way because of our soil base zoning requirements which help to keep our growth under control.

T. Turner retorted that they are just making an assumption that everyone has a desire to keep people out of their towns. She referred to the 7-1-10 minutes and a discussion between Selectmen Steve Brown and Atty. Sowerby concerning where and how many units could be built if it's called work force housing. She said that it defeats the purpose of zoning and the Planning Board's attempt to plan for its town, when a developer is allowed to come into town and put up any structure any where, simply by calling it work force housing.

M. Decubellis voiced his concern that this legislation is written around financial viability for a developer, such as the price of the land, type of housing, building material cost and profit. He felt that this legislation is asking towns to understand the financial concerns of the developer and take it into consideration when a work force housing project is brought before the Planning Board.

T. Turner felt that the Planning Board should approach this issue by placing restrictions on what a developer can do, such as height limitation, type of building materials, housing style, etc. She added that changing the rural atmosphere has been a big concern for most residents. Rural character is a concern of the Master Plan and we can dictate through the ordinance what this housing would have to look like to make it fit.

B. Rogers cautioned that it all contributes to the totality of the restrictions which the court will review.

T. Turner said that the list of restrictions could be kept short so that the developer has to make it fit.

M. Decubellis cautioned that if it adds to the developers cost, it can go against the town when taken to court.

B. Ball agreed and said that the state wants this type of housing.....period.

B. Mader said that all we want is a minimum set of requirements. The RSAs state that you can keep the town rural.

M. Decubellis argued that you can do work force housing in Lyndeborough by purchasing a lot and placing a trailer on the property. B. Ball reminded him of Atty. Sowerby's comment that the town could do that but the town should not to be surprised if the court does not accept that argument.

M. Decubellis said that he would like to state in an ordinance that the town complies with work force housing because it allows trailers on every lot in town. If the developer does not think that we are in compliance, let it show us how.

B. Mader asked why this issue, which was discussed last year, was being brought up again. T. Turner responded that it was being discussed again to make sure that the Planning Board either (1) makes a decision to do nothing or (2) puts something in writing to acknowledge this issue, as recommended by counsel.

B. Ball suggested looking at the work force housing ordinances for the Towns of Amherst, Hollis and Sharon as examples.

T. Turner referred to the 7-1-10 minutes again and mentioned a discussion concerning the average price range for a home at about \$260,000. In her opinion, this is low income housing and this is what it's all about. B. Ball agreed but said that this would not be good for this town. T. Turner disagreed and said that there are people in town making much less and they have places where they can live. The point is they will always have a place, if they can buy a lot. B. Rogers countered that the town's zoning regulations require larger lots as well as frontage requirements.

T. Turner said that she liked M. Decubellis' idea of saying that the town meets the requirements for work force housing, here's why and if the developer does not agree, it should show us what we need to do to comply; then the Board can grant waivers for whatever is needed. She thought this would be a better solution than writing an ordinance that allows all sorts of things that the town really doesn't need.

B. Rogers voiced his concern that if we adopt an ordinance based on the present legislation which is not clearly defined that, sometime in the future, it will have to be changed again.

Having asked whether the Board had contacted the Local Government Center for any incite on this issue, T. Turner volunteered to call and ask for their position on this legislation.

A. Byam asked if the Planning Board would be in a position to decide whether or not a developer is compliant enough since there are always two sides to an issue and who would make the final ruling. Would the Board be willing to work through a compromise?
B. Rogers did not think so, if the town does not have some type of ordinance that enables the Board to “tap in to the flexibility allowed by the RSA statute for work force housing.
M. Decubellis said that by having some type of ordinance, it places the burden on the developer to show that the town is not compliant with the statute.

T. Turner said that the Planning Board cannot take the position that work force housing is not wanted in the town; rather the Board must make it clear to a developer that they are willing to work with him; but we must have some say in how the growth in the town is planned. She mentioned that the Planned Residential Development ordinance was adopted several years ago so that we could have different levels of income and different types of houses; it was an alternative to single family residences. She said that it was one of the Planning Board’s goals.

B. Rogers read the following language from the sample waiver: **“An applicant seeking to request a waiver under this section shall apply for the same to the Planning Board according to the procedures set forth”**..... (He said that the burden is on the applicant.) **“The applicant will identify the general and specific standards for which the waiver is being sought and will provide appropriate documentation to demonstrate the manner in which the application of such general or specific standards is causing the project to be incapable of being feasibly constructed..... ”**

B. Ball question whether or not the Board was in a position to argue with a developer about figures. T. Turner replied that the Board could bring in an independent consultant to review the data at the developer’s expense.

B. Rogers agreed and again read the following from the sample waiver (D): **“The project design is such that it complies with all applicable standards related to environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection”** He said all the items mentioned apply in our present zoning. He said that the Board could consider including a requirement that a work force housing project must be within a three (3) mile radius of the fire station. It was also suggested that sprinkler systems be installed in multi-unit housing.

In closing this discussion, B. Rogers reviewed some of the points for the next discussion at the next Board meeting:

- Review work force housing ordinances from other towns
- Contact the Local Government Center
- Nashua Regional Planning Commission information

New and Existing Driveways

M. Decubellis asked B. Rogers about the information he received from the Local Government Center (LGC) concerning new and existing driveways. B. Rogers told the Board that the Planning Board does have jurisdiction over new as well as existing driveways. If problems arise with an existing driveway and it falls out of compliance, the Board can require the property owner to remedy the situation so that it conforms to the regulations.

In new construction, A. Byam said that the road agent is the one responsible for issuing a driveway permit and he goes out and tells the developer or home owner where to make the driveway cut.

M. Decubellis felt that the Road Agent must be concerned about drainage and erosion as well as where the driveway cut should be made.

A. Byam said that the older driveway permits required a sketch to show how the cross section of the driveway should look.

B. Rogers commented that usually these driveways start out alright but then problems caused by rain, road grading, etc occur and they fall out of compliance.

A. Byam felt that if the temporary driveway to access a lot is not constructed properly in the beginning it is never changed. He added that right now, substandard access has been allowed. He suggested requiring a standard entrance to a lot that would enter a town road properly.

Finishing up this discussion, B. Rogers said that, in the future, the Planning Board can discuss a new or an existing driveway that doesn't comply and refer the situation to the road agent for a remedy to bring it into compliance.

A. Byam suggested scheduling a meeting with the Road Agent to discuss these issues.

B. Ball agreed and said that the Board has never had a discussion with the road agent about this issue. M. Decubellis said that the town should have a good process in place so that these driveways are built correctly and continue to be suitable for safety, erosion, etc. and the road agent should be made aware that he has jurisdiction at all times and if a problem arises, it should be corrected by the property owner.

T. Turner said that there appears to be two key issues.....sight distance and drainage.

A. Byam mentioned that a NH town took over the maintenance of all the culverts. The property owner purchases the culvert and pays the expense for the installation; then the town has the responsibility for its upkeep. He thought adopting this requirement would be a good idea because it would lessen the amount of erosion and drainage problems caused

by blocked culverts. He also said that he would contact the road agent to set up a time to discuss the driveway issue.

MINUTES:

Review of minutes for July 1, 2010

M. Decubellis made a **motion to accept the minutes of July 1, 2010, as written.**

T. Turner seconded the motion and the vote for acceptance was unanimous.

ADJOURNMENT:

M. Decubellis made a **motion to adjourn the meeting at 8:30 p.m.** B. Ball seconded the motion and the vote in favor of adjournment was unanimous.

The next meeting will be held on Thursday, August 19th at 7:30 p.m. The next work session will be held on Thursday, August 5th at 7:30 p.m.

Pauline Ball
Clerk

Approved by the Planning Board on August 5, 2010