

Newbury Planning Board
December 5, 2006
Approved January 2, 2007

Members Present: Barbara Freeman (Chair); Bill Weiler (Vice-Chair); Al Bachelder; Travis Dezotell; Deane Geddes; Dave Thayer; Ron Williams; Ken McWilliams (Advisor).

Mrs. Freeman called the meeting to order at 7:10 p.m.

The Board discussed the need for the minutes to be kept up to date and decided it would be helpful to have any prior unapproved meeting minutes listed on the agenda for reference to aid the board members in preparation of future meetings.

CASE: 2006-006 – John Feins - HARBORVIEW – Regional Impact Subdivision

Mr. McWilliams informed the Board that the latest word on the Harborview subdivision in Sutton is that an agreement has been made regarding the intersection of Stone House Road and King Hill Road in New London. Lou Caron, NH DOT and David Eckmann have been working together to address the safety issues pertaining to this particular intersection. The site cannot meet all of the standard design specifications. However, now proposed is a 4% grade coming down King Hill Road instead of a 7% grade; the intersection has been redesigned as a “T” intersection; and warning speed posting signs are recommended to be 30 mph instead of 35 mph. The Town of New London is willing to accept this as a reasonable and safe intersection with those proposals. Eckmann is going to continue working with Stone House Road as an access to Harborview and design catch basins along the way before any runoff reaches King Hill Road.

Mr. Bachelder asked if there were any issues relative to Newbury.

Mr. McWilliams explained that there is nothing more that he knows at this time.

Mrs. Freeman asked if Harborview will still exit through New London.

Mr. McWilliams said that his understanding is that they are still planning to develop the road out toward New London. New London does have the legal standing to require Harborview to get approval from New London. It seems as though they have reached a compromise.

Mr. Bachelder asked where is Newbury in regard to this project.

Mr. McWilliams advised the Board that if they have any input, they should get it to the Sutton Planning Board as soon as possible.

Mr. Geddes inquired about the class of the road.

Mr. McWilliams explained that past the Harborview portion toward Newbury, the road turns to Class VI. The proposal is to leave the road as a Class VI but improve it, and the developer or the home owners association will be responsible to keep the road maintained.

Sense of the Newbury Planning Board is that this subdivision proposal is scattered and premature.

Mrs. Freeman commented that the developer has not proposed any improvements to the Newbury section of the road.

CASE: ADMN1-007 - LAND USE MONITORING PROCESS

The Board reviewed the Land Use Monitoring Process as drafted by Mr. Weiler and agreed that there needs to be a link between the Land Use Boards and the Code Enforcement Officer to ensure that any and all conditions on approvals are satisfied. Also, Mrs. Freeman will send feedback to the Board of Selectmen asking for a joint meeting of the Boards and the Code Enforcement Officer to discuss this proposed land use monitoring process and the relative memo. Also, Mrs. Freeman agreed to recommend to the Board of Selectmen that the building permit applications are enhanced to place emphasis on the potential restrictions in the overlay districts to make sure the applicant is aware of the Skyline Overlay, Building Envelope, Wetlands, Flood Plain and Shoreland Overlay districts. The Board would like to hear back from the Code Enforcement Officer only if there is an infraction, that it is resolved and when the activity is complete.

CASE: CODE-007 - ZONING AMENDMENTS

18.2 Skyline/Hillside Conservation Overlay District Boundary

Mrs. Freeman explained the need for the suggested 18.2 Skyline/Hillside Conservation Overlay District Boundary. More often, land owners and developers are contacting the land use coordinator to ask if their property is in the skyline overlay district. Hopefully, this amendment will clarify those questions.

Mr. Weiler explained that some measurements in the proposed amendment are in meters and some are in feet. The USGS has created new maps incorporating Newbury in meters while the old maps that are still being used for Bradford are in feet. Only the text will be used as the legal reference, not the attached USGS map. The map is only a visual aid.

The Board discussed the reason the skyline overlay distances vary from summit to summit. Mr. Weiler explained that the view shed differs depending on the height of the summit, therefore, a standard measure from the summit is not appropriate.

Mr. Williams made a motion that the proposed amendment of 18.2 Skyline/Hillside conservation Overlay District Boundary together with the map as an exhibit be presented

to the public for comment at a public hearing. Mr. Dezotell seconded the motion. All in favor. Motion passed.

ARTICLE VIII (Wetlands Conservation Overlay District)

Mr. Weiler explained that the 8.0 Purpose was designed after language that is already in use by other towns. It has also been reviewed and okayed by Town Counsel.

Mrs. Freeman commented that 8.0.3 seems too open to opinion and could be interpreted as applying to more than just wetlands. She suggested and the Board agreed that the word 'wetland' be inserted and will now read:

8.0.3 Protect unique and unusual natural *wetland* areas.

Mr. Weiler explained that RSA 482-A:1 referenced in 8.0.4 refers to protection on rivers. Since this RSA is not in the Land Use Law book, he agreed to bring a copy of the RSA to the public hearing as a handout.

Mrs. Freeman asked for clarification on proposed amendment 8.0.5. She commented that the language is confusing.

Mr. Williams explained that his interpretation of 8.0.5 would be in the example of a hazmat contamination impacting a wetland. The Town should not be financially responsible to clean up an area in order to protect a wetland.

In order to clarify the meaning without losing the intent of the amendment, the Board agreed to replace 'providing and maintaining essential services and utilities' with *clean up or mitigating conditions* so that 8.0.5 will now read:

8.0.4 Prevent unnecessary or excessive expense to the Town for the purpose of clean up or mitigating conditions which might be required as a result of misuse or abuse of wetlands.

Mr. Williams made a motion that the proposed amendments to Article VIII be submitted for public hearing. Motion was seconded. All in favor. Motion passed.

CASE: ADM1-043 - FLOOD PLAIN MAPS

Mr. McWilliams explained that when the Merrimack County maps are updated by FEMA, the changes can be approved and accepted by the Board of Selectmen instead of waiting for approval at the annual Town Meeting. At some point, the Town will get a list of requirements to follow in order to take the housekeeping changes to the Town for a public hearing and then Town Meeting.

TWO PART NOTICE OF DECISION

Mr. Weiler informed the Board that there was a recent court case which upheld the terms of *Conditions Precedent* set by a Planning Board that if they are not met, then the

Planning Board may rescind the approval. Conditions Precedent are those conditions that must be met before an approval is final.

Mr. McWilliams commented that, technically, the Planning Board should not sign a plat until the fees are paid and the conditions are met. That practice will save a future Board a lot of agony. Two-part approval system recognizes Conditions Precedent and Conditions Subsequent.

The Board will review the Regional Context for the Master Plan at a later date.

Mr. Weiler made a motion to adjourn. Mr. Thayer seconded the motion. All in favor.
Meeting adjourned at 9:00 p.m.

Respectfully submitted,

Linda Plunkett
Recording Secretary