

Planning Board
July 1, 2008
Approved August 5, 2008

Members Present: Tom Vannatta, Chair; Deane Geddes; Jim Powell, Ex-Officio; Bill Weiler; Ron Williams; Ken McWilliams, Advisor.

Mr. Vannatta called the meeting to order at 7:05 p.m. The Board reviewed the minutes of June 3, 2008 and made corrections.

Mr. Williams made a motion to accept the minutes as revised. Mr. Geddes seconded the motion. All in favor.

CASE: Adm1-058: Capital Improvements Program

Mr. Vannatta informed the Board that the CIP committee members will be the same as last year. The first CIP meeting will be July 29, 2008 at 9:00 a.m.

CASE: Adm1-007: Building Inspector – clarification of regulations

Paul LaCasse, Newbury Building Inspector/Code Enforcement Officer informed the Board that there have been several situations in which he has been unclear how to apply the new zoning regulations of Article 21 Stormwater Management. Some of those situations involved grading driveways, logging, land filling and driving equipment through land which tears up the land and could potentially create erosion.

Mr. McWilliams noted that Paul should be guided by Article 21.2 Applicability and the definition of “Development” in Article 2.36 regarding what should be covered by Article XXI Stormwater Management.

Mr. Williams commented that if the grade of the driveway or crowning is being changed, then Article 21 should be applied. But, if the property owner is grading for maintenance, then that grading should be allowed.

Mr. Powell commented that it is reasonable that a property owner should be able to maintain their own driveway.

Mr. McWilliams stated that if someone is creating a new driveway on a slope, erosion control measures should be implemented per Article 21.

Mr. Weiler suggested that Mr. LaCasse should look at the spirit of the ordinance for direction if he has a question. If a homeowner is not altering the water flow and they are not creating erosion issues, then there is no need for erosion control measures. *Article 21.0 Purpose and Intent: The purpose of this article is to protect the public health,*

safety, and general welfare by regulating and guiding the management of stormwater impacted by the development of land in Newbury.

Mr. LaCasse asked if a logging operation is going to require a Stormwater Management application since there will be some degree of disturbance of the soil.

Mr. Weiler commented that loggers and foresters are required to follow Best Management Practices when engaged in a logging operation. Therefore, the erosion control, if necessary, should be addressed under Best Management Practices guidelines.

Mr. Powell commented that logging is not a town issue unless there is a problem that has been created with the Town roads or other properties. The State enforces the logging operations.

The sense of the Board was that if any activity including the altering of terrain, then Article 21 should be applied to control the stormwater runoff. Any activity that increases the waterflow off the property and creates problems somewhere else needs to be addressed for erosion control.

Mr. LaCasse made the Board aware that often a site is not regulated because of the building permit process. When a building permit is applied for, often the pre-building activity such as clearing and grading is already done before the building inspector/code enforcement officer is notified.

Mr. Vannatta pointed out that under Article 21.8.8 *Failure of temporary erosion and siltation control measures or permanent stormwater management measures shall be considered a violation of this ordinance and may be prosecuted under Article XXII*, which states that the property owner is ultimately responsible for any complications or violations.

Mr. LaCasse commented that in situations of land filling, steep slopes are created.

Mr. Weiler commented that in that case, an erosion control plan needs to be in place.

Mr. Vannatta commented that if a property owner or developer is creating a retaining wall, they are altering the natural slope and therefore, erosion control measures need to be in place.

Mr. Powell stated that there will never be enough clear answers to cover all situations. Therefore, he advised Mr. LaCasse if he has any questions, he should take pictures and measurements and then consult the Board of Selectmen.

Mr. LaCasse commented that another scenario that creates an unclear situation is trucking logging equipment through the woods for logging operations.

Mr. Geddes commented that if the logger is also removing the stumps, they will be creating holes and raw earth. Therefore, erosion control measures should be taken if on a slope.

The sense of the Board was that if the activity creates ruts and ravines in the earth, then haybales should be used until the area is stabilized as a method of temporary erosion control measures.

Mr. Powell commented that the place to go for answers to these kinds of questions is the Board of Selectmen.

Mr. Vannatta explained that he invited Mr. LaCasse to come to the Planning Board since it was the Planning Board that created the ordinance and would be able to explain their intent.

CASE: Adm1-061: Master Plan – Implementation Chapter

Mr. Vannatta advised the Board that Mrs. Freeman was going to speak to the process and priorities of the Implementation Chapter.

The Board briefly discussed the process of the Implementation Chapter and decided to table the discussion until Mrs. Freeman is present.

Old Home Days Planning Board Information Table

Mr. Vannatta asked for volunteers from the Board to represent the Planning Board at the Information Table during Old Home Days on July 12, 2008.

CASE: 2004-006: Angel Hawk Subdivision – update

Mr. Vannatta informed the Board that there has been some communication from Ledyard National Bank regarding Angel Hawk subdivision. There has been no communication from the developer. In short, Deb Sias from Ledyard National Bank advised Mr. Vannatta that the bank is trying to work with the developer as much as possible. The Bank's attorney, Daniel Luker, has stated in a letter to the Board dated June 27, 2008, it is in the best interest of everybody if the Bank could have a little more time to try to work things out and that he should be able to give the Board an update by mid-July.

Mr. Vannatta informed the Board that according to the Board's letter to the developer, which the Bank got a copy of, the last day to satisfy the letter of credit, was June 30, 2008. They have missed the deadline. He asked for a sense of the Board as to whether or not the Board should schedule a public hearing to consider revoking the subdivision.

The Board discussed the request in light of what is best for the Town and residents. The Board decided to extend the deadline for response based on Mr. Luker's letter. However, the sense of the Board was that steps to revoke the subdivision should be planned in the event there is no solution provided. Given the time-frame suggested by Mr. Luker, the Board felt that a public hearing to consider revoking the subdivision could be planned for September, 2, 2008 without putting unreasonable time constraints on the Bank and the developer.

Mr. Williams made a motion that the Mr. Vannatta respond to the Bank's letter requiring them to provide a solution to this issue within and not exceeding 30 days. The letter should also advise them of the possible public hearing on September 2, 2008. Mr. Geddes seconded the motion. All in favor.

CASE: Adm1-062: Rules of Procedure

Mr. Vannatta commented that he is concerned that the Board invited a member of the public to sit at the Planning Board table without actually being a member of the Board. That sends a message to any applicants that the person sitting in as an observer is a member of the Board.

The sense of the Board is that if someone wants to come to a Planning Board meeting as an observer, they need to sit in the audience.

Mr. Vannatta advised the Board members that if they did not take the oath of office by the Moderator at the Town Meeting when elected, they should see the Town Clerk who is also authorized to administer the oath of office.

Mr. Vannatta pointed out to the Board members that reconsideration of a decision is allowed if facts are subsequently discovered that indicate an approval should not have been given. A public hearing would have to be held to revoke the decision.

MISCELLANEOUS Discussion

Conferences – reimbursement

Mr. Vannatta advised the Board members that if there are any conferences that have a fee, reimbursement will be made by the Town.

Intra-communication list

Mr. Vannatta asked if any of the Board members would be opposed to sharing their phone numbers and mailing addresses with the other Board members. None of the Board members present were opposed.

CASE: Adm1-001: Joint Board Meeting

Mr. Weiler asked when the next Joint Board Meeting will be.

Mr. Vannatta advised him that there was a joint board meeting in April and the next one will be in September.

Mr. Powell asked for clarification regarding the Capital Improvements Committee and that the CIP be discussed at a future Planning Board worksession.. He stated that the original purpose was to try to determine if the Town needs impact fees. Now that that decision has been made, is it necessary to continue with the CIP committee?

Mr. McWilliams explained that there was a change to the legislation which now allows the Planning Board to require off-site improvements. At that point, it became a fruitless exercise to try to collect impact fees. The CIP Committee is still valuable to the Town since they look at what the capital needs are and prioritize those needs and have a plan for time.

Mr. Vannatta commented that the CIP Committee also takes part of the load off the Board of Selectmen because their findings carry over to the Budget Committee functions, which help the Board of Selectmen.

The Board discussed the issue and decided no further discussion was needed.

Worksessions

Mr. Geddes asked if it is a given that the Board always has a worksession, or are they scheduled.

Mr. Vannatta explained that the worksessions are scheduled for the first Tuesday of the month. If there is no business to discuss, the worksession will not be scheduled. The next worksession is scheduled for August 5, 2008.

Mr. Williams made a motion to adjourn. Mr. Vannatta seconded the motion. All in favor. Meeting adjourned at 8:50 p.m.

Respectfully submitted,

Linda Plunkett
Recording Secretary