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2 **Town of Sandown, NH**
3 **Board of Selectmen**
4 **Public Minutes**
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6 Meeting Date: Wednesday, March 2, 2011

7 Type of Meeting: Emergency meeting

8 Method of Notification: Public Posting – Two locations at Town Hall

9 Meeting Location: Sandown Town Hall – Selectmen’s Office

10 Present: Selectpersons: Brenda Copp (Copp), Nelson Rheume (Rheume), Hans
11 Nicolaisen, Stephen Brown (Brown), Tom Tombarello (Tombarello), and Lynne Blaisdell

12 Call to Order: Chairman Rheume called the meeting to order at 6:05 P.M.

13
14 Chairman Rheume opened the meeting stating that we were here to discuss possible
15 rescinding of motions made at last night’s meeting. Selectman Nicolaisen made a
16 motion to have the building inspector give Mr. Villella a building permit on Monday
17 providing the building inspector follows all rules and regulations.

18
19 Selectman Nicolaisen interrupted stating that wasn’t the motion we are here to discuss.
20 He said we are here to discuss the rescinding of a letter. Chairman Rheume stated it
21 was also the rescinding of the other motions. Selectman Nicolaisen disagreed.
22 Selectman Brown agreed that he was only told about the motion to rescind the letter
23 and that’s all he’s prepared to talk about. Selectman Copp spoke to Selectman
24 Tombarello stating that the motion about the building permit was in discussion and he
25 knew that. Selectman Nicolaisen said he’s been a part of this all the way through and
26 his only intention tonight was to discuss the rescinding of the letter.

27
28 Selectman Copp asked Selectman Nicolaisen why he got so involved in everything.
29 Selectman Nicolaisen stated it was because Steve Keach called him to explain the
30 situation. Selectman Copp said you’re not the liaison to the board. Selectman
31 Nicolaisen asked Selectman Copp who she spoke with and who gave her the
32 permission to do everything she did today regarding this matter? She stated she called
33 Lynne and Nelson to see what should be done and she just spoke with Ken Sherwood
34 and he got 2 messages to call. He said the Board of Selectmen ordered him to issue
35 the permit. She said “ordered” was his words. Selectman Nicolaisen said we told him
36 as a board, 5 people voted on it, not ordered to tell him to issue the building permit. He
37 was told that this morning and told to issue it if all Bob’s paperwork is in order including
38 all up-to-dated septic design and new codes for the new building. That was exactly
39 what he told him and that was what the board voted on. Selectman Tombarello nobody
40 ordered him to do that. Selectman Copp said this is what Ken Sherwood said to her
41 and that he had two messages from the Selectmen ordering him to do the permit.
42 Selectman Nicolaisen that is not what was said, that he did call him while everyone was
43 at the meeting last night as he said he was going to. He said there were no single

44 decisions made, it was a board. He also put another call into Steve Keach this morning
45 after RSA 676:13 was brought to his attention and they discussed the provisions of that
46 RSA. Selectman Nicolaisen was still under the understanding that we are here tonight
47 to only discuss rescinding the letter to the Planning Board. He stated he spoke with
48 Nelson this morning who told him what Selectman Copp said about rescinding the letter
49 and he went with the board on the decision about the letter and he really didn't care
50 about the letter. He was for lifting the cease and desist order, giving Ken permission to
51 release the building permit and if necessary, get a CUP from Bob Vilella. His main
52 concern was to get the house going, resolve all the issues with Planning Board and let
53 the water go under the bridge. Selectman Copp agrees with 99% of what Selectman
54 Nicolaisen said but her big concern was that Ken Sherwood felt he was being ordered
55 by the board to issue the permit and she's concerned about that RSA. She feels that
56 when somebody gets in touch with a member of this board they should be referred to
57 the liaison unless there is an emergency. Selectman Nicolaisen said he thinks Steve
58 Keach called him because he was anticipating him possibly being Chairman next year
59 and be more involved in the matter. Selectman Copp just feels the board put
60 themselves back into this matter by making that motion last night and the board
61 shouldn't be. She does not feel this board has the right to send a letter to an elected
62 official to tell them they can or can't act a certain way.

63
64 Matt Russell wanted it noted in the record that he's not sure if it was Mr. Sherwood who
65 said he told him that he can't issue a building permit or if it was Mr. Vilella that told you
66 that Mr. Sherwood told him that he said he can't issue a building permit. Mr. Russell is
67 fully aware it is not his right to do such a thing nor is it Planning Board's right to do so.
68 He never said that. What he suggested is that a permit cannot be issued on the
69 property based on the fact that we don't have a conditional use permit. He never said
70 he can't issue a permit. He'd like that stricken from the record of last night's meeting
71 because he never said that. He'd like the question answered was it Mr. Vilella who told
72 you that or was it Mr. Sherwood who said he said he can't issue a building permit?
73 Chairman Rheume stated it came from Mr. Vilella. Mr. Russell respectfully requests
74 that comments made about him be taken out of the minutes that its here-say and it
75 didn't happen. Selectman Brown stated the comment cannot be stricken from the
76 minutes because that's what was said last night. We can make an amendment in these
77 minutes to note the comments. Ms. Blaisdell she can make the notation in these
78 minutes and will then attach these minutes to the March 1st minutes as well.

79
80 Mr. Vilella asked to speak. He said that at 9:33 yesterday morning he received a call
81 from Mr. Sherwood. He has a witness that would attest to Mr. Sherwood saying that he
82 cannot issue a building permit because Matt Russell from Planning Board told me that
83 he couldn't. He was very upset and told Mr. Sherwood that he would contact the
84 Selectmen. This is exactly what Mr. Sherwood said to him and he wants that in the
85 record. Chairman Rheume asked for any further comments.

86

87 **MOTION:** Selectman Copp made a motion to accept the non public minutes of
88 March 1, 2011 as written. Seconded by Selectman Nicolaisen. Motion passed
89 unanimously.
90

91 Chairman Rheaume would like to now discuss the letter the selectmen decided to send
92 to the Planning Board last night asking their chairman to inform members of the
93 Planning Board that no one can inform the building inspector to not issue a building
94 permit. Selectman Brown asked if a motion can be rescinded that has already been
95 made, seconded and voted on? Others answered no. He recommended why don't we
96 draft the letter, not sign it and it will never go anywhere unless there is another way to
97 do it. Selectman Copp asked if the board can just make a motion now and agree to not
98 send the letter. Board agreed yes.
99

100 **MOTION:** Selectman Nicolaisen made a motion to not draft or send the letter to
101 the Planning Board as stated in the minutes of March 1, 2011, lines 79 – 84. Seconded
102 by Selectman Tombarello. Donna Green stated she is pleased that the board wants to
103 rescind this motion but wants to know why you've reconsidered. Chairman Rheaume
104 stated he just wants harmony between the departments and would like everyone to
105 work together. Ms. Green states it's not because they were not guilty of doing what was
106 stated? Donna Green stated she spent 5 hours drafting letter to the selectmen to find
107 out it was pointless. She continued by stating that both motions to send the letter and to
108 instruct Mr. Sherwood to issue the building permit are both directed to the Planning
109 Board by way of discipline. Specifically it says that this gives the message to the
110 Planning Board that it does not control these issues. There are a number of other items
111 she'd like to bring up. A few months ago she addressed this board and asked for an
112 apology from Mr. Brown for what she felt was slander, that she had been
113 accused...POINT OF ORDER called by Selectman Brown because this does not pertain
114 to the motion that's on the table. Ms. Green feels it is completely relevant to the motion
115 because it is the same situation. Chairman Rheaume agreed with Mr. Brown and said
116 we need to move on with what's happening now and not the past. Ms. Green continued
117 by stating that an accusation was made last night about a member of the Planning
118 Board that was unfounded and untrue and the selectmen chose to take it as truth
119 without consulting the member of the Planning Board. Chairman Rheaume said now
120 she's chastising the selectmen. Ms. Green said she's stating what happened. She
121 feels there are issues at stake and the Planning Board is trying to establish rules and
122 enforce the rules and she feels the board is being undermined and to have a motion to
123 specifically put them in their place is offensive. She agrees we have to work together as
124 a team but we can't do it if the board is taking a third party word without confirming the
125 information. Chairman Rheaume stated the board is trying to rectify what they did last
126 night and it's the question on the table right now. Ms. Green would like a joint meeting
127 before Monday night because there are a number of issues that need to be ironed out
128 before Mr. Sherwood issues the building permit. Selectman Brown wants the board to
129 vote on the motion on the floor. Chairman Rheaume wants to be sure everyone has
130 their say. He then asked for a vote on the motion. Motion passed unanimously.

131
132 Mr. Sherwood asked to speak. He stated that he's in the middle of this issue and he
133 has consulted with many professionals about what to do. His question is whether or not
134 a conditional use permit is needed. He doesn't have the answer and was hoping that
135 tonight that would be investigated and he'd have an answer on that. Many of the
136 professionals have stated that the footings are there and he did receive an after the fact
137 permit from DES and it is still questionable as to whether or not a CUP is necessary.
138 He realizes that many people are very upset with him but he wants some of his
139 questions answered about the property before a permit is issued. He wants the board
140 to know that in the past people have made comments about this builder but the builder
141 has always taken care of any issue that has been brought to his attention when it comes
142 to the other properties he's done in the Town. Mr. Russell stated this issue isn't about
143 personalities it's about our Zoning Ordinances. Mr. Chabot states very clearly in a letter
144 that because the bridge wasn't built as it was stated on the plans, the abutments were
145 put in the wetlands and automatically would then require a conditional use permit. He
146 said that you will see on the DES approval that this does not supersede local buildings
147 codes or zoning ordinances. That's why the CUP is required. We shouldn't be making
148 exceptions for people. We may as well just through the zoning ordinances out the
149 window if we do.

150
151 Chairman Rheume wanted to mention the fact that Ken Sherwood was not ordered to
152 issue a permit. He was told he could give a permit so long as he follows the regular
153 requirements of issuing a permit. That was the selectmen's request. He's the
154 professional, let's let him do his job. Mr. Russell stated that it's the Planning Board's job
155 to be sure things are done properly. Mr. Vilella told the Planning Board that he'd do the
156 CUP back in October and provided then a preliminary drawing of the CUP. Ms. Green
157 stated that she gathered a large amount of material to help document why a CUP is
158 required and has left a letter with that information on your desk tonight. She continued
159 by stating she's like to go over a few of those items now. Chairman Rheume
160 interrupted Ms. Green because he didn't feel it was the time to get into the details of
161 those requirements. Selectman Brown asked if we could schedule a joint meeting to go
162 over these details at a later date. He feels the purpose of this meeting is over and we
163 should move on. Chairman Rheume agreed.

164
165 Selectman Brown has a question for Mr. Sherwood. He asked Mr. Sherwood if he told
166 Mr. Vilella that Mr. Russell told him not to issue a building permit. Mr. Sherwood stated
167 no but feels Mr. Vilella might have taken it that way. He said that after the selectmen
168 met with him Monday evening and after they release the cease and desist order, Mr.
169 Russell explained to him that the Planning Board was requiring Mr. Vilella to get a CUP
170 and that it wasn't done at this time so a building permit should not be issued. Mr.
171 Sherwood explained to Mr. Vilella that he needs a new building permit since the old one
172 had expired. Mr. Vilella explained to Mr. Sherwood that he had planned on starting
173 work on the house very soon. He was trying to save him some legal trouble and
174 suggested that he not start the work because if anyone came to him and asked if he

175 had a building permit he'd have to state that he did not. Selectman Brown asked if Mr.
176 Russell's name got mentioned in that conversation. Mr. Sherwood stated that Mr.
177 Russell brought it to his and Selectman Tombarello's attention. Mr. Sherwood did not
178 know until this morning that a message had been left that the selectmen had met last
179 night. He was told that the conditions of the cease and desist order had been met and
180 that obligated him to issue the building permit for that property.

181
182 Mr. Villella asked to speak and stated that Mr. Sherwood is absolutely wrong and that
183 Mr. Sherwood had called him and told him he could not issue a building permit. Mr.
184 Villella said he wanted the permit Monday night and Mr. Sherwood told him that he
185 cannot issue it unless he had another set of plans. Mr. Villella said he'd bring the new
186 plans tomorrow morning and it would be \$232. The application, plans and check were
187 on his desk the next morning. Mr. Villella said Mr. Sherwood called him at 9:33 and
188 said that he cannot issue a permit, Matt Russell from the Planning Board told him he
189 couldn't issue a permit. Mr. Villella said he had a witness with him when Mr. Sherwood
190 discussed it with him.

191
192 Selectman Nicolaisen stated that he's in agreement to have a joint meeting and discuss
193 this matter with the Planning Board and thought the board should've stuck to the first
194 motion he made last night which asked Mr. Sherwood to issue the building permit with a
195 condition that the CUP be filed prior to a certificate of occupancy being issued on the
196 property.

197
198 Mr. Villella stated he does not agree with that. He said the selectmen told him he didn't
199 need a CUP as part of the cease and desist. All he needed to do was install the bridge
200 and he did that. Heated words were then exchanged between Mr. Villella and Mr.
201 Russell. Mr. Villella strongly disagrees that he needs a CUP.

202
203 Chairman Rheume agrees that a joint meeting seems to be the best thing at this time.
204 Selectman Copp asked present Planning Board members if they would agree to do so.
205 Ms. Green said yes she agrees. Selectman Nicolaisen asked the board where it stands
206 right now on the building permit. Mr. Villella was upset and was told to come down
207 tonight to get the permit and he wants his permit. The selectmen removed the cease
208 and desist order and he wants to get the house done and he has workers scheduled for
209 tomorrow. Mr. Sherwood stated that statutorily after receipt of the completed building
210 application he has 30 days in which to review the permit. He doesn't plan on taking that
211 long but wants to be sure all the information is complete and needs time to review the
212 information. He's concerned that the CUP will take time to approve and feels that the
213 builder could complete the building on the home and continue with the process of the
214 CUP. Chairman Rheume said it's up to him as the inspector to issue the permit and
215 feels the selectmen shouldn't be involved in the matter. Mr. Sherwood does not want to
216 be liable in any way for any violations of the regulations.

217

218 Selectman Copp wants to know if the board can go back to Selectman Nicolaisen's
219 original motion from last night making the permit conditional. Selectman Nicolaisen said
220 he was ok with that then and still is now and Selectman Copp said she was too. Mr.
221 Russell stated that his only problem with that is we are setting and holding precedent
222 and then any other person who comes in won't give a CUP until getting their certificate
223 of occupancy. He doesn't think we should make a special exception for anyone. This
224 was the developer's problem and no one else. Chairman Rheume agreed to have a
225 joint meeting. He's like to leave all motions as is and have the work session.
226 Selectman Nicolaisen stated that in talking with the Town Engineer it was his
227 understanding that everything done by the selectmen was 100% legitimate. The RSA
228 676:13 is a grey area and could go either way. By lifting the cease and desist it
229 authorizes Mr. Sherwood to issue the permit if Mr. Villella gets him the proper
230 information. Planning Board can then send the selectmen a letter stating their issues
231 and we can address them at that time. There are too many differing opinions on what is
232 needed or required. Mr. Villella has the house sold and because it's so difficult at this
233 time to sell a house it only makes sense that we all work together to make this happen
234 without any penalties to Mr. Villella. Selectman Copp wants to know that if he sells the
235 house without a CUP when happens then? Selectman Tombarello mentioned that a
236 certificate of occupancy must be issue on new construction for the closing to take place.
237 Mr. Villella was very upset and wants to know why everyone is so sure he needs a
238 CUP. He wants to know if Keach's office did a survey to prove the abutments are in the
239 wetlands. Ms. Green states she has a letter from DES dated 4/11/08 which indicates
240 that four concrete slabs were noted within jurisdictional wetland as indicated in
241 deficiency #1. Selectman Nicolaisen feels that a joint meeting will help solve the
242 problems. Mr. Keach will be asked to attend.

243
244 Selectmen Brown said he's still confused as to whether we're honoring the motion and
245 the vote taken last night to have Mr. Sherwood issue a building permit. Selectman
246 Nicolaisen stated that we can tell him it's ok so long as Mr. Villella gives him the right
247 paperwork. No new motion is being made or rescinded. Chairman Rheume said
248 we're not instructing him one way or another and that it's his job to issue the permit. We
249 are out of the loop. Mr. Villella said the cease and desist has been lifted so he should
250 get his permit. Mr. Sherwood said his understanding is that the order has been lifted
251 which then allows him to handle it in a normal fashion and because of the contentious
252 nature he is going to wait until after the meeting to issue the permit and decide then
253 whether any contingencies need to be added. Selectman Brown doesn't understand
254 what a joint meeting is going to accomplish as it pertains to the building permits. Ms.
255 Green said the Planning Board can present its case about why they feel a CUP is
256 required and why they feel a CUP should be issued before the building permit is issued
257 as opposed to before the certificate of occupancy is issued. Mr. Sherwood needs these
258 boards to address the question of whether or not the permit is required or not. There is
259 too much ambiguity for him to make a decision.
260

261 Chairman Rheume would like to bring back the question of a CUP not being
262 necessary. When the board asked an attorney for advised they agreed at that time to
263 use Atty John Ratigan who originally drafted the cease and desist order. His report
264 back to us was that he didn't feel it was necessary. Ms. Blaisdell stated his opinion was
265 that it was not necessary in order to release the cease and desist order, that the CUP
266 was not originally part of the order. Selectman Nicolaisen agreed. Chairman Rheume
267 read the excerpt from Atty. Ratigan's letter. Mr. Russell stated that the abutments were
268 placed within the wetlands. Ms. Green read further items from Atty. Ratigan's letter and
269 feels that Atty. Ratigan may have been misinformed about the status of this property.

270
271 Mr. Villella became very frustrated and said he was told to be here tonight at 5:30 to get
272 his building permit and will begin work on the home tomorrow. Mr. Villella wants this
273 board to make a motion to give him his permit tonight like he was expecting. Selectman
274 Brown stated that the board already did that and it's now up to Mr. Sherwood.
275 Selectman Copp said Ken has been given instructions; he made a decision to wait and
276 feels it is completely up to Ken at this point.

277
278 The board then chose two dates to hold a joint meeting. It was agreed to try for Monday
279 March 7th or Wednesday March 9th at 7:00 pm and those invited would be Planning
280 Board, Conservation, Steve Keach, Selectmen, Ken Sherwood, Bob Villella, and Town
281 Counsel.

282
283 **MOTION:** Selectman Brown moved to adjourn at 7:15 P.M. Selectman
284 Nicolaisen seconded. Motion passed unanimously.

285
286
287
288 Respectfully Submitted,

289
290
291
292 Lynne Blaisdell
293 Office Manager
294