

1 Sandown Planning Board  
2 Minutes  
3 May 13, 2013  
4

5 **Date:** May 13, 2013

6 **Place:** Sandown Town Hall

7 **Members Present:** Mark Traeger – Chairman, Matthew Russell -Vice Chairman, Ernie  
8 Brown, Matthew Brown, Steve Meisner, Ed Mencis, Hans Nicolaisen – Ex-Officio

9 **Also Present:** Recording Secretary Andrea Cairns

10 **Absent:** Jim Carroll  
11

12 **Opening:** Mr. Traeger opened the meeting at 6:08 p.m.  
13

14 Mr. Traeger noted he discussed the issue of the bylaws stating their needed to be two  
15 officer signatures with Attorney Gorrow. She responded that it was a requirement of the  
16 Board’s bylaws, but not one of the state, so all mylars signed with only one signature  
17 were still valid and no further action needed to be taken.  
18

19 Mr. Traeger noted that after the unusual events at the meeting on April 16<sup>th</sup>, he looked on  
20 NH Deeds and found that Mr. Matthew Brown purchased a lot from Mr. Villella in the  
21 Phillips Pond Estates subdivision and has a mortgage through Mr. Villella for \$50,000.  
22 Mr. Traeger consulted Attorney Gorrow to determine if it could be a conflict of interest.  
23 Attorney Gorrow responded back that Mr. M. Brown should have disclosed the financial  
24 relationship and in her opinion he should have recused himself from the vote.  
25

26 Mr. Traeger also brought up the town’s Ethics Policy, which addresses the issue by  
27 saying if a Board member has a relationship with a developer that is different from the  
28 general public, then he should recuse himself.  
29

30 Mr. Nicolaisen thought they were there to discuss the bylaws.  
31

32 Mr. Traeger felt that it could be a violation of the Ethics Policy and should be discussed.  
33

34 Mr. Nicolaisen noted that he has issues with the town’s Ethics Policy and feels he himself  
35 could be in violation no matter what work he does in Sandown. He feels he is on the  
36 Board for all the right reasons. He felt the Board should discuss the bylaws and move on.  
37

38 Mr. Mencis agreed and questioned why Mr. Traeger thought to go onto NH Deeds and  
39 look into it. Mr. Traeger noted that he saw some activity at the April 16<sup>th</sup> meeting that  
40 was unusual and made him think to look into it.  
41

42 Mr. Mencis noted that Mr. Traeger questioned his relationship with Mr. Villella and at  
43 first was offended by the question. He would prefer to move away from the discussion  
44 and talk only about the bylaws.  
45

46 Mr. Traeger reiterated that the events at the April 16<sup>th</sup> were unusual; people were pushing  
47 to get plans signed even though there were conditions that had not been met. He has  
48 never seen that happen before and noted that the Board has never signed plans with  
49 outstanding issues. He also noted that the Board rarely signed plans on the night they  
50 were approved.

51

52 Mr. M. Brown noted that he contacted LGC and his own attorney and they felt that the  
53 case laws cited by Attorney Gorrow didn't apply to the situation. He felt the letter was  
54 drafted with too much input from Mr. Traeger and should have been discussed with the  
55 Board before he contacted the attorney.

56

57 Mr. M. Brown noted his financial situation with Mr. Villella is legally binding by  
58 language determined by the mortgage company. His vote does not put him in a position  
59 to gain personally or financially. He noted it would be the same as if Bank of America or  
60 TD Bank wanted to put a branch in town. His decision would not affect his mortgage  
61 because the terms of his mortgage cannot change. He noted he would not be recusing  
62 himself from future votes.

63

64 Mr. M. Brown questioned Mr. Traeger's involvement with the purchase of conservation  
65 land that abuts his property.

66

67 Mr. Nicolaisen felt that meeting wasn't really a public meeting because it wasn't on TV  
68 and felt the discussion should happen when the public could view the meeting. Mr.  
69 Traeger noted that the date was chosen to accommodate everyone's schedule.

70

71 **MOTION:** Mr. Nicolaisen made a motion to move on to the bylaws discussion. Mr.  
72 Mencis seconded the motion.

73

74 *Discussion:*

75 Mr. Russell noted that the issues on the evening of April 16<sup>th</sup> were regarding some  
76 permits that had not been obtained by Mr. Villella. He noted that state law required some  
77 of those permits and three members of the Board broke the oath that they took to uphold  
78 state law.

79

80 Mr. Traeger noted that was what seemed so unusual. The Board never signed a mylar on  
81 the same night that they gave approval. They only sign mylars when all the conditions  
82 were met.

83

84 Mr. Russell noted there were people at that meeting that stated they don't care about  
85 wetlands, but the Board is supposed to uphold state law and they can't continue to ignore  
86 it.

87

88 Mr. M. Brown noted that he has no faith in Attorney Gorrow and she quoted case laws  
89 that don't apply to the situation.

90

91 Mr. Nicolaisen noted the Board had him for only 10 more minutes and reminded them  
92 there was a motion on the floor.

93

94 Mr. Nicolaisen, Mr. Mencis, Mr. E. Brown, Mr. M. Brown voted in favor. Mr. Meisner,  
95 Mr. Traeger and Mr. Russell opposed. The motion passed.

96

97 Mr. Traeger noted that one of the issues with the bylaws is that they have only been  
98 having one signature. Attorney Gorrow noted that was not an issue.

99

100 Mr. Mencis questioned if the Board should just move forward with only one signature.  
101 He questioned the process of changing the bylaws and asked if there needed to be a  
102 public hearing if they changed anything.

103

104 *Ms. Donna Green, Cranberry Meadow Road*

105 Ms. Green, a former Chair of the Planning Board, noted that they needed to have a public  
106 hearing in order to make changes to the bylaws.

107

108 She noted that she supported retaining two signatures on mylars since it is a big  
109 responsibility. She noted they had an incident in the past when there was an erroneous  
110 mylar signed. She felt that with two people signing mylars at a public meeting, they could  
111 ensure proper mylars were signed and it didn't place the responsibility on only one  
112 person.

113

114 Mr. Meisner questioned if the bylaws had a section in place to determine the procedure  
115 established by the Board to change the bylaws. Mr. M. Brown noted that section 17  
116 addressed that.

117

118 Mr. Mencis felt that they agreed to have mylars signed at a meeting where members are  
119 present. He feels one officer should be able to sign the mylars because they are reviewed  
120 at a meeting. He doesn't feel having two signatures is going to change the level of  
121 review.

122

123 Mr. Traeger noted that one of their current officers is traveling a lot and if they had a  
124 secretary, it would add another person authorized to sign.

125

126 Mr. Russell noted that even though the Chair is travelling a lot, he does come back and  
127 could sign the mylars later. He doesn't feel it is unreasonable to have mylars signed a few  
128 days later.

129

130 Mr. Meisner felt they should go with the bylaws and elect a secretary.

131

132 **MOTION:** Mr. Mencis made a motion to elect Mr. Matthew Brown as Secretary. Mr.  
133 Ernie Brown seconded the motion.

134

135 *Discussion:*

136 Mr. Nicolaisen noted it would be easier to elect the Secretary so no changes needed to be  
137 made to the bylaws.

138

139 Ms. Donna Green thought the board should review the responsibilities of the Secretary  
140 before they moved forward with a vote. She reminded them that in the absence of a  
141 Recording Secretary, the Secretary is responsible for the minutes.

142  
143 Mr. Mencis noted that they were appointing someone in name only and they could take  
144 care of minutes with a tape recorder.

145  
146 Ms. Green also noted that the Secretary could also possibly stand as Chair and the issue  
147 of the undisclosed interest should be aired so that the Board could function without  
148 issues.

149  
150 Mr. Mencis and Mr. M. Brown felt that it's been discussed enough and there are no  
151 issues.

152  
153 Mr. Russell noted that if they as a Board are going to sign mylars without all the  
154 conditions being met, then he cannot stay on the Board. He continued to ask individual  
155 members if they would vote to accept a plan where conditions hadn't been met.

156  
157 Mr. M. Brown questioned why he would do that. Mr. Russell reminded him that he did it  
158 the other night. Mr. M. Brown felt that he would take it on a case-by-case basis.

159  
160 Mr. E. Brown noted he was under the impression that all conditions had been met. Mr.  
161 Villella agreed to obtain the easement and the after-the-fact permits. He thought the fire  
162 chief had more jurisdiction than he did to direct people to take action. He found out after  
163 that the Chief couldn't circumvent state law. He too felt that it would need to be taken on  
164 a case-by-case basis.

165  
166 Mr. Mencis felt they were getting off track and that they weren't on trial.

167  
168 Mr. Nicolaisen asked if they could get back to the motion on the floor.

169  
170 Mr. Nicolaisen, Mr. Meisner, Mr. Mencis, Mr. Traeger, Mr. M. Brown, Mr. E Brown  
171 voted in favor.

172  
173 Mr. Russell opposed. The motion passed.

174  
175 Mr. Nicolaisen agreed that things needed to be done the right way. He felt that if a Board  
176 voted to approve the mylars, and an officer refused to sign them, they weren't upholding  
177 the Board's decision.

178  
179 Mr. Traeger noted that they couldn't ethically force someone to sign something they felt  
180 was wrong. He noted they now have a third person to sign mylars so it should no longer  
181 be an issue.

182  
183 Mr. Russell questioned Mr. Nicolaisen if he would sign a document that he felt might  
184 jeopardize the position of the Town of Sandown. Mr. Nicolaisen noted that if his Board

185 voted to sign it, then he probably would. As Chairman, it his job to bring forward what  
186 his Board votes on.

187

188 Mr. Russell further explained, that the town had no right of way to that fire pond. There  
189 was no easement, or letter from the landowner saying that Mr. Villella had permission to  
190 do the work there. He felt the push to sign the mylars was a convenience issue for the  
191 builder because he had a lot he wanted to sell. He doesn't feel the Board should be  
192 making decisions because it's convenient for the developer.

193

194 Mr. Traeger noted they have checks and balances. If all three officers refused to sign the  
195 mylars, then they likely wouldn't have reached the decision to approve them. He noted  
196 they need to treat every applicant the same. The Board made the Drowne's go to the  
197 Zoning Board and made St. Matthews get all their approvals. They have to be consistent  
198 in how they treat each applicant. He didn't see that happen at the meeting on April 16<sup>th</sup>.

199

200 Ms. Green suggested that they change the mylars to say that in order to sign the mylars  
201 they needed a unanimous vote from the Board. Members of the Board did not agree that  
202 would be a good idea.

203

204 Mr. Meisner noted that if the officers refused to sign the mylars, the Selectman at the  
205 request of the Board, could step in and remove those people from the Board and assign  
206 people in their place if they felt those officers weren't doing their job.

207

208 Mr. Villella noted there were no conditions on his approval. He make the fire chief  
209 happy. He expressed frustration with Mr. Russell because he said he would sign the  
210 mylars on Thursday and didn't. He feels Mr. Russell should recuse himself in the future.  
211 Mr. Russell questioned on what grounds would he recuse himself.

212

213 Mr. Mencis noted that he is thankful the fire suppression is up there.

214

215 Mr. Traeger noted that the fire pond is actually a vernal pool, which could lead to  
216 additional issues. Mr. E. Brown questioned how it could be if there is a culvert under the  
217 road. Mr. Traeger noted that the vernal pool was actually identified and marked on the  
218 plans by Mr. Villella's wetlands scientist. He ended stating there are enough questions  
219 around the fire pond that it should have been reviewed and done the right way.

220

221 **MOTION:** Mr. Mencis made a motion to adjourn. Mr. E. Brown seconded the motion.  
222 The Board voted unanimously in favor. The motion passed. MEETING ADJOURNED at  
223 6:55 p.m.

224

225 Respectfully submitted,

226



227

Andrea Cairns, Recording Secretary