

**WOLFEBORO PLANNING BOARD
WORK SESSION
June 1, 2010
MINUTES**

Members Present: Kathy Barnard, Chairman, Stacie Jo Pope, Vice-Chairman, Chuck Storm, Selectman's Representative, Chris Franson, Richard O'Donnell, Jennifer Haskell, Members.

Members Absent: Dave DeVries, Member, Dave Alessandrone, Fae Moore, Steve Buck, Alternates.

Staff Present: Rob Houseman, Director of Planning & Development, Lee Ann Keathley, Secretary.

Chairman Barnard opened the meeting at 7:02 PM.

➤ **Wolfeboro Clocktower, LLC**

Rob Houseman stated the applicant has submitted a revised restoration plan and cost estimate for such and noted the following changes; loam and seed front area of the foundation, sand and seed foundation and hatched area outside the foundation (as noted on the revised plan), hydro seed rear area of the property, mounded sand piles to be grassed over at the location of the piers and the installation of a split rail fence through the parking area to wrap around foundation but, not along Pine Street. He stated HE Bergeron reviewed and approved the revised restoration plan; noting the plan complies with the post development requests set forth in the last review. He stated the applicant is requesting the Board amend the restoration plan to preserve and maintain the usability of the foundation. He stated the applicant has also requested a 15 day extension to complete the improvements.

Richard O'Donnell questioned whether the anchor bolts would be covered.

Rob Houseman replied yes; noting such would be capped and covered with sand.

Richard O'Donnell questioned the height of the covered piers relative to the elevation. He recommended the area noted on the plan outside the foundation along Pine Street be loamed and seeded rather than sand and seeded.

Rob Houseman replied 6 inches.

Paul Zimmerman stated the 6/15/10 deadline to complete the improvements is very tight due to scheduling conflicts of contractors; noting he cannot schedule vendors to construct the fence within two weeks.

Richard O'Donnell questioned the maintenance of the property relative to watering the area.

Paul Zimmerman stated he may acquire the property and as such, would maintain and irrigate the property.

It was moved by Stacie Jo Pope and seconded by Chris Franson to accept the amended Restoration Plan, dated 5/28/10, for Wolfeboro Clocktower, LLC, Tax Map 218-17-1, to include a split rail fence and modifications to the Pine Street side of the foundation to include loam and seeding; improvements to be completed by June 30, 2010. All members voted in favor. The motion passed.

➤ **CIP Appointment**

Stacie Jo Pope stated a vacant position exists on the CIP Committee and the Committee is requesting Joyce Davis be appointed as Member at Large.

It was moved by Chris Franson and seconded by Chuck Storm to appoint Joyce Davis to the CIP Committee. All members voted in favor. The motion passed.

➤ **Rules of Procedure**

Rob Houseman reviewed the changes to the Rules of Procedure as requested by the Board and noted in the May 18, 2010 minutes.

Following further discussion, the Board agreed to the following;

- Page 1, Members, subparagraph 3, 2nd sentence to read as follows; Alternates are encouraged to attend all meetings and participate in discussions at all work sessions.
- Page 1, Members, subparagraph 3, new 3rd sentence to read as follows; Alternates shall participate in public hearings when appointed by the chairman.
- Page 2, Meetings, 4. Alternates, 1st paragraph; strike "regular meeting" & replace with "member"
- Page 2, Meetings, 4. Alternates, 2nd paragraph; insert "public" between "a" & "hearing", strike "s" on "hearings", strike "hearing" and insert "the meeting"
- Page 4, I., last sentence; insert "not" between "and" & "in", change "Notice" to lower case & insert comma following "attendance" & prior to "notice"

It was moved by Stacie Jo Pope and seconded by Chris Franson to move the Planning Board Rules of Procedure, as amended, to Public Hearing, scheduled for June 15, 2010. All members voted in favor. The motion passed.

➤ **Zoning Ordinance Purpose Statement**

Rob Houseman stated Town Counsel reviewed the last sentence per the Board's request and recommended the sentence be rewritten to read as follows; *Further, this chapter is designed to ensure that the timing, location and nature of new development takes into account the immediate and long range financial impacts of proposed uses.*

It was moved by Stacie Jo Pope and seconded by Chris Franson to move the Zoning Ordinance Purpose Statement, as amended, to Public Hearing. All members voted in favor. The motion passed.

Public Hearing on Zoning Ordinance Purpose Statement scheduled for November 2010.

➤ **Multifamily Dwellings**

Rob Houseman reviewed the changes to Multifamily Dwellings as requested by the Board and noted in the May 18, 2010 minutes.

Following further discussion, the Board agreed to the following;

- Page 1, 175-144; strike "LSA"
- Page 2, D.; add language noted in Section 175-145 F.
- Page 2, D.(3).iv.; strike the division sign following the word "required"
- Page 2; 175-145; strike "LSA"
- Number the pages of the document

It was moved by Jennifer Haskell and seconded by Chris Franson to move Multifamily Dwellings, as amended, to Public Hearing. All members voted in favor. The motion passed.

Public Hearing on Multifamily Dwellings scheduled for November 2010.

➤ **Wetlands Ordinance**

Rob Houseman stated he received an email from Roger Murray requesting the letter from the Johnson's, dated 5/30/10, be included for discussion at tonight's meeting, see attached letter.

Chris Franson clarified the Planning Board chairman suggested the Board review the Cherry Hill v. Hampton Falls case.

Jennifer Haskell stated she does not see the Johnson letter as definitive rather, the comments are still ambiguous and could not be applied across the board.

Following discussion, the Board appointed Kathy Barnard and Chris Franson to the subcommittee; subcommittee to also include Dan Coons and Randy Tetreault, Wolfeboro Conservation Commission. The Board agreed the subcommittee should review the following; review ordinance in total and use NH DES model ordinance as a guide to stimulate discussion, treat pre-2003 lots differently and consider whether the ordinance should contemplate buffers, no cut zones and impact to up-gradient or down gradient abutters.

➤ **Commercial Zoning**

Rob Houseman reviewed the Commercial Zoning Districts within the Town, specifically the anomalies of the following districts; C2 Route 28, C1 in Wolfeboro Falls, C2-WF and Pine Hill Road. He reviewed the draft Center Street / Route 28 Mixed Use Business District.

Kathy Barnard stated she does not see anything in the Master Plan that supports the Center Street / Route 28 Mixed Use Business District; noting each chapter of the Master Plan focuses more on the Greater Downtown area.

Jennifer Haskell stated she would prefer to see development with consistent standards along the Route 28 corridor.

➤ **School Impact Fees**

Rob Houseman reviewed the changes to the Impact Fee Ordinance relative to School Impact Fees as requested by the Board and noted in the May 18, 2010 minutes; noting the changes include waiver standards and hearing requirement. He reviewed the Impact Fee Calculation form.

Kathy Barnard questioned a commercial multiplier.

Rob Houseman stated Table 9 does not include such; noting the basis of assessment focuses on residential, multifamily and manufactured housing. He stated the commercial aspect will included as part of the Road Impact Fees.

Kathy Barnard questioned whether it would include additions.

Rob Houseman replied no.

Kathy Barnard verified it would cover tear downs.

Richard O'Donnell questioned whether a grandfathered status is included.

Rob Houseman stated there is a 4-year window for any subdivision approved prior to the adoption of the fee.

Following further discussion, the Board agreed to the following;

- Impact Fee Calculation Form; strike "Duplex / Multifamily 3+ Units" & replace with "Attached and 2+ Family"

Public Hearing on School Impact Fees tentatively scheduled for July 6, 2010.

It was moved by Jennifer Haskell and seconded by Stacie Jo Pope to adjourn the June 1, 2010 Wolfeboro Planning Board meeting. All members voted in favor.

There being no further business, the meeting adjourned at 9:10 PM.

Respectfully Submitted,

Lee Ann Keathley

Lee Ann Keathley

May 30, 2010

Dear Planning Board:

Before the Planning Board embarks on the creation of a new Wetlands Protection Ordinance, we suggest that the Board weigh the advantages of retaining the current Ordinance. While the we prevailed on an interpretation unfavorable to a Sheepshead development, the ordinance was given a definitive interpretation by the Supreme Court. Also, in Cherry Hill v. Hampton Falls 150 N.H. 720 (2004), when considering the same four criteria identical to those found in the Town's ordinance, the Supreme Court expressly found the criteria to be both objective and capable of interpretation and application by a lay Board. The Court rejected a the contention that the Board had to follow a recommendation by a Soils Scientist as to the "reasonableness" of the proposal if it found the Application failed to meet the criteria. While this case involved rejecting an Application the reverse is true where the Board elects to not following an abutter's expert's arguments of unreasonableness if the four criteria are met. The current Ordinance has also served the Town well in assisting the Planning Board to make a great many decisions that have not been questioned and its provisions are familiar to the electorate.

The proposed draft ordinance from the Town Planner is taken from those used in Hanover and Portsmouth, cities much larger and far different than the Town of Wolfeboro. On a list of 40 New Hampshire towns with designated prime wetlands, they do not appear. Without entering into a detailed discussion of the provisions, it appears that technical determinations by an Applicant's (or an Abutter's) retained expert of such things as functions and values, could very well remove the essential decision making from the lay board and put it in the hands of professional experts. Will the Town be required to retain its own professional to get an 'unbiased' view of the situation? If the Board rejects an Applicant's or an Abutter's expert's view as "unreasonable" will the Board need its own consultant to address the technical issues or will its lay opinion hold up?

In considering the appropriate restriction on Wetlands and its Buffer development, we also urge you all to consider the attached publication from the State entitled "Wetlands Protection", which furnishes the State's 'model' ordinance. This model ordinance has suggested features to be included that are far closer to those in the current ordinance than those found in the Portsmouth or Hanover ordinances.

Please consider all the implications very carefully before deciding to dismantle a code that has been assembled carefully by a series of planning board members, over many years, and has evolved to protect the wetlands and waters adjacent to them.

Sincerely,
Clinton & Cynthia Johnson