



Town of Plaistow, New Hampshire
145 Main Street, Plaistow NH 03865
Phone: (603) 382-8469

PB Minutes 03/04/15

PLANNING BOARD MINUTES March 04, 2015

Call to Order: 6:35 p.m.

ROLL CALL: Tim Moore, *Chair*
Charles Lanza, *Vice Chair, Excused*
Gennifer Silva
Shem Kellogg, *Excused*
Steve Ranlett, *Selectman Ex-Officio*
Geoffrey Adams, *Alternate*

Also Present: P. Michael Dorman, *Chief Building Official* and Mark Fougere, *Planning Consultant*

G. Adams was appointed as a voting member for S. Kellogg.

Agenda Item 2: Minutes of February 18, 2015 Planning Board Meeting

S. Ranlett moved, second by G. Silva, to approve the minutes of the February 18, 2015 meeting. There was no discussion on the motion. The vote was 4-0-0 U/A.

Agenda Item 3: Continued Review of Subdivision and Site Plan Regulations for Amending

The Board reviewed proposed amendments to the site plan and subdivision regulations. M. Fougere had prepared the language based on discussion at the February 04, 2015 workshop meeting.

M. Fougere noted he had prepared the language based on discussion at the February 04, 2015 workshop meeting and in talking with M. Dorman.

Proposed Subdivision Regulation Amendments:

- **Amend Article I, Authority; Administration; Definitions**

Section 235-2. Duties of the Planning Board

C. Staff review of plans.

- The Planning ~~Staff Coordinator~~ and Code Enforcement Officer (herein referred to as "Staff") will assist the Planning Board and the applicant in expediting the review of submitted plans. Staff will review all plans to determine their conformance to the Zoning Ordinances, subdivision regulations, site plan review regulations and any other applicable regulations. ***All submitted applications shall be reviewed by the Planning Board at a public meeting within 30 days of submittal; at said meeting the Board shall***

make a determination if the application is complete per Article V, Section 235-18 Plan Requirements.

(4) ~~The Planning Staff Coordinator~~ will provide the applicant and the Planning Board with a memorandum summarizing Staff's review of the site/subdivision plan and any other review comments. Any technical items which are listed as outstanding or inadequate should be addressed by the applicant prior to being scheduled for a public hearing.

(5) ~~Only applications deemed complete by Staff will be placed on the Planning Board's agenda for formal consideration.~~ If at any time an applicant wishes to discuss an application with the Board, a preliminary hearing will be scheduled by the Planning **Staff Coordinator**. Abutters shall be notified at the applicant's expense.

(6) ~~Staff is not authorized to make any final binding decisions. Once the Staff's and Town Engineer's requirements have been met, the applicant will be scheduled for a final Planning Board hearing.~~ Any outstanding Subdivision Regulation requirements ~~unresolved planning or engineering requirements~~ will be listed in the Planning **Staff's Coordinator's** memorandum to the Board for final clarification and resolution by the Planning Board.

(7) ~~The Planning Board at any given time may deem an application complete and schedule the same for a public hearing.~~ Once an application has been deemed complete, the Planning Board shall schedule a public hearing.

(8) ~~The Planning Board has determined that Staff shall typically require one hour for a meeting with the applicant and subsequent review of the applicant's plan. Any time over and above this allowance shall be charged to the applicant at a rate of \$25 per hour. Plaistow Subdivision Regulations.~~

It was noted that the suggested changes would bring the plan review process into line with the State's RSAs and eliminate the implication that "staff" can decide what does and does not get before the Planning Board.

S. Ranlett offered that the reasoning behind the staff review was to assist applicants in making sure their submissions were complete, thus saving the Board's time as well. He added it was never intended that staff would prohibit someone from coming to the Board.

S. Ranlett moved, second by G. Silva, to post the amendment to Amend Article I, Authority; Administration; Definitions § 235-2. Duties of the Planning Board for public hearing. There was no discussion on the motion. The vote was 4-0-0 U/A.

2) Amend Article I, 235-3 Definitions as follows:

Wetland: ~~As defined in the Zoning Ordinance, Article IV Wetlands. Areas of the Town that contain bodies of water (either man made or natural), freshwater marshes, perennial and intermittent streams, and soils classified as poorly or very poorly drained. Such areas are to be defined by the standards for High Intensity Soil Maps for New Hampshire on file with the Rockingham County Conservation District, supplemented by the National Cooperative Soil Survey conducted by the United States Department of Agriculture Soil Conservation Service, the New Hampshire Wetlands Board, and the on site soils investigation of a certified soils scientist if such investigation is required by the Planning Board. (See also Chapter 220, Zoning, Article XII, § 220-83.)~~

Add the new definition: Abutter: As defined in RSA 672:3.

This proposed amendment is to direct an applicant to the wetlands ordinance instead of having a

separate definition in the regulations. This would eliminate the need to amend both the Ordinance and the Regulations should any changes be proposed in the future. The proposed change will also add reference to the RSAs for the definition of an abutter.

S. Ranlett moved, second by G. Silva, to post the amendment to Article I, §235-3 Definitions for public hearing. There was no discussion on the motion. The vote was 4-0-0 U/A.

3) Amend Article II, General Provisions as follows:

235-5 Approval required, delete Section B

~~B. In all cases where any amendment of a subdivision plat is proposed, approval of the amendment by the Planning Board must be granted.~~

M. Fougere noted that this was suggested to be deleted by Planning Board Council as being redundant.

235-9 Adequacy of land, D.

Soil test pits, boring and percolation test pits.

No soil test pits, borings or percolation test pits shall be conducted ~~without coordinated with~~ ~~without at least five days' prior written notification to~~ ***either the Chief Building Official or Health Officer who shall witness all proposed tests.*** ~~office of the Planning Board as to their date and location within the proposed subdivision/site development.~~

G. Adams suggested that the language be changed from “No soil test pits... without being coordinated with...” to “All soil test pits...with...” as having a more positive tone to it.

235- 11 Waivers

- When a proposed subdivision plat is submitted for approval, the applicant may request the Planning Board to waive specific requirements of these regulations as they pertain to the plat. ~~The Board may agree to such a request provided the Board has determined that the waiver of a particular requirement will not adversely affect the purpose and intent of these regulations as expressed in § 235-2B.~~ ***All requested waivers shall be in writing. The basis for any waiver granted by the planning board shall be recorded in the minutes of the board. The planning board may only grant a waiver if the board finds, by majority vote, that:***

~~~~~ (1) *Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; or*

~~~~~ (2) *Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.*

M. Fougere noted that this language was straight out of the RSAs regarding requests for waivers.

B. No waiver of the requirements regarding design and construction standards shall be given.

M. Fougere Note: The Board may want to consider removing this provision, the Board has the option to deny any waiver if they believe it is not in the best interest of the public or is at variance with the intent of

the regulations.

There was discussion as to whether or not to remove this regulation. T. Moore noted that he couldn't recall it ever being an issue in the past. He suggested that it either be left as is or a qualifier added to state the Board could grant a waiver after consultation with the Planning Board's engineers.

S. Ranlett moved, second by G. Adams, to post the amendments to Article II §235-5 Approval Required; §235-9 Adequacy of Land; and §235-11 Waivers for public hearing. There was no discussion on the motion. The vote was 4-0-0 U/A.

4) Amend Article III Procedure for Subdivision Approval, Section 235-12 Board's procedures on plats, B. Formal consideration of application

- Submission
 - ~~When the material has been provided and Planning Board staff feels that the application is complete, the application will be formally submitted and will be placed on the agenda for the Board's review. All applications shall be submitted to the Planning Office at least 21 days prior to a regular Planning Board meeting. Within 30 days of application submittal the Planning Board shall, at a public meeting, make a determination as to the completeness of the application per Article V, 235-18.~~
 - Once the application has been submitted ~~and~~ the Planning Staff shall *review all submitted materials as to their compliance with the herein Regulations and report all comments to the Board. In addition, the Planning Staff shall refer, as appropriate, all submitted materials to the Planning Board's Engineer for review and comment.* ~~feels all items discovered in the completeness review have been addressed, the Planning Staff will submit the material to the Planning Board Engineer for review. All special studies, such as those dealing with traffic or environmental issues, will also be submitted for review by the Planning Staff.~~
 - A public hearing on completeness may be held ~~30~~ 21 days after submission, however the Planning Board will not open the Public Hearing to act on approval until all plans and studies have been reviewed and comments returned to the Planning Board and its staff.
- (d) ~~Fees and charges. The following~~ *All* fees and charges must be paid at the time of formal application submission. The total fee is the sum of all applicable fees described in the Plaistow Fee Schedule ~~outlined in the Appendix~~ .

G. Adams noted that there was a "Fees and charges" title in letter (d) which was inconsistent with the formatting of the other sections and not necessary.

There was discussion as to where the Plaistow Fee Schedule will be posted or listed. It was decided not to include a specific location in the language of the regulation at this time.

S. Ranlett moved, second by G. Silva, to post the amendment to Article III, §235-12 Board's Procedures on Plats B. Formal Consideration of Applications (2) Submissions for public hearing. There was no discussion on the motion. The vote was 4-0-0 U/A.

5) Amend Article III Procedure for Subdivision Approval, Section 235-12 Board's procedures on plats, B. Formal consideration of application

(5) Public Hearing

- (c) After all questions or concerns have been addressed, *the Chairman will asked the Board to discuss*

~~and vote on any waiver requests that have been submitted with the application. will either continue the hearing to a specific date and time or address any applicant requested waivers by asking for a motion to grant or deny each waiver request. All waiver requests must be submitted to the Board in writing and must appear on the plan if the waiver is granted. No waiver of requirements regarding the design and construction standards shall be granted unless both the Board and the Planning Board Engineer agree that such a waiver is in the best interest of the Town and provides an enhancement to the plan.~~

There was discussion about how the Board currently processes applications. It was noted that there are times when the application is complete and can be accepted as such, but can also be reviewed for approval on the same night. It was decided that this section would not be addressed at this time. It will be listed on the list for Public Hearing in case further discussion is warranted.

6) Amend Article III Procedure for Subdivision Approval, Section 235-12 Board's procedures on plats, B. Formal consideration of application:

9) Preconstruction meeting.

~~(a) Prior to the start of construction, the applicant shall make arrangements with the Planning Board staff to hold a preconstruction meeting. The purpose of this meeting will be to review construction sequences and inspection schedules. Typically the applicant, Planning Board staff, Building Inspector, and the Planning Board Engineer would attend the preconstruction meeting. [Former paragraph replaced completely with this new paragraph on 1-6-2010]~~

Upon final approval of a subdivision and/or site plan, following signature of the mylar(s) by the Planning Board Chairman, and recording of the mylar(s) by the Planning Board staff at the Rockingham County Registry of Deeds (RCCD), the applicant shall make arrangements with the Planning Board staff to hold a preconstruction meeting. The purpose of this meeting will be to review construction sequences and inspection schedules. Typically the applicant, Planning Board staff, Building Inspector, and the Planning Board Engineer would attend the preconstruction meeting.

(b) At the preconstruction meeting, the applicant shall submit a completed bond estimate worksheet that must be reviewed by the Planning Board Engineer and approved by the Planning Board. The Board's approval must take place at a regular Board meeting but does not require a public hearing or notification.

M. Fougere noted that there were two (2) sections on pre-construction meetings and bonding that were nearly identical. He added that he and M. Dorman worked together to combine where needed and delete where unnecessary.

10) Construction bonds.

(a) ***For Site Plans:*** Construction bonding of sites includes on-site & public roads, drainage systems and individual public parking areas, erosion control systems, landscaping (or plantings) in buffer areas, loam and seed for the entire project area, fencing, construction survey, preparation of record drawings and other site improvements.

The security for site plans shall cover a minimum of 10% of the total site improvement cost estimate.

(b) ***For Subdivisions:*** Construction bonding for streets and roadways shall cover all ***proposed public improvements shown on the approved plan*** including work to be performed within the proposed right(s)-of-way, ***public easements*** and all work associated with the storm drain system(s). It shall also cover any required off-site improvements.

The security for subdivisions shall cover a minimum of 50% of the total public improvement cost estimate.

(c) ~~The construction bond amount shall include the cost of installation of all utilities, including any work that needs to be done in existing Town roads and/or rights of way. These costs shall include the costs of patching, repairing, loaming, and seeding of any existing areas disturbed during the installation.~~ In the case of electric lines or other utilities to be installed by a public corporation or a municipal department, a written statement shall accompany the bond from such public utility, corporation, or municipal department indicating that the installation will be placed underground, within the right-of-way, and that work will be done within a reasonable time and will be completed without expense to the Town.

(d) All bonds shall take the form either of a surety bond, issued by a surety company authorized to do business in the State of New Hampshire, a letter of credit, cash, or a savings book properly endorsed to the Town of Plaistow. ***All surety bonds or letter of credits shall be approved as to form by legal counsel of the Town of Plaistow and said security shall only be released upon approval by the Planning Board.***

M. Dorman noted that at one point in time the bonding for a site was 100% and the developers were coming in almost weekly for a reduction based on progress. He added that it then swung to the bonding only requiring 10% of the costs, which he suggested was adequate for commercial sites, but not for subdivision projects. M. Dorman offered that was where the suggestion of 50% bonding for subdivision came from. Developers would not be able to draw down past 10% of the construction estimates, which would then become the performance bond for the road.

G. Adams asked why the section in (c) was being deleted.

M. Fougere noted that it was repetitive and covered in (a) and (b).

(11) Release of construction bonds.

As work is completed, inspected, and found to be ***installed*** per the ***approved*** plan, the applicant may request a corresponding portion of the construction bond to be released to the applicant. The requested release amount will be reviewed by the Planning Board Engineer and approved by the Board. In no case will the amount released reduce the amount remaining below 10% of the original total amount plus the anticipated cost of recording record (as-built) plans. It is expected that the ten-percent amount will roll over to a performance bond. ~~The full amount of the construction bond may be released upon submission of a record drawing if such a drawing is required.~~

M. Fougere suggested that the last line of the section be deleted as there is a listed sequence for releasing bonds.

(12) Start of construction.

No construction can take place on the site or subdivision until the construction bond has been received by the Planning Board staff. The Town Treasurer will hold all bonds.

(13) Performance bonds.

(a) Upon completion of improvements and approval by the Town, surety (performance bond) covering maintenance of roads and improvements for a period of two years from completion shall be required in an amount based on the cost of such improvements, as approved by the governing body. The amount of the performance bond shall be 10% of the construction bond.

There was discussion as to how bonds are calculated. It was noted that the intent was that the performance bond be 10% of the construction costs and would be held for two (2) years.

(b) The amount of the performance bond shall reflect 10% of construction costs and winter maintenance of streets, public improvements, drainage structures, other utilities. This amount shall not be released from the construction bond until the performance bond has been received by the Board of Selectmen.

C) The performance bond shall not be released, *nor the road accepted*, until the following conditions have been met:

1. The Board of Selectmen has received certification by the Town Engineer or authorized agent that:

- The road(s) have been in service for two years from the date of the submittal of the performance bond.
- The road(s), associated drainage infrastructure, and utility installation ~~remain in good shape and~~ continue to meet all regulations and requirements in place at the time of the Planning Board approval of the plan.

c. All other applicable improvements are in substantial accordance with the requirements.

2. Deeds covering land to be used for public purposes, easements, rights-of-way over property to remain in probate ownership, and rights to drain onto or across private property are submitted in a form satisfactory to the Town Attorney. All recording fees shall be borne by the subdivider/developer.

~~(d) The performance bond shall be released upon approval by the Board and by acceptance of the road by the Board of Selectmen.~~

~~(d) Until such time the roads and associated improvements have been accepted by the Town, all road maintenance of roadways under construction and/or unaccepted by the Town will *shall* be provided by the developer and or project owner. All maintenance of drainage infrastructure associated with said roadways will be provided by the developer.~~

S. Ranlett moved, second by G. Silva, to post the amendments to Article III, §235-12 Board's Procedures on Plats B. Formal Consideration of Applications (9) Preconstruction Meeting; (10) Construction bonds; (11) Release of Construction Bonds; (12) Start of Construction and (13) Performance Bonds for public hearing. There was no discussion on the motion. The vote was 4-0-0 U/A.

7) Amend Article III Procedure for Subdivision Approval, Section 235-17 Certificate of Occupancy as follows:

- No certificate of occupancy shall be issued for any building or use of land without the following two certifications:

(1) Certification by the Planning Board Engineer that the installation of all land improvements is complete and in conformance with the subdivision and/or site plan approved by the Planning Board; and

(2) Certification by the Building Inspector that all building construction is complete and in conformance with the building plan approved by the Building Inspector's office.

~~B. No certificate of occupancy shall be granted to, and a lien may be placed against, the development of property resulting in damage to a Town accepted road until such time as the road is repaired to the satisfaction of the Highway Department.~~

If during the site construction activities, town owned property is damaged in any way, no certificate of occupancy will be granted until such damage has been repaired in full to the satisfaction of the Town or alternatively proper security is obtained to cover the cost to repair damage.

C. No occupancy permit shall be issued for any building until all improvements related to the construction of roads, up to and including the binder course, as well as the installation of storm drainage, runoff/erosion/sediment controls, fire cistern, and utilities, shall be certified by the design engineer as properly placed according to the approved subdivision plat.

~~D. No occupancy permit shall be issued until all applicable impact fees are collected. New road and fire suppression water line impact fees are specifically exempted from the occupancy permit requirement.~~

There was discussion regarding Sections A. and C. M. Dorman noted that Planning Board's Engineers generally submit a final compliance report instead of signing on the Certificate of Occupancy. It was decided that Section A. could be deleted in its entirety and replaced with Section C.

It was offered that our Impact Fee Ordinance requires payment of all fees prior to issuance of the building permit. T. Moore noted that State Regulations say Occupancy Permit, however the Town is allowed to be more restrictive.

S. Ranlett moved, second by G. Silva, to post the amendments to Article III, §235-17 Certificate of Occupancy, Sections A, B, C, and D for public hearing. There was no discussion on the motion. The vote was 4-0-0 U/A.

8) Amend Article V, Plats and Data for Final Approval, Section 235-23 Construction bonds, Section 235-23.1 Performance bonds by deleting these two Sections in their entirety.

S. Ranlett moved, second by G. Silva, to post the amendments to Article III, §235-23 Plats and Data for Final Approval, §235-23 Construction Bonds, §235-23.1 Performance Bonds for public hearing. There was no discussion on the motion. The vote was 4-0-0 U/A.

Proposed Site Plan Regulation Amendments:

- Amend Article 1, by adding new §230-15 to read as follows:

Waivers

When a proposed site plan is submitted for approval, the applicant may request the Planning Board waive specific requirements of these regulations. All request for waivers shall be provided in writing at the time of application to the Planning Board. The basis for any waivers granted by the Planning Board shall be recorded in the minutes of the board. The planning board may only grant a waiver if the board finds, by majority vote, that:

~~~~~ (1) Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; or



~~~~~ (2) Specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.

M. Fougere noted that he proposed amendment was to bring the regulations in line with the language in the NHRsAs.

- **Amend Article 1, Section 230-3 Definitions, by adding the following new definitions:**

Wetland: As defined in the Zoning Ordinance, Article IV Wetlands.

Abutter: As defined in RSA 672:3.

This change is proposed to provide reference for definitions of Wetlands and Abutters.

S. Ranlett moved, second by G. Silva, to post for public hearing the amendments to Article I, by adding a new §230-15 Waivers and §230-3 – Definitions by adding wetlands and abutters. There was no discussion on the motion. The vote was 4-0-0 U/A.

The public hearing will be posted for April 1, 2015.

M. Fougere noted that he didn't do anything with the Light Requirements. He suggested that there be some discussion regarding the light regulations when it comes to street lights infrastructure in new subdivisions.

T. Moore offered that it used to be that the Highway Safety Committee would review plans for new streets and make recommendations for street lighting.

There was a discussion regarding the placement of new street lights. T. Moore suggested that there be one at least at every road intersection.

The lighting regulation will be posted for the public hearing just in case language can be worked out.

Agenda Item 4: Update on Recreation Impact Fee Review – Mark Fougere

T. Moore read a letter that M. Fougere had sent to the Town in April of 2014. The letter noted that there was only one project currently in the Capital Improvements Program (CIP) that would be reimburseable through Impact Fees. The letter recommended that all currently held Recreation Impact Fees be transferred to the General Fund to reimburse the Town for monies already spent constructing the PARC recreation facility. It further noted that capital reserve accounts for future recreation improvements cannot be included in an impact fee calculation.

M. Fougere noted that there had not been much movement regarding the Recreation Impact Fee since that letter was sent.

There was discussion regarding specific items, such as parking lot lights and score boards and whether or not they could be paid for out of the Recreation Impact Fee. It was noted that the Board of Selectmen have the ultimate authority to authorize payment out of the impact fees, provided they are keeping in line with the statutes.

S. Ranlett noted that he would bring the discussion back to the Board of Selectmen.

Agenda Item 5: Update on Master Plan Review

- **Transportation Chapter – Mark Fougere**

M. Fougere noted that he was working on the Transportation Chapter last fall and had given a draft to T. Moore to review. He noted that he anticipated it would take a month or so more to complete and would provide the Board with a draft.

- **Master Plan Survey – Tim Moore**

T. Moore noted that the Master Plan survey was all set up on Survey Monkey through Rockingham Planning Commission (RPC). He added that further coordination with the place in Atkinson who was preparing the print and mail copies of the survey was needed.

There was additional discussion about the survey. It is intended that the Survey Monkey link would be provided through the Town's website to provide access for those wishing to take the survey online. It was noted that there needed to be publicity about the survey and where it would be available. It was noted that RPC would collect the data but the Town will be responsible for collating it all.

Agenda Item 6: Update on RPC and MPO

T. Moore noted there was nothing to update from RPC and they were checking on the availability of the Plaistow Public Library for an MPO meeting in April. T. Moore added that they were looking to host the September meeting also, which will focus on MS4 issues.

Agenda Item 7: Correspondence

- FYI – Copy of Letter to 181 Plaistow Rd RE: Deficiencies
- FYI – Copy of Email to Steven Cummings RE: 26 Smith Corner Rd
- FYI – Webpage RE: Methuen Construction
- Abutter Notice – City of Haverhill RE: Acceptance of New Roads

Agenda Item 8: Other Business

- FYI – 22 Old Rd – ProQuip (Chris Barisano) – Equipment Storage

M. Dorman noted that he had spoken with Chris Barisano, ProQuip, Inc. who rent heavy equipment. They are purchasing 22 Old Road and will be coming to the Planning Board in the near future to amend the Site Plan. They are going to be storing some new equipment behind the building, but not occupying the building, until they can get their amended Site Plan approved.

- All State Abatement Specialist – 4 Wilder Drive

M. Dorman noted that he had been copied on a NHDES (New Hampshire Department of Environmental Services) permit application for asbestos storage at the noted location. He offered that he has been in contact with the business owner and the State to get additional information. M. Dorman added that he has requested that the business owner come back to amend the site plan to locate the storage trailers on the site.

S. Ranlett reminded everyone to get out to vote on March 10 at Pollard School.

There were no additional matters before the Board and the meeting was adjourned at 8:22 p.m.

Respectfully Submitted as recorded by Dee Voss.

Approved by the Planning Board on _____

Tim Moore, Chair