

MINUTES
PLANNING BOARD
March 6, 2024, 7:00pm
In-person/Zoom

Present: Chair Deirdre Daley- in person, Shawn Talbot (Ex-Officio)-in person, Liz Freeman- via zoom, Bruce Ruotsala- in person, Nichole Talbot-in person, Craig Smeeth- in person, Tim Somero-in person, John Schaumlöffel-via zoom, Jennifer Minckler- in person.

Citizens in attendance – Chuck Ritchie- Fieldstone Land Consultants, PLLC- Engineer for the applicant, Kate Boot -via zoom, Christine Robidoux-Planning Board Chair , Town of Temple-via Zoom, Ashley Saari-Reporter of the Monadnock Ledger-via Zoom

Open meeting with the pledge of allegiance.

Roll Call taken by Chair Deirdre.

Selectmen's Report & Chairman/Land Use Report: Selectman Talbot reminded the board that voting is next week and informed the board that he mentioned the status of the Master Plan to the Board of Selectmen, and they are happy with the progress.

The Land Use Clerk mentioned the need for the gravel pit reports and the decision letter to be completed for Dexter Somero. The Land Use Clerk confirmed that the Planning Board conference enrollment date is 4/1/2024.

Because the voting is next week, the Chair recognized both Tim Somero and Liz Freeman for their service on the Planning Board. The Chair also expressed appreciation for Liz and the years she served this town and her mentoring of several generations of Planning Board members. The Chair will be completing a formal letter to submit to the Board of Selectman. The Chair advised that we would have at least one new board member at the next meeting at which time we will review the Planning Board By-laws. The Chair asked Craig to assist with the by-laws review for the new member(s).

Minutes of February 21, 2024- Motion to approve as amended by Bruce. Motion seconded by Craig. Roll Call vote. 1 abstention. Motion carries.

7:30: Public Hearing- Public Hearing - Brook Haven Farm LLC, 33 lot cluster subdivision Map 6/20 & 6/20-9, Appleton & Maki Road continued from 12/20/2024 ,1/17/2024 , 2/8/2024 and 2/21/2024.

Chair Deirdre advised that there was a request received for a continuance. It was a requirement from the last meeting of the board that a representative be present to request any continuances in person. Chuck was present from Fieldstone Land Consultants, PLLC and the Chair asked him to proceed.

Chuck Ritchie, Engineer of Fieldstone Land Consultants, PLLC advised he would like to request a continuance and provided some history on the application and advised that there was an illness causing the delay in further development of the yield plan.

The Chair asked the board if there was any discussion. Liz is concerned about the multiple requests for continuance of this application. Liz feels repeated delays are disrespectful of the board and their time. She feels the applicant should have recognized a reasonable time frame to complete the yield plan instead of trying to schedule a meeting on a timeline that is not practical. Liz admits that she is not in favor of granting a continuance. Craig feels the same way. He feels it is denying other people the right to come before the board. Craig too, agreed that a realistic date and time is needed. Nichole asked what would happen if the board did not grant the continuance. Liz responded by stating that the board would have to act on the application tonight and because it is not complete, she would deny it without prejudice and ask the applicant to reapply when they are ready and have everything that they need to act. Chair Deirdre believes this application is difficult compared to typical applications because the yield plan is a key component. Selectman Talbot feels if the applicant was not ready for the hearing, this should have been communicated earlier to the board. Bruce feels this notice is disrespectful. Tim strongly does not agree with a continuance. Liz agrees with Shawn that we are able to schedule the hearing but questions what precedence this sets for future applicants. Liz agrees with the Chair Deirdre, that because of the yield plan, this is a different application. Liz confirms that the board does not often deal with yield plans, but the applicant has a responsibility to read the subdivision regulations and understand the requirements. Liz feels that the applicant should be sitting down with the Planning Board Engineer, in person prior to submitting the application as done in the past. There was a time when this was done, and applications went smoothly and quickly. There were not as many continuations. John Schaumloffel commented that the applicant could have spent a few hundred dollars with the Planning Board Engineer or another engineer or resource in completing the application in a timely manner. John questioned the cost of the Planning Board time, preparing for meetings, who are unpaid, that must go through this. To come back with incomplete applications, not meeting the requirements of the board, is disrespectful but also a question of the value of the time the planning board spends preparing for a meeting, especially considering last-minute continuance requests. Bruce stated that he would vote to continue but would communicate to the applicant that if they are not ready the next time, Bruce would be happy to deny the application. Liz responded to Bruce that most applicants have the courtesy to come in person to request a continuation, at which time the board has an opportunity to discuss the matter. Chair Deirdre advised that the applicant did email the request and that was on her and not the applicant that the request for continuance was not communicated (although it was only 1-2 days).

Selectman Talbot asked the Chair prior to the vote, who would be standing in for Josh. Chair Deirdre asked Nichole to sit in for Josh. Chuck Ritchie agreed to continue the hearing to April 17, 2024, Selectman Talbot motioned to continue to date certain April 17, 2024, at 7:30pm. Bruce seconded the motion. Craig stated that he would like the applicant to know that if they are not going to be there, the board needs a week's notice not a day's notice. Chair Deirdre took roll vote. Vote was Tim-no, Craig-No, Selectman Talbot-yes, Chair Deirdre-yes, Bruce-yes, Nichole-yes, Liz-no. Chair Deirdre advised motion carries. Liz advised that in the future,

an alternate for the missing member should be chosen before the discussion. Chair Deirdre agreed. Liz stated that if the Chair had appointed John, the motion may not have passed. Chair Deirdre advised that she nominated Nichole because she was in the room. John responded that his voting may or may not have been as Liz assumed and John stated he takes offense that the person who can be in the room be treated differently than the one who is not in the room. Chair Deirdre advised that is fair, but we attempt to have continuity. Bruce confirmed that Nichole had been here for most of these hearings. Chuck had no questions. The Land Use Clerk advised that she would respond to Chad Banon's email with the date of continuance.

Chair Deirdre advised that we were going to spend time on the site plan application but asked the board where they should spend their time as she may need to discuss a matter in executive session at the end of the meeting tonight.

Selectman Talbot mentioned the topic of alternates and did not realize legal counsel was consulted in regard to how things are running but his recall was the directive of the RSA was clear and did not leave room for latitude. It states that the alternates should be sitting in the audience and not at the board table or part of the discussion. Chair Deirdre advised that the interpretation Shawn noted was from a 2016 NHMA informational document that was that was not adopted by the legislature. The RSA actually says alternates may not be at the table to vote. Whether or not they can participate in the dialogue is entirely up to the group. The Chair read the Planning Board Bylaws regarding alternates which state:

ARTICLE VIII: ALTERNATE MEMBERS

The Board may appoint five alternate members in accordance with RSA 673:6 and they shall serve a term in accordance with RSA 673:5. Alternate members should attend and participate in all meetings and hearings of the Board but shall vote only when designated by the Chairman to serve in an absent member's place. To provide clarity for the applicant, the Chairman shall specify those members who are authorized to vote at any given hearing. Alternate members may be removed from office as stated in Article VI. Vacancies among alternates shall be filled for the unexpired term.

ARTICLE X: MEETINGS

A quorum to transact business of the Board shall be necessary and shall be so noted in the minutes of the board and shall consist of not less than four members including the Selectmen's representative and such alternate members as may have been appointed and present, except that alternated members shall act only in absence of specific members whom they have been appointed to replace at a meeting.

ARTICLE XV: DISQUALIFICATION

Any member disqualified to sit on question shall be replaced by an alternate acting in that member's place.

ARTICLE X: MEETINGS

In the absence of all officers and provided a quorum is present (including appointment of alternates as above and in Article VIII), those present may elect a temporary Chairman and Secretary

ARTICLE XV: DISQUALIFICATION

Any member disqualified to sit on question shall be replaced by an alternate acting in that member's place.

Liz advised that another reason to allow the alternate in a discussion is because they may have to act on the application at some point and may have questions to be answered for a better understanding of the application. John also advised that you want to appoint alternates because of experience and knowledge, it seems contrary not to allow them to participate in the discussion. Chair Deirdre questioned why this is coming up again because she assumed this settled when we clarify roles by consulting the attorney, updated bylaw language, notice of active board members for votes and by name placards that identify roles. Bruce advised he received a question on this which was exactly what Selectman Talbot stated. Bruce asked for more clarity in the bylaws. Tim quoted RSA 673:6 as the appointment of alternate members and RSA 673:11 is the designation of alternate members. Chair Deirdre will find the legal feedback received. The Land Use Clerk will also go back and identify the language that was updated on this topic last year. The Chair did advise that at a minimum the voting members should be identified prior to a vote, and the alternates should not be at the table during the vote. This topic will be discussed again at the next meeting.

Old/New business: John Schaumloffel stated that there is a business on 99 River Road that has been given cease letters from the Town and/or the Town lawyers, at least three times. John's understanding is that on the advice of counsel, the Selectmen are not enforcing the letters. He stated because land use is responsible for the enforcement of regulations, he questioned the Ex-Officio, and he asked if there are other cease and desist or stop work orders for land use violations that the town is choosing not to enforce. Selectman Talbot responded by stating that they are not choosing not to enforce the orders, but the Select Board has discretion regarding the decisions and how to move forward. The Board of Selectmen does seek legal counsel. Selectman Talbot advised there is one more cease and desist that is in the beginning stages of the process. John questioned how any board in town can be taken seriously when its enforcement agents choose not to enforce the regulations per the RSAs, or by continuing to exercise light-handed discretion. Selectman Talbot recognized John's comment but advised he will provide no additional comment. Chair Deirdre asked that the Planning Board be advised of any cease-and-desist orders that are activated. Selectman Talbot advised this does not have anything to do with the Planning Board. Discussion continued among the board on enforcement.

8:30 Motion to enter non-public section made by Chair Deirdre. Motion seconded by Nichole.

8:40 motion to come out of non-public session. Tim advised that we would revisit the topic discussed in the non-public with legal counsel in a non-public session.

Liz said her goodbyes to the Board as her last meeting with the Planning Board and exited Zoom.

Chair Deirdre advised the board that we are to review the checklist of the site plan application.

- Remove existing from Existing Data and Information title under New Ipswich Site Plan Review checklist.
- Number 1-5 should be reformatted.
- Number 3 – will be organized with sub-bullets for each item and the board was supportive.
- Number 6 – Chair Deirdre questioned where to put steep slopes and when they should be presented. She asked what criteria would be set so people know to submit them immediately. Chair Deirdre stated they could go under Proposed Development instead of the existing section. Tim suggested reference to be under proposed development but refer back to number 6 under Data and Information. Cumulatively disturbed more than ½ acre would not be under Data and information as it currently is, but under proposed development.
- Tim suggests number 9 should be under proposed not data and information as it is currently.
- Conservation should be added after number 12 which references the flood elevation.
- For number 1 under Data and Information- location of site is listed but address of site should also be listed
- For number 14- the location of all existing and proposed deed restrictions, covenants, etc. should be under Data and Information and proposed should remain under proposed development.
- For number 15- the location of all building setbacks. Would it be existing or proposed?
- Add to number 7- with setbacks shown per Bruce.
- Make number 16 -shown before number 15.
- For number 17 section b- verbiage is to be changed and Chair Deirdre suggested taking out the pedestrian circulation or creating another bullet for that.
- Proposed economic use or commercial use needs to be added.
- Number 22 Steep slopes map - should include the description of steep slopes under the Zoning Ordinance which states: *The Steep Slopes Overlay District includes all areas within the Town of New Ipswich with slopes in excess of 15%. As a general guide, areas of slope in excess of 15% are portrayed on the January 2004 Town of New Ipswich Steep Slopes Conservation District Map.*

The new guidance should note that if there are slopes that exceed 15% on the land, then a colored steep slopes map should be included.

Chair Deirdre questioned how much information should be on one map. She suggested looking at old plans and to ask for Bert Hamill's suggestion.

Motion to adjourn 9:26 by Bruce. Motion seconded by Tim.

Respectfully submitted,
Jennifer Minckler
Land Use Administrator