



PLANNING BOARD  
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**MINUTES OF THE PLANNING BOARD PUBLIC HEARING**

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Thursday, January 09, 2014 – 7:00 p.m. – Town Hall Conference Room

*Members Present:* Chair Stu Gerome, Chip Hussey, John McDevitt, Paul Sanderson, Mo Sodini - Selectmen's Rep, Steve Gerrato - Alternate

*Members Absent:* David Moore, Rich Winsor

*Staff Absent:* Dylan Smith – RPC Circuit Rider

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Chair Gerome opened the Planning Board meeting at 7:00 p.m. A roll call was taken by the Chair; he announced a quorum was present and the meeting was being recorded.

1. Proposed Ordinance Changes

Chair Gerome opened the hearing to public comments.

- Breweries: Michael Potorti, Beara Irish Brewing Company, addressed the Board. He is trying to open a nano-brewery on Alden Avenue, which will be banned with the proposed ordinance changes. He is proposing a 2.5 barrel system per week, which is approximately 75 gallons of water. Most of the water would go into fermenters; tanks and fermenters would have to be cleaned and that would drain into the septic. All ingredients used are organic and would not be a tremendous impact on the environment. Mr. Potorti asked the Board to change the “no” on Alden Avenue to “permitted”.

Chair Gerome clarified that the Board was not banning the use in that zone; it's currently banned everywhere. The Board is proposing to allow breweries in two (2) zones. He continued Alden Avenue has issues now with existing septic systems. If that use is allowed, it's allowed in all units on Alden Avenue. Seeking relief, the ZBA can set the guidelines. The Board was in agreement they had no problem allowing a nano-brewery; septic was the issue at Alden Avenue.

Suggestions by Board members included another location within Commercial A, a Special Exception through the ZBA, and the installation of a holding tank. If a holding tank was installed, the waste could be sold to a local farmer. The issue with Alden Avenue is septic, wetlands and the proximity to Pickering Brook.

- Wetlands Ordinance: Laura Byergo, Joe Fredericks, Kevin Lucey and Bill Bilodeau, Conservation Commission, were present. Mrs. Byergo reminded the Board that vernal pools were added to the ordinance without protection in terms of a specific buffer, which would be dealt with under regulations. When the Conservation Commission reviewed the proposed changes, vernal pools were included under Section 18.3, but not in Section 18.2. It was their understanding that the Board did not accept vernal pools as being in the jurisdictional wetlands. They were requesting it be included in Section 18.2.2 to clarify that vernal pools were part of jurisdictional wetlands. Mrs.

Byergo gave Board members the informational sheet “VP Directional Buffer Guidance” (copy on file).

Mr. Lucey stated that a functions and values assessment can’t be done on a vernal pool because they are more specific to wetlands. He continued that Maine has protocols to identify and put a value on vernal pools; those protocols are not widely accepted or used in regulations. Mrs. Byergo added that Maine worked with the Army Corps of Engineers in developing the protocols. Even though the Army Corps of Engineers has not specifically defined them, they are working in that direction. There was a lengthy discussion on vernal pools being a critical habitat. Mrs. Byergo asked the Board to look at Section 18.2 (specifically Section 18.2.2) and find a way to add vernal pools to the existing language.

Mr. Sanderson reminded the Board that substantial changes can be made to the language; however, it would require another public hearing and timing was the issue. He continued that the Board had adopted the State wetland definition, and asked if they felt the State didn’t protect vernal pools through DES because their regulations didn’t include them expressly. Mrs. Byergo countered that they provide a definition and ask for delineation, but don’t provide a specific protection. Towns are being encouraged to find a way to protect them specifically. Mr. Sanderson continued that there is a methodology for Maine and that Army Corps has assisted with that. He reminded Mrs. Byergo that the Planning Board had not discussed that methodology. He suggested that could be done as part of the revisions to the regulations in the coming year, with input from the Conservation Commission. Mrs. Byergo stated that vernal pools were not specifically included as a jurisdictional wetland, and was a concern of the Conservation Commission. She requested that the words “and vernal pools” be added to Section 18.2.2. RSA 674:55 focuses on vegetational definitions; ENV-WT 101.106 focuses on mainly animal-based definitions. Mr. Hussey added that not adding vernal pools to Section 18.2.2 allows them to be filled in, and nothing could be done. He agreed it would be better under regulations and would be easier to work with.

Further discussion on vernal pools was lengthy. It was pointed out that concerns should have been brought forward sooner due to time constraints. Board members felt RSA 674:55 protected and defined vernal pools. Mr. Hussey suggested that Maine’s definitions be included in the regulations. In addition, other Army Corps material could be reviewed. Mrs. Byergo stated the issue was raised that if you don’t claim vernal pools as part of the jurisdictional wetlands, you wouldn’t necessarily be able to do any enforcement under the ordinance.

Mr. Lucey questioned Article 18.6.2 (K), which was clarified by the Board.

- Residential Open Space-Conservation Subdivision Development:

Mr. Lucey asked the Board if they felt the changes would result in less/no more conservation subdivisions due to fewer incentives. He felt conservation subdivisions played a good role in Town. Mr. McDevitt responded that the Board is not trying to inhibit developers, but trying to “tweak” the ordinance due to previous problems. Chair Jerome added that the Board was not finished revising the open space ordinance.

Mr. Lucey suggested using “buildable” rather than “upland”. Buildable is a trade-off for a builder; if it’s not buildable, it’s restricted and would be protected. Also discussed was seeing the long-term plan and protecting the greenways. A suggestion was made that the Conservation Commission review the Town Master Plan and come to them with suggested revisions. Mrs. Byergo felt that doing that might prevent them from doing the more “micro” things that can be done. Documents

are done, put on a shelf, and no one refers to them. Mr. Sanderson responded that it should be incorporated into the Master Plan which would be referred to for ordinance changes.

- Vernal Pools: Mrs. Byergo returned to vernal pools, asking if the Board was comfortable with the language. Chair Gerome responded that with the information available to the Board and working with the Conservation Commission, it should not be a problem. Mrs. Byergo asked if the Conservation Commission automatically reviewed applications/plans; Mr. Hussey responded that he has requested that all applications/plans be forwarded to the Conservation Commission. Mr. McDevitt added that he was under the impression that the Planning Board and Conservation Commission would be working together to “tweak” the regulations.

There being no further discussion, Chair Gerome closed the public hearing and returned to the Board. There was no further discussion from the Board.

**MOTION:** *Mr. Sanderson moved to forward the Proposed Ordinance Changes as submitted to warrant for the 2014 Town Meeting. Second – Mr. McDevitt*

DISCUSSION: There was a brief discussion regarding the Building Inspector’s concern for repealing the definition of “driveway” from the ordinance. Mr. Sanderson stated that RSA 236:13, our regulations, NFPA1 (part of the State fire codes), and the State building code provide a definition of driveway. Mr. Sanderson suggested that the Building Inspector contact him.

**MOTION:** *Mr. Sanderson moved to forward the Proposed Ordinance Changes as submitted to warrant for the 2014 Town Meeting. Second – Mr. McDevitt; four (4) in favor, two (2) abstain (Chair Gerome, Mr. Gerrato). MOTION CARRIED*

Mr. Sanderson, addressing the Conservation Commission members present, stated that although this was being moved to warrant, the Planning Board would continue to work with them on revising the ordinance and regulations. Mr. McDevitt added he was pleased that there was a more cooperative relationship between the Board and the Conservation Commission. This was the way it should be working: getting opinions from all sides and doing what’s best for the Town.

## 2. Approval of Minutes: Thursday, December 19, 2013

**MOTION:** *Mr. Hussey moved to approve the minutes of Thursday, December 19, 2013. Second – Mr. Sodini; all in favor. MOTION CARRIED*

## 3. Topics for Public Hearing: Thursday, January 16, 2014

Hughes Boundary Line Adjustment: John Chagnon, Ambit Engineering and on behalf of the applicant, has requested for a continuance to the meeting on Thursday, February 20, 2014. A copy of the variance granted on February 23, 1996 will be emailed to the engineer.

**MOTION:** *Mr. Hussey moved to grant the request for a continuance to the next public hearing on Thursday, February 20, 2014. Second – Mr. Sanderson; all in favor. MOTION CARRIED*

## 4. Other Business

The Board was updated on the Rt. 33 project.

With the continuance granted for the Hughes Boundary Line Adjustment, there are no items on the agenda for Thursday, January 16, 2014.

**MOTION:** *Mr. McDevitt moved to cancel the public hearing schedule for Thursday, January 16, 2014. Second – Mr. Hussey; all in favor. MOTION CARRIED*

5. Adjournment

**MOTION:** *Mr. Hussey moved to adjourn at 8:15 p.m. Second – Mr. McDevitt; all in favor. MOTION CARRIED*

NEXT MEETING

Thursday, February 06, 2014 – 7:00 p.m., Work Session, Town Hall Conference Room

Respectfully Submitted – Charlotte Hussey, Secretary to the Boards

Approved: Thursday, February 06, 2014