

Town of Albany, New Hampshire
Planning Board Monthly Meeting Approved
Monday, August 11, 2014 7:00 P.M.

Next Meeting/Public Hearing Monday, September 8, 2014 7:00 P.M.

The Planning Board Monthly Meeting was held at the Albany Town Hall.

Present: Chairperson Mike Helmers, Vice Chairperson Josephine Howland, Tara Taylor, Peter Carboni, Alternate; Joe Ferris, Alternate; David Maudsley, Technical Advisor; Selectmen Representative Rob Nadler, Theresa Ann Gallagher, Recording Secretary

Absent: Adrian Simons, Matt Parker, Alternate

Also Attending: June Johnson, Lee Grant, Rick Highland, Sara Young Knox, Steve Knox, Dick Van Dyne, Eric Clarke

Chairperson Mike Helmers called the Planning Board Meeting to order at 7:00 P.M.

Chairperson Mike Helmers appointed Peter Carboni, Alternate, as the voting member for tonight's meeting in place of Adrian Simons.

Approval of the Agenda: Chairperson Mike Helmers asked for a motion to approve the proposed agenda for August 11, 2014 Monthly Meeting; Rob Nadler made the motion; seconded by Josephine Howland. All in favor.

Approval of the Minutes: Chairperson Mike Helmers asked for a motion to approve the minutes from the July 14th monthly meeting; David Maudsley commented that it states that the Municipal Law Lectures are free, but they are now charging \$35 for each lecture. Rob Nadler made a motion to approve the minutes for the July 14th monthly meeting; seconded by Josephine Howland. Chairperson Mike Helmers asked all in favor of approving the minutes signify it by saying "aye". All were in favor.

Public Comment: Alan Valladares reported that there were some questions that the Town Engineer, Burr Phillips, had on the drainage at their property. He explained that they talked with HEB and Josh McAllister said all of the information needed is in the drainage report. The drainage is standard and it is what they do for all the towns. He feels that there is a conflict of interest between the two. HEB is asking that Burr Phillips no longer review their plans. Mike Helmers said that since the Site Plan Review has a conditional approval, it's unfortunate that this issue is being reported now. However, Burr Phillips is not present. The Planning Board had no idea what Allan and Leah wanted to speak about; otherwise they would have invited him to the meeting. Theresa Gallagher will forward a copy of the draft minutes to Burr Phillips and at the next meeting in September this conversation will continue. David Maudsley commented that HEB should be reporting to the Planning Board directly with a written record of what the issue is about. Alan and Leah Valladares will talk with HEB and ask him to do that. The questions being asked are addressed in the report, but they are not on the plot plans. The Planning Board will forward the written report that Josh will write to Burr Phillips.

Eric Clarke and Peter Donohue were not present. Chairperson Mike Helmers proposed that the Planning Board continue with the agenda until they arrive.

The Planning Board reviewed the Driveway Permit for David Warren of Tax Map 6, Lot 30 on Route 16 for a Sub Retail Shop . The Planning Board had no issues. The DOT is trying to work with towns in NH to make sure that, when they do approve a driveway permit, the Town is aware of it and can review it before the DOT gives approval. The new procedure will be:

1. In the future the DOT will e-mail Chairperson Mike Helmers directly through the website and he can have Theresa Gallagher distribute the DOT documents to the Planning Board.
2. If anyone responds that they do have issues Theresa can tell Mike that it has to be discussed at the next meeting.
3. Mike will tell the DOT to wait for approval until the Planning Board has their meeting to discuss any issues.
4. The Planning Board will notify the Town of the meeting, and will not make any decisions but will only give the DOT feedback for issues they are concerned about.

The DOT has 30 days to approve the driveway permit. Josephine Howland asked that Kathy give a more specific description of exactly where the property is. Sara Young Knox reminded the Planning Board that according to the Right To Know Law the public will have to be made aware of the issues being discussed. Tara Taylor asked about the two 20 foot aprons and one of the aprons being closed. It is addressed under the conditions, and the DOT will enforce it. If the DOT doesn't enforce it, then the Town will have to enforce it.

Eric Clarke was present for a consultation for a new business he wants to start, selling exotic fish and shish supplies. He discussed the history of how he started his business and wants rent a room from #2628. Eric has already received a license and is registered with the State. There is water and heat in the building. There is a septic on the property. The Planning Board stated that one problem would be parking on the road. Eric responded that the issue would be resolved by using the turn-around area for parking. . No changes will be made to the building or the property. The Planning Board told Eric since it is not a change in use, no Site Plan Review will be needed. The Fire Chief will have to inspect the building for safety. Eric said that if a bathroom needs to be put in the building they will add one in the building.

However, he will need to get a driveway permit, which can be obtained online. He can also call District 3 DOT, Gilford at 524-6667 to see if there already is a driveway permit in place. The Planning Board also told him he will need to get a sign permit for a 4' by 8' sign for the two businesses, and it comes with two accessory signs for the building.

Rob Nadler made a motion that the Aquarium Business owned by Eric Clarke does not need a Site Plan Review because there is no change in use, and will remain a retail business in a commercial zone; seconded by Josephine Howland. Chairperson Mike Helmers asked all in favor of approving this motion signify it by saying "aye". All were in favor.

Chairperson Mike Helmers thanked Sara Young Knox for the extensive work she did on editing the Master Plan. The Master Plan was completed in the last two days and the Planning Board did not have a chance to review it. He suggested that everyone read it over, and if they have any comments or concerns to get back to Theresa within a week, and a special meeting will be called in August to work on the Master Plan so the Planning Board can go ahead with the Public Hearing meeting in September. Theresa will have the notice put in the paper by August 27th. Sara explained how she

did the editing, using Tara Bamford's suggestions, added more information on the roads, and also in the cemetery section. The Master Plan will be presented to the Town of Albany in September for a Public Hearing. Copies will be provided for all, and it will be available at the Town Hall 10 days before the public hearing. The draft copy will also be posted to the web site.

Mike Helmers reported that he has not finished updating the Site Plan Review regulations but he will complete it and give it to David Maudsley to review for comment. If a special meeting is needed before the public comment, then a meeting will be called.

The Albany Town Hall website is having issues and a new developer is being searched. Rob Nadler reported that there have been problems with the website right along, but the Board of Selectmen wanted to keep the developer because the cost is reasonable. The Planning Board told Rob Nadler that there are so many website developers right now that they can find a better one at a reasonable price. Rob Nadler said they are looking into it right now.

Correspondence was only one returned notice from the last public hearing.

Board of Selectmen Report: Rob Nadler reported that a new building permit for residential construction was approved by the Board of Selectmen. It was composed by CEO Peter Carboni. Also a public hearing will take place on Wednesday to approve an increase in the building permit fees by a minimal amount. The Board of Selectmen met with the new owner of Piper Meadows to resolve unpaid taxes; one of the trailers will be taken and auctioned off; taxes for another trailer were abated so the condemned trailer can be demolished and taken away. The Board of Selectmen are also working on cleaning up the deeds on that property, which are a mess. The Board of Selectmen consulted with the Town Attorney and agreed not to issue Certificates of Occupancy. The Town is not liable. Commercial properties fall under the fire chief.

Conservation Commission Report; they signed the first lease with a farmer, and a second one will be signed in a couple of weeks. The land will be mowed and tilled to prep it for farming. They both are in buffer zones and do not interfere with access to the river. Rob hopes to get a 25 year special use permit for the existing road. The Federal Government doesn't recognize the described access, and that's the issue because they trump all other laws.

A question came up about the status of Suzanne Brown's farming project. She had a conditional approval a year ago; and she did get a driveway permit with the condition that she put in a driveway. She has not put in a driveway to this day. Mike Helmers proposed that he will go to her and explain that, due to lack of action, the conditional approval will have to be revoked. It is not clear who actually owns the land. Josephine Howland made a notion that Mike Helmers compose a letter to Suzanne Brown addressing the issues and stating that the conditional approval has to be revoked; seconded by Rob Nadler. All were in favor. Mike Helmers said he will compose the letter and send to all Planning Board members before sending it out.

The planning Board discussed trailers being parked on a resident's property. The zoning ordinance was reviewed regarding trailers being parked on the property during construction. It clearly states a time limit. The intent was to allow people to live in the trailer during the six months of construction. A permit for a trailer being used for construction was granted to Peter Bernier, two weeks ago. The Planning Board will keep a record of the time, six months falling in February of next year.

Discussion on driveway permits came up next. When subdivisions occur in the future, the Planning Board has to review the road conditions and what sizes are set. If a person has sufficient frontage he cannot be denied access. However, the problem is if it is on a 3% to 5% grade and it's on a curve, going at 20 mph would allow a driver 3 seconds to prevent an accident, especially if it is icy. The roads also have had substantial damage by construction vehicles. The Town of Albany has taken over several roads in the past; the regulations state that they should not be taken over until they are 80% built out. Tara Taylor suggests that the Town stop taking over the roads. In the future people doing construction will have to bond the roads. A suggestion was made to bill the people for repairs who damaged the roads. Rob Nadler said Road Agent Curtis Coleman is coming to the Board of Selectmen's meeting with his first draft of the new road standards. They have not been updated since 1989. Curtis has a plan for the roads, and also a draft of a road standards plan. Chairperson Mike Helmers asked Rob Nadler to have the plans posted on the website for all to see. The Planning Board will use it when someone comes before the Planning Board for a land Subdivision.

Old Business: Josephine Howland noted that the Master Plan addresses energy coops and saving costs. Josephine has researched solar energy and connected with a solar energy company; she explained how it works. The company would like to do a presentation to the Town of Albany. Some companies buy fuel and sell it to a coop at a lesser cost than fuel companies that are big corporations. Mike Helmers mentioned that the Planning Board is trying to take on different approaches to help the people of the Town, and they will publicize the information so the people of the Town can review all the information before they come to a presentation to discuss these topics. Peter Carboni mentioned that there are grants out there that will help people do projects to improve the efficiency of energy in their homes, but they have to look at the quick payback.

Mike Helmers said there is an RSA, a 4 page document, on energy efficiency that has to be followed with any new constructions. David Maudsley confirmed that it is a State Law and there is no way to get around it. He projected the State Building Code on the screen and pointed out section 4, which refers to International Energy Efficiency Code of 2009. That's what prompted the PUC to generate their new forms for energy conservation. However, there is nothing that overrides the building codes within the document. Mike Helmers presented a copy of the NH Energy Code Application, a six page document that goes to the State for approval for new construction. All new construction is impacted. The Town of Albany has not received any applications for new construction. It includes alterations and additions. Peter Carboni said when a resident submits prints, they have to be compliant with this regulation and they require a stamped approval. The Planning Board said the State Law requires that they fill out the application and they are given a compliance number. Peter Carboni said he spoke with HEB regarding the construction on Abenaki and they told him they are completely compliant the way they are. Peter said he will bring it up again.

Rob Nadler said the Town is already following the State Law, but just that it is not documented.

David Maudsley asked everyone to read the first paragraph of State Law on new Construction. The builder has to do all the calculations. Peter said that he has seen the calculations and considers himself the building inspector. He said when he started to inspect the buildings, it was never being done before. Peter was asked by the Board of Selectmen, of which Rob Nadler was a member, if he would do the inspections for the same fee, and it would not cost the Town any money, and someone will keep track of the paperwork which includes answering the questions for the people. Peter Carboni agreed, but if he had to do the paperwork he would meet with the people and assist them for about \$60. That would take the load off the Town Clerk. If the Town wants to go further and make

him the Code Enforcement Officer it is going to cost a lot more. Rob Nadler spoke with HEB about the same document and said if they felt they needed more, they would hire him and charge it out. Neither Rob Nadler nor Peter Carboni realized that they needed a separate certificate, which is a State compliance requirement. David Maudsley suggested that the Board of Selectmen read the Statutes and get to know them. Joe Ferris said these codes were adopted years ago and they were voted in, but nothing was ever done with them.

David Maudsley and the Planning Board commented that something is missing regarding the State's Statutes and Occupancy Permits. Rob Nadler reported that they checked with the Town's Attorney twice on the Occupancy Permit. David Maudsley said in the State Building Code there is an exception stating that the Town is not liable for any excuses generated by the property owner, so the Town does not have to worry about being liable. Rob stated that the consensus in the Town is how strict you want to be on any given item. Tara Taylor commented that, when a State Law is involved, the Planning Board has to make sure the Town is following the State Law, and not change it to what they think it should be. Rob Nadler said it sounds like the Town is already doing that except for the Certificate of Occupancy. Peter Carboni commented that, for some of the State's requirements, he would have to be physically present during the construction. The Planning Board agreed that it is a tricky issue. However, there is a form that needs to be completed. If the owner's do not meet the requirements, then a building permit will not be issued. David Maudsley commented that the builders are familiar with this form, and they are very cooperative. Rob Nadler stated that before Peter Carboni came on board there was nothing to be done about overseeing new construction, and the Town cannot expect the situation to be corrected within a short period of time. David Maudsley noted that the Board of Selectmen retained the decision to not enforce it; it is in the minutes that the Board of Selectmen were not going to require the standards of energy conservation to be enforced. Rob Nadler stated that he does not remember the Board of Selectmen stating that. The Planning Board suggested that they just get the form and start to enforce it; Rob Nadler agreed that is the right thing to do.

New Business: Rob Nadler brought up the Site Plan Review process; He want to know if there is a way to waive the Site Plan Review even if it is a change in use, if it's minimal, that it is cost prohibitive to have them do a full engineer drawing and all the other reports. He doesn't know if the Town is allowed to do that. He wants to know how the Town can rate a project. David Maudsley commented that this is the problem; in the past the Town has allowed that to happen and it generated a lot of problems for the Town. David Maudsley noted that the Site Plan Review has all the requirements listed, and the Planning Board will go through all the requirements, and if they are not met the Planning Board will decide that a Site Plan Review is needed; they do not by-pass the requirements. The Planning Board has to follow what the State requires. Rob Nadler asked if there are different levels of a Site Plan Review. David Maudsley said the Planning Board has to be careful because some of the properties do not have a properly surveyed lot, and that is the first issue to begin with.

David Maudsley spoke more about changes in the State's Statutes with regard to zoning and zoning changes; The Planning Board should be getting the Legislative Bulletin, which is received at the Town Hall and would inform the Planning Board of the changes. David Maudsley mentioned that the Legislative Bulletin comes out every week from January until the end of June. It summarizes all the bills and all the hearings that relate to municipalities. There are three or more pages of explanations of what the issues are about. When he was in Eaton it was compulsory reading. The Legislative Bulletin is not mentioned once in the Board of Selectmen's meetings. It is sent to the

Town every week from the Municipality Association and Kathy Vizard is the one to receive it. The issue is lack of communication. The Town can receive a hard copy or it can be e-mailed to the Town. The Planning Board asked to be copied so they can read it. Rob Nadler said that if Kathy didn't have to deal with the welfare, she would have more time to forward the documents. David Maudsley brought up the zoning changes mentioned earlier; it states that it will involve excessive costs and will be a disaster for municipalities, and yet the Town of Albany is not aware of this new zoning law. It is in the Legislative Bulletin. David Maudsley suggested that Albany be aware of what is going on in Concord. The NHMA goes out of its way to notify municipalities to what is going on, but the Town has no idea of these discussions. That's a failure.

The NHMA is not pleased with the new changes, which includes, "if a zoning change affects a boundary line, the size of a lot, or a usage for the property, the Town will have to notify every person affected by first class mail, unless it affects less than 100 residents." David Maudsley suggested that the Planning Board elect to have notification by electronic mail or first class mail, which is less expensive.

Rob Nadler passed around a chart of zoning laws for all the towns in the area, put together by the MWV Collaboration Council. They want the Towns to make corrections. They are trying to get affordable housing in the Valley. The Planning Board will review the document.

David Maudsley reported that another new Statute has been passed regarding a resident's request for copies of zoning ordinances, public hearings or zoning amendments; the Town would have to send the documents to the resident at no cost to that resident. The definition of abutters was also discussed in the legislature changes, but that session is over.

The Planning Board brought up Profile Motors; Selectman Jack Rose visited them to tell them to keep their vehicles away from the setbacks, but that had no effect. It was recorded in the minutes. The Planning Board suggested that a letter should be written to them to reinforce that they have to follow the setback rules. Rob Nadler commented that the State DOT provided him and Tara with the setback as being 33 feet, but they referred to two other zones which they did not clarify. David Maudsley suggested that they include in the letter they have 30 days to follow the regulations or they will be fined at \$235 per day. Rob Nadler stated that the Board of Selectmen have been pretty much doing that. David Maudsley said that having Jack Rose talk to them is not enforcing the law. Rob Nadler stated that they sent some letters regarding regulations, one that he knows of. He also commented that the reality issue is, at times the Board of Selectmen try to address a problem, but when a resident has a personal issue such as an operation, they try to cut him some slack. Does the Town want to spend the money and have the work done and have the deed go against his property? He doesn't think it is fair.

Adjournment: Chairperson Mike Helmers asked for a motion to adjourn the Planning Board Monthly Meeting at 9:22 P.M. A motion was made by Josephine Howland; seconded by Tara Taylor. Passed unanimously.

Respectfully submitted, Theresa *Ann Gallagher*, Recording Secretary