

Town of Albany, New Hampshire  
Planning Board Monthly Meeting - Approved  
Monday, October 15, 2014 7:00 P.M.

Next Work Session Meeting Monday, October 27, 2014 7:00 P.M.

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

Present: Acting Chairperson/Vice Chairperson Josephine Howland, Adrian Simons, Peter Carboni, Joe Ferris, Alternate; Selectmen Representative Rob Nadler, David Maudsley, Technical Advisor; Theresa Ann Gallagher, Recording Secretary

Absent: Tara Taylor, Matt Parker, Alternate; Leah Valadares, Alternate

Acting Chairperson Josephine Howland called the Planning Board Meeting to order at 7:00 P.M.

Discussion began about the absence of Matt Parker; he did say, because of his work schedule, he could only make one meeting a month. He has not showed up at any meetings for the last few months. A motion was made by Peter Carboni to send a letter to Matt Parker by e-mail or in writing thanking him for his interest in serving on the Planning Board, and ask him if an alternate date would work for him, requesting that he respond within 10 days; seconded by Rob Nadler. All in favor.

Acting Chairperson Josephine Howland appointed Joe Ferris as a voting member of the Planning Board for this meeting.

Josephine suggested that the Planning Board approve the Master Plan before deciding on the reorganization of the Planning Board; David Maudsley said he will have a presentation at the end. No other changes to the agenda.

Rob Nadler made a motion to approve the Master Plan as written by the Planning Board with all the recent edits included; seconded by Joe Ferris. Acting Chairperson Josephine Howland asked all in favor of approving the 2014 Master Plan signify it by saying "aye". All were in favor.

The Planning Board next discussed the reorganization of the Board. Josephine Howland announced that she is willing to stay on as the Chairperson, if the Planning Board should choose her. Joe Ferris made a motion to nominate Josephine Howland as the Chairperson of the Planning Board; Rob Nadler made another motion to nominate Peter Carboni as the Chairperson because he thinks it is time for a change, now that the Master Plan is out of the way; he also believes that Peter's experience with building codes and other experience will benefit the Planning Board. He would ask add to the motion to nominate Josephine Howland as the Vice Chairperson. Adrian Simons said he has no objections. Josephine asked Peter if he thinks that is something he can do, and has the time to do. David Maudsley asked if there is a clash between the position of Code Enforcement Officer and the Planning Board Chairperson. Rob said it's a matter of your perspective. He said he could argue either way. David explained that the Planning Board doesn't have anything to do with building permits. Rob said it does have to do with Site Plan Reviews and whether or not you allow something to be done. He said he personally thinks it is time for a change. Joe Ferris said he agrees that there is a conflict between the positions; they are too close. Peter suggested that the Planning Board wait until there is a full Board present to take a vote; Tara Taylor has valuable input and a lot of experience working on the Planning

Board, and he suggests to wait until she is present. Secondly, for the best interest of the Town, the Planning Board needs to become more stable; there have been too many changes recently. To have someone on the Planning Board for only a year, and then nominate them for the Chairperson with so little experience is not for the best interest of the Town. Rob Nadler suggested the Planning Board ask what their goals are for the next year or two. Josephine answered that the next step is to take a look at the ordinances in place, and work on the ones that do not reflect the Master Plan. Rob suggested having subcommittees so the alternates can get involved, and whatever the Planning Board decides is a priority, the committees could start working on them. Whoever is the chairperson should focus on the goals.

Rob Nadler announced that he would like to get off the Planning Board; it's not going to happen just yet. He would like to see a spirit of cooperation among the Boards. The Planning Board agreed to wait until Tara Taylor is present so that she can have input for deciding on the Chairperson. The Planning Board will be asking for her opinion if she cannot make the next meeting. Rob Nadler made a motion to postpone nominating a chairperson until the most experienced member of the Planning Board is present; all were in agreement.

Theresa Gallagher will send the Master Plan to Tara Bamford for review, and then when it is returned she will forward it to the attorney for review. In the meantime it will be given to the Town Administrator to post on the Albany website. A cover sheet with the Planning Board's signatures will be included, and sent to the State along with a copy of the Master Plan.

Theresa Gallagher said the only correspondence was with Kathy Vizard; she sent Kathy the order for 6 of the North Country Council's order of RSA books, including 1 CD. Other correspondence was from North Country Council: an invitation to a workshop on Broadband Internet, November 19<sup>th</sup>; also a notice for a public hearing they are having on the same day at 5:30 PM for a plan for NH's North Country.

The Planning Board reviewed the list of Master Plan suggestions presented by the residents of Albany at the Public Hearing. They are, *with the Planning Board's comments*:

1. Need to address businesses along Route 16 – *The Planning Board agreed to address this in future meetings coming up*
2. Better definition for Home Businesses, Home Occupation and Commercial Business – *The Planning Board has been working on this for years and will revisit it.*
3. Survey should show % of people answering and where they live – *This appears to be profiling. The Planning Board agreed it is difficult to create a survey that everyone will agree on, and no one will sign his or her name to a survey.*
4. In the next survey list the pros and cons of affordable housing- *By law the State requires all towns to address it in the Master Plan. Taxes will go up if you have more children in the Town. It doesn't mean that it is feasible to have affordable housing in the Town; it just has to be addressed. Neither does it mean that a percentage of the town's residencies have to be living in affordable housing.*
5. Explain what cluster housing would do to the residents' tax base – *Any development that brings children into the town will cause taxes to increase.*
6. Protect private property owners' rights – *This already has been added to the Master Plan.*
7. Include a major emergency management plan – *All towns are required to have an emergency plan. The Town of Albany has an Emergency Operation Plan; Rob announced that Kelly Robitaille is the Emergency Management Director. However, it was noted that at the last*

*meeting he didn't even know that the town has an Emergency Operation Plan. Rick Hiland and Kelly Robitalle have to get together to discuss what is in place and what needs to be put in place.*

Rob Nadler spoke about Conway District Fire Department planning to raise the rates it charges Albany, to \$105K with a one year contract. Rob said he will meet with them to negotiate a lower rate and to make it a two year contract. Steve Solomon is the Fire Chief and he is also Conway's Emergency Management Director. Rob will see if he can also be involved with Albany's emergency plan. Kelly asked Rick Hiland if he has an interest in participating in the major emergency plan; Rick said he is just learning about it, and did not give an answer yet. Josephine commented that the Albany Town Hall would be the perfect location for a shelter. Steve Solomon does inspect commercial properties for fire safety. A question came up about commercial buildings that have been in the town forever. Does he ever go to them for periodic inspections? Peter said no, he does not do annual inspections. Adrian suggested that be included in the agreement, that he inspect a few places each year to cover them all over a period of five years.

Code Enforcement Officer has no report.

Conservation Committee did not meet this month; there were a lot of offers to mow the Albany property, but they are trying to do it themselves at no cost. They are trying to clear the swales.

Old Business; Rob Nadler suggested the Planning Board review the Land Subdivision request made by Tara Schroeder. She called Theresa to ask about the next step she has to take. Theresa said she will ask if Tara spoke with the Moat View Drive Association to see if it is possible to do the land subdivision, especially with regards to the right of way. Josephine said she has to have the deed for the person next to her property who is supposed to have the right of way. If it doesn't show up on that deed, then there really is no right of way. The property does have a driveway. The Association may have rules, but the Town's rules will supersede them if there is not enough road frontage. Peter Carboni suggested that the Planning Board start with an engineer's print in front of them.

Peter asked for a brief update on the Valladares' Site Plan Review. The Planning Board discussed the situation with the Albany Town Engineer and HEB Engineers. The Town Engineer has questions. HEB Engineers needs to contact the Town of Albany to let them know what is going on. So far the Town has not been notified. The Planning board needs to enforce a time limit for the conditional approval. Leah Valladares was supposed to contact HEB Engineers to tell them to write a letter to answer the Road Agent's questions. The Planning Board agreed that they will write a letter to HEB Engineers stating that they need the responses to Burr Phillips concerns within the next 90 days. If a response is not received, the conditional approval will be revoked.

Rob discussed the Town's website. Theresa has been having trouble getting into the website to review the e-mails; Rob told her to contact Karla and let her know. Josephine said the tax plans are not on the website. She was told by Deanna of the Town clerk/tax collector's office that the tax maps were online. She was insistent that they were online. Shouldn't that office know if they are or aren't? Rob said the tax maps are not on there yet. He said the next step is to try to get all the forms interactive.

Approval of the Minutes: Acting Chairperson Josephine Howland asked for a motion to approve the minutes from the September 8, 2014 monthly meeting and from the September 22, 2014 MP Public Hearing; there are no changes or corrections; Rob Nadler made a motion to approve the minutes;

seconded by Peter Carboni. Acting Chairperson Josephine Howland asked all in favor of approving the minutes signify it by saying “aye”. All were in favor.

David Maudsley spoke about the issues that need addressing by the Planning Board: 1) The PB needs to address Mike Helmer’s resignation, including page 4 of the Board of Selectmen’s meeting minutes from August 13<sup>th</sup>; 2) Correspondence to and from the Town’s Attorney needs to be reviewed 3) Zoning Protest petition needs review, to make sure it doesn’t happen again 4) Occupancy Permits and how they affect Albany 5) HB1210 Suggestions – new requirements regarding the Town Meetings.

David reviewed the suggestions presented by changes to RSA 675.7; requiring notices to the abutters by first class mail will create a burden for the Town. If the Planning Board is altering zoning boundaries or zoning permitted uses, they have to notify the residents of the town. David took an old copy of the Town’s data base, which contains all the information needed; in some towns the data base also has which zoning district the address is located in. David suggested that Albany assign all addresses to rural or residential, and then change the ones in commercial or light industrial; Sort them first and then change the zoning district. From that you will be able to get mailing lists, labels and also a mail merge can be done. It took David just a few minutes to do that. David read a part of the RSA that describes this process. David does not know if the database contains the field for the zoning district in the town of Albany. If not, the Tax Assessor can do this in less than one hour. Assuming that the Planning Board will present zoning proposals affecting the two zones, the first public hearing will be January 12, 2015. The statutory requirement is that for allowing the zoning changes the capability requested upon should be available no later than Christmas 2014. The advance notification should give the town plenty of time to adjust the requirement of this statute. David projected this so that the town will not get in a bind stating they need more time, more money, more people, etc. If the Planning Board will have zoning adjustments or changes in March of next year, this is the time table to be followed. David is advising the Planning Board that he is giving them plenty of time in this advanced notice. He wrote a letter to advise the Selectmen of the change. Josephine suggested that the Town Administrator may have already done the databases update. Rob Nadler said it seems easy to do and this is the most efficient way to send the letter. Adrian Simons made a motion to send the letter to the Selectmen; seconded by Joe Ferris. All were in favor. David said he will forward the letter to Josephine for forwarding to the Selectmen.

Josephine asked Rob about the Legislative Bulletin; Kathy was supposed to forward information to the Planning Board. Rob said anyone can sign up to receive it without being a member. And if anyone cannot sign up let Kathy know and she will forward the information. The Planning Board said it would have been nice to have her forward this information.

Josephine asked David to continue with his presentation. Rob Nadler had a question; he said we are the Planning Board and David Maudsley is the Technical Advisor, and he really respects his technical advice on the Planning Board issues, but he is not an Albany resident. He thought all the stuff they put behind them is done and they were going to move forward. He said the Planning Board wants to pay David \$20 per hour to rehash all the stuff all over again is not productive for the town. David responded that something should be on the Board of Selectmen’s record stating that the records as they stand are not correct. Rob Nadler made a motion to hold the members of the Planning Board to a decision, that they want to pay someone from another town to tell us how we should create more discord between the Boards in our town over the past; he thinks all the issues have been addressed. Josephine responded that the response to the Town Attorney for the letter he wrote to Josephine and Theresa has to be addressed. Rob Nadler said the only realistic response is for the Town of Albany to

have two Boards hire two lawyers and sue each other over the interpretation of the law. He asked who cares at this point? He asked the Board if they want to rehash why Mike Helmers left the Planning Board? David said he wants to go over the records he has gathered that were requested. Peter Carboni said it is Mike's responsibility to explain to the Planning Board whether it was defamation of character or withholding evidence. Whatever it is, the Planning Board has the right to know. Peter said he is not sure what is going on. Rob told David it is not his place to say whether the Board of Selectmen libeled him or not; it is Mike's place. Rob asked why rehash the situation all over again, and David responded that Rob knows it is embarrassing for him. Rob announced that he wants to make a motion to not allow David to continue his presentation. Josephine asked Rob if he doesn't want to make the records straight? Rob said he doesn't understand why David is giving the presentation. David asked Rob why he doesn't want to hear what he was going to say. Rob said it is clear by the titles. He doesn't understand why that is in the realm of advice to the Planning Board. David responded that some of it is related to the accuracy of the records. Rob said then to challenge Theresa Gallagher to the accuracy of her records. David said he is challenging the accuracy of the Board of Selectmen's records. Rob said to send an Albany resident in to challenge the records. He asked the Planning Board what they think. Adrian agreed that the Planning Board should be working on ordinances, etc., which they do, and he also agrees that David's responsibilities are to guide and correct the Planning Board when they make mistakes. He would like to know what David's legal advice is. Josephine said since she is the one that made the statement that caused Mike to be wrongly accused of making the statement, she asked David to gather information to make the record straight. Rob said he doesn't remember Mike Helmers resigning at the Planning Board meeting. Josephine said an e-mail was sent to the Administrative Assistant and she forwarded it to the Planning Board. Josephine said that it still affects the Planning Board, and if Rob doesn't think so, then he does not need to be on the Planning Board. Peter Carboni said he doesn't disagree with hiring David to clarify the issue at hand, but he doesn't even know what the issue is, and he would like to know. If it is an actual law suit he wants to know, and the Planning Board should hire David as a consultant. He said he knows a little from the minutes, but he would like to know what the formal action was so we can ask David for his opinion. Josephine explained that there was a letter sent to Theresa and herself from the Town Lawyer. That is one issue, and she asked David Maudsley to help with the response. Peter said he would like to review the letter before David's presentation. David said he sent the letter in response to the lawyer, as requested by Josephine. Joe Ferris suggested that since there is still an hour left, the Planning Board should hear what David's presentation is. David said no, the Planning Board needs to calm down. Rob said he respects David's knowledge but he disagrees on this issue; David said yes, because Rob is in the thick of it. Rob agreed that his is.

Josephine asked Rob a question. He was at the Board of Selectmen's meeting when Rick Hiland made an incorrect statement; and Rob knew what he was saying was untrue. Rob said he made some corrections, and not all the corrections were recorded because everything isn't verbatim. But he said he didn't agree with Rick, and he thought he made that clear. Rick has the right to speak with a public comment at the meetings. He said he thought what Josephine said was an off-the-cuff remark. Josephine asked why that wasn't in the meeting minutes? Rob said he doesn't know. Because the notes aren't verbatim. Josephine asked why he hasn't spoken to the Town Administrator to ask for something to be put into the record that said that Rob corrected Rick. Rob said he didn't think he could censor him. Josephine explained that when someone says something about someone else in public and it is a false statement, and it is put in the records, then it needs to be corrected. Peter commented that there is a big difference from a false statement and a defamation of character. He asked if it created a hardship for someone? Rob answered that it is a matter of perspective. Josephine answered that the person is a business consultant and to make a statement that he said something like that is a problem.

Peter asked if it could be proved, and Josephine said yes. Peter said he would like to know what is going on. Josephine said Mike's resignation affects the Planning Board. Rob said there were two resignation letters. Rob had a phone conversation with Mike, and an hour and a half meeting with him. Rob told Mike what was coming and he said he didn't agree with it. The next day he read the minutes and he resigned.

Josephine asked Rob if he doesn't think he has an obligation to correct the record? Rob said he did not make the statement and whether it is false or not is not his decision. All he did was to allow a resident to speak at a meeting. Rob said it is not his job to sensor or correct what everyone says at a town meeting. Josephine stated that when he says something about someone else, yes it is his job to correct the statement. Rob said not according to the Albany Town Attorney. Josephine stated that the Town Attorney has been wrong many times. Rob said that the individual who has been harmed can do something. David said he is; he spoke with an attorney. The Planning Board wants to know why Rob did not say anything at the meeting and why didn't he correct the minutes? Rob said he doesn't correct every detail of the meeting minutes. The Planning Board asked who's responsibility is it? Rob said it depends on your perspective. David said it's not about perspective; he asked Rob to prove that he did anything. Even when the resident is clearly wrong, Rob said he feels that he doesn't have any responsibility to correct them. Peter Carboni commented that it happens at meetings; at the public hearing the moderator had to stop some people from making comments. He suggested that the Boards use that tactic going forward. Rob agreed that if anyone has a lawsuit against the town they should go for it.

The Planning Board asked David to give the presentation at the next meeting. Peter said he did not know what the presentation was about; he asked David what it was and who hired him to do it. David answered that it was Josephine who hired him by phone.

Adjournment: Acting Chairperson Josephine Howland asked for a motion to adjourn the Planning Board Monthly Meeting at 8:15 P.M. A motion was made by Joe Ferris; seconded by Adrian Simons. Passed unanimously.

Respectfully submitted, *Theresa Ann Gallagher*, Recording Secretary