

Minutes of the Planning Board Meeting Held Tuesday 8/6/19

Present: Steven Neill, Ex-officio; Sharon Francis, Vice Chair; Dick Lincourt; Terry Spilsbury; Rosie Smith-Hull; Robert Frizzell; Douglas Neill.

Planning board absent:

Alternates present: Duane Wetherby; Patty Chaffee

Staff present: Steven Schneider

CALL TO ORDER & SEATING OF ALTERNATES: Robert Frizzell called the meeting to order at 7:00 pm. A full board is present therefore no alternates are required.

Motion made by Mrs. Smith-Hull to approve the minutes of the meeting of July 2nd. Mr. Spilsbury noted amendments in the minutes: p1, 1st paragraph "A quorum was present so no need to call upon an alternate member" – Duane Wetherby actually sat in on the meeting; 2nd paragraph Mr. Lincourt's name is misspelt ; p2 "Mr. Spilsbury asks" should be changed to "Mr. Spilsbury asserted"; p3 in the second of the three motion paragraphs beginning "Motion made by Mr. Lincourt: instead of "...does not have..." it would be better to state "my not in the future be permitted for". All members voted in the affirmative except Mr. Frizzell and Mr. Douglas Neill who were not present.

Minor subdivision - Joseph Conrad - 175 Old Town Farm Road. Mrs. Smith-Hull asked the question if the 13 abutters were contacted at \$10 per mailing as this is not recorded on the paperwork, it was confirmed that all abutters were in fact contacted.

Chris Paton, surveyor, confirmed the property is 192 acres in all with a proposal to subdivide into lot 1, 37.38 acres with the existing house and barn; lot 2, 155 acres with no structures, there is a major power line that runs through the property on the East side and a smaller line on the West side. A waiver is being requested to do soil testing on lot 2. Mr. Frizzell mentioned that it is possible for the lot to be subdivided again in the future at which point soil testing would then need to be done. Chris Paton confirmed that there are no current plans for further subdivision. Mr. Frizzell confirmed that the waiver will be considered. Chris Paton confirmed that this concludes his proposal. A question was asked by Sharon Francis about the road frontage, the access is existing and goes through the lot. Mr. Frizzell asked for a motion for completeness, Sharon Francis notes that the checklist is not completed, the applicant did not complete this. Steve Schneider confirmed that the application appears fine. A discussion ensued by the board members, Steve Neill proposed a motion that the application be tabled until the application is completed in full, seconded by Sharon Francis, all present being in favor, motion is passed. Sharon Francis proposed that the abutters and neighbors who are present should be asked for comment. Mr. Spilsbury commented that if Steve Schneider has looked at the application and feels everything is in order then we should proceed but if Steve feels the applicant should be completed then this should be deferred. He is happy for the motion to be tabled. Steve Schneider confirmed that the application appears to be complete but we can wait and push for two weeks, ie the next planning board meeting.

Cinderella Sanders requested clarification on what in the world a subdivision is for as she sees driveways going onto this property and is worried about the value of her property and what is going to be done on the property. Chris Paton confirmed that the application is for the subdivision but the future use is as yet unknown. Cinderella Sanders confirmed that for this reason she is opposed. Tom Adams mentioned that he has heard what is proposed for the land, 5 different people confirmed 5 different uses and there appears to be crooked politics and he does not like this. A further question was asked why an

explanation cannot be given as to what the proposed use is. A discussion ensued on the fact that the applicants should be the ones to explain the use. Mrs. Smith-Hull confirmed that the applicants are not present. Mr.s Sanders noted a drive off of route 12 onto the property. Tom Adams confirmed that this was put in by the state. Mr. Frizzell asked if this could be used by someone, the consensus is in the affirmative. Mr. Frizzell asked for any further questions. Mr. Spilsbury confirmed that the questions from the abutters are important questions and requested that the surveyor ask the applicants to be present at the next meeting when the completed application is considered to allow questions to be answered. Mr. Frizzell asked if an application has to confirm proposed usage for a minor subdivision, the consensus is that this is not something that can be required. The abutters present were advised that no further notice will be mailed. Mr. Frizzell requested a second motion to table the motion to table the application to the next meeting on August 20th, proposed by Mr. Steve Neill, seconded by Miss Francis, all in favor, motion is carried.

Nickerson Conceptual - 24 Baldwin Court. Mrs. Nickerson confirmed that she is the owner of Baldwin Court Self Storage and would like to make an addition to the existing building, a 2 car garage and some living space to make this a permanent dwelling with no changes visible from the road. Steve Schneider confirmed that he asked for this presentation to avoid an application being submitted and moving through the process only to find that the application is not possible, the property is in the mixed use zone. Steve Schneider confirmed the property size, 1 acre, supported by town water and sewer and the possibility for subdivision. Ms. Chaffee requested clarification on whether this is a subdivision or a planning application, this is a planning application. It was clarified that this application is to change use to a dwelling and office/storage. Sharon Francis requested clarification on town water and sewer, Ms. Nickerson confirmed that the property is currently on town water and sewer. Ms. Chaffee asked if the board needs to approve the change to the site plan, Miss Francis responded in the affirmative. The board confirmed that there will need to be an application for change of use. Steve Neill confirmed that as long as there is no subdivision then this will just be a change of use so plans will need to be presented. Steve Schneider requested clarification on how much detail is required, a plan on graph paper has been submitted. Mr. Spilsbury confirms that when the change of use application is reviewed then the original plans will need to be presented to determine if any stipulations or recommendations were made. Steve Schneider confirmed that Mr.s Nickerson will need to research previous plans, a drawing of the full property will be required. Miss Francis asked if this is just a change of use, Mr. Spilsbury confirmed that this will be both change of use and modification of plans due to the additional square footage. Steve Schneider expressed appreciation to the board for their consideration.

Mr. Frizzell spoke to communication with Tom Cobb. Tom Cobb confirmed that he had asked Mr. Frizzell about the letter from Steve Schneider. Tom Cobb stated that he asked Mr. Frizzell to change the letter and was told that he needed to attend the planning meeting to discuss the issue. Tom Cobb explained that they waited 7 weeks for their letter and the letter does not contain the motion that Mr. Lincourt put forward, it states "all tenants will come before the planning board" this motion was discussed at length and this is what some of the board members wanted. Joseph Cobb spoke to the discussions in the meeting and distributed a transcript of the audio of the meeting and explained that they are simply looking for a change of wording as they are worried about applications of future tenants. Mr. Spilsbury commented that he does not see a motion in the transcript. Miss Francis asked for a copy of the approved minutes from the meeting. These are not immediately available. Tom Cobb offered to play the audio, this was declined. A discussion on the transcript and the original discussion followed.

Ms Chaffee spoke to the minutes and motion and that the word "all" should be replaced as this could imply every single tenant even café to café, tattoo to tattoo etc.. Tom Cobb clarified that he simply wants the letter to match the minutes. Mr. Spilsbury spoke to wanting to see the full modified and

approved minutes and make an assessment on the full minutes and not fragments. Mr. Spilsbury explained his position in the previous meeting. Tom Cobb spoke to only wanting a letter to have the motion as read on their letter, they have been waiting for this letter since May and that this is unfair to the applicant. Miss Francis asked for comments to be directed through the chair. Further there was a need for the minutes of the meeting to be altered due to grammatical issues and to smooth the language, the minutes cannot be undone. Tom Cobb asked if anyone is willing to listen to the audio to show what was said at the meeting. Joseph Cobb attempted to clarify the question. Mr. Frizzell reacted with a feeling of a different meaning which was clarified. Mr. Spilsbury spoke to the discussions at the hearing which were long and confusing, the minutes had difficulty in capturing the full discussion and the minutes were ironed out and approved in the subsequent meeting, the applicant is looking to perpetuate a different interpretation Mr. Spilsbury confirmed that he had ensured at the previous meeting that tenants would have to come before the board, if this is what the applicant is looking for then he is happy to go ahead but he feels that this is not what is being requested. Miss Francis spoke to the plan and it showing a 45' area at the front of the building available for parking, this is not the case and the actual site does not reflect the plan and therefore has a hard time believing the applicant. Tom Cobb spoke to the applicants getting a bad rap, a clerical error was made and this was corrected the applicants are not trying to get around any regulations. A discussion ensued between Tom Cobb and Mr. Spilsbury, Mr. Spilsbury confirmed he wants to refer to his notes and the original transcripts.

Mr. Lincourt confirmed that Joseph Cobb's recollection matches his and he would be happy to change the wording of the letter to stipulate that all tenants should come back if required by site plan regulations, but would like to review the minutes of the meeting before any changes are made. Mr. Frizzell requested clarification from Mr. Lincourt on the meaning of his statement. Mr. Lincourt confirmed that site plan regulations section 5.5.1 describes the types of development requiring site plan revision, there are 4 different situations: one would be any change in use of the site or change in existing use which changes the character or volume of traffic, it is not a blanket acceptance of anything that the applicants wishes to put in. Tom Cobb agreed with this statement. Tom Cobb spoke further and stated that the letter actually nullifies the planning regulations. Mr. Frizzell requested clarification on who does not need to appear, Joseph Cobb responded tattoo to tattoo. Mr. Frizzell confirmed agreement and referred to Miss Francis who confirmed her interpretation of same use to same use transfer appearing before the board and receiving confirmation that nothing is required because the board has to decide. Ms. Chaffee spoke to the board not previously looking at change of use applications such as Bella's where traffic has increased significantly without an application of change of use, a precedent has been set, maybe a hearing will be needed. Miss Francis spoke to the difference of opinion based on previous staff decisions, although a precedent has been set. Jim Jenkins spoke to every new business owner coming before the planning board. Ms. Chaffee spoke to having spent time in the past working on a business registration form for businesses in town and this was denied and the action referred to the Select Board. Tom Cobb spoke to this having been his idea to avoid issues such as what is being discussed and his intention to use his best judgement for future tenants and present to the board when they feel they have a suitable future tenant. Tom Cobb stated that he is not looking to have continuing issues. Mr. Frizzell asked Mr. Spilsbury to speak. Mr. Spilsbury spoke to the previous discussions and the checklist and the applicant not having completed the full application, the application was approved on the specific understanding that as the tenants are confirmed so that more details would be presented in the context of the users who would occupy the building. Miss Francis echoed Tom Cobb's comments that the building is lovely looking and the future tenants will be positive for the town, Mr. Frizzell spoke to thank the Cobbs for dealing with the pollution issue. Miss Francis confirmed her understanding is that each of the tenants will need to come before the board, tenants thereafter will be a quick no change, it is not Tom Cobb's decision as to which tenants are approved. Joseph Cobb spoke to them only wanting to be held to the standard planning board rules, specifically 5.5.1 was mentioned. Nancy Houghton

spoke to the minutes having been fudged around after the meeting and as such the minutes should go back to the people that presented. Mr. Frizzell objected to the word fudged. Nancy Houghton asked if the applicants saw the minutes after they were changed and approved - someone should have given the minutes to the applicants. Tom Cobb stated that he is hearing from Mr. Spilsbury and Miss Francis that they do not trust the applicants and that all of their applicants need to come in front of the board which is not fair. Tom Cobb stated that the applicants were not informed of the notice, they were waiting on the notice for some time; a simple phone call to update them on the status of the application would have been appreciated, Tom Cobb's working hours prevent him from visiting the office to see Steve Schneider. Mr. Frizzell confirmed that the reason for the rules is that the applicant may sell the property tomorrow and it is for future owners as well. Tom Cobb confirmed his agreement with the statement and that he is simply looking for the letter to state what was stated in the motion. Tom Cobb went on to relay a situation where a prospective tenant had been spoken to by Mr. Frizzell and advised on the planning application status which he finds to be frustrating, Tom Cobb was challenged on this by Mr. Frizzell and explained that it is not Mr. Frizzell's position to go to his tenants. Mr. Frizzell responded that it was his obligation to protect the public. A discussion ensued between Mr. Frizzell and Tom Cobb, Ms. Chaffee interrupted and asked for clarification on the "protecting the public" statement. Mr. Frizzell confirmed the details of the conversation with the tenant including that the tenant had mentioned a date when they wished to be in situ and that Mr. Frizzell had stated that he hoped that the paperwork would be straightened out by then. Ms. Chaffee asked a question about the processes, why did the letter have to wait until the minutes had been approved? Steve Schneider confirmed that the final motion was complicated and he did not want a letter to be sent out until the minutes had been approved. Mr. Chaffee further commented that she had not seen this before, Steve Schneider agreed with this. Terry Spilsbury clarified that his comments are in no way an expression of distrust for Tom Cobb, to which Tom Cobb expressed his thanks. Mr. Spilsbury continued: at the hearing Tom Cobb's understanding was that his tenants do not need to come before the planning board and this is not the case. Miss Francis spoke to the length of time it has been taking to get approved minutes and the professional staff member who is only in town 1.5 days a week and everyone needs to allow slack for this change.

Steve Schneider spoke to sharing a process at the next meeting where specific motions are shared at the end of each meeting with conditions and signatures.

Joseph Cobb confirmed that their original intention was the same as Mr. Lincourt's understanding which is why they are here today, they are sorry if the understanding is different. Mr. Lincourt confirmed that he is in agreement with the Cobbs on the motion but would like to go back to the minutes before making any decision. Tom Cobb spoke to Savannah from Fresh Fades being their only prospective tenant and they are waiting for the board's letter before finalizing details with her and coming before the planning board with a preliminary application. September 1st is the Cobb's desired date to have her location ready, after that there is a month long time period for inspection, she is not looking to start the tenancy until October, the Cobbs have been patient; the letter is the document required for them to proceed. Mr. Frizzell asked Mr. Lincourt if he would propose a motion to change the letter. A further short discussion ensued. Steve Schneider confirmed that there are minutes and a recording at the town office which can be referred to and any differences noted. Mrs. Francis confirmed that the minutes are the official record and this is what should be used. Steve Schneider spoke to their being a difference between the Cobb's understanding of what was said in the meeting and what is recorded in the minutes. Jim Jenkins spoke to the discussion being more complicated than necessary, look at the motion and what was voted on, the discussion is irrelevant, the motion, the amendments and the final reading are what need to be looked at. Mr. Lincourt asked if anyone disagrees with his understanding, Mr. Spilsbury wants to listen to the full recording of the meeting. Joseph Cobb offered to play the minutes; Terry Spilsbury spoke to not wanting to listen to the recording in public. Robert Frizzell commented that it is up to the board. Miss Francis stated that she is not sure she recollects the motion as currently being

discussed Miss Francis was voting that all tenants would come before the board for either a careful review or a statement that a review is not necessary. Mr. Frizzell spoke to this being different from current regulations. A further discussion on the vote followed. Mr. Frizzell stated that he wants to see this move on but things have to be done right. What is the next move? Mrs. Smith-Hull responded with the comment "listen to the tape". Mr. Steve Neill spoke to the discussion being that the tenants should come before the board and at the end of the meeting, due to the discussion everyone was frazzled and listening to the 8 minutes on the tape will not provide the gist of the meeting. Mr. Spilsbury confirmed his agreement with Mr. Steve Neill's statement and that there was no mention of traffic, hours etc in the application and all tenants should come before the board. Steve Schneider stated that if there are any questions then the recording of the meeting should be listened to. The Cobb presentation was around 2 hours, he does not want to delay this application for the Cobb's but there is a distinction, what happens with a like for like change of tenant. Mr. Frizzell asked if the minutes will then need to be changed, Patty Chaffee stated no, Steve Schneider confirmed that a change may be necessary. Miss Francis spoke to her preference on the evening and it being that there would have been to have clarification on parking and lighting and issues which affect the neighbors, Mr. Lincourt proposed a better idea that each of the 4 tenants come before the board which is causing issues. There is no question in Sharon's mind that the approval was for each tenant. Mr. Frizzell spoke to not having new opinions and what has to be used is the record of the meeting, he would like to see the thing taken care of. Patty Chaffee asked if everyone is going to listen to the minutes and report back, Miss Francis asked Steven Schneider if there are convenient times for members to come in and listen to the minutes, members will need to listen to the minutes individually as otherwise it will be considered a meeting. Mr. Douglas Neill confirmed he will not need to listen to the minutes as he was not present at the meeting. Mr. Frizzell asked the board what they want to do. Mr. Lincourt moved a motion to amend the wording in the notice of decision to reflect in point number 1 that all future tenants must come before the planning board for minor site plan review and approval as required by the site plan regulations, seconded by Mr.s Hull-Smith, Mr. Spilsbury agreed with this if it includes specifically that the initial tenants must come before the board and then future tenants appear if required by the rules. Mr.s Chaffee spoke to the current RSA with a building that has been empty for over a year then there is a requirement that tenants are required to appear before the board for a change of use. Mr. Spilsbury spoke to the earlier comment by Jim Jenkins that from a legal perspective the action that was voted at the hearing is the action of the board. Unless there is a desire to change that action then there is a need to go back to the original transcript to confirm what that was. Mr. Steve Neill spoke to the alternate being in place at the original meeting and this person should be in place for this meeting and vote. Miss Francis asked for clarification from Mr. Lincourt on the motion wording: ...as required by the site plan regulations orif required by the site plan regulations. Mr. Lincourt confirmed his understanding as if which is in the written transcript. Mr. Frizzell asked for a vote and if everyone understands the vote. Miss Francis asked for a repeat of the motion which was not available from the secretary. Mr. Lincourt confirmed "I move that we amend the notice of decision point number 1 to say that all future tenants must come before the planning board for minor site plan review and approval if required by site plan regulations." Mr. Albert St Pierre provided the minutes and the motion as presented. Mr. Spilsbury read through the minutes, specifically the motion and amendments. Tom Cobb stated that the minutes are incorrect. Mr. Spilsbury asked for the discussion to be halted for tonight until it can be confirmed if the audio and minutes agree. Mr. Frizzell asked for a vote by hand on Mr. Lincourt's motion, 5 in favor, opposed: 2 No, reason for Mr. Spilsbury's no vote is that the minutes are clearly at odds with the transcript. Motion carried. Sharon Francis asked for direction from Steve Francis on how they can listen to the minutes.

Planning and policy issues, Steve Schneider spoke to different procedures that he will share at the next meeting.

No correspondence.

Meeting adjourned at 8.55