

Planning Board
Minutes of November 12, 2008
Approved December 2, 2008

Members Present: Tom Vannatta, Chair; Barbara Freeman, Vice-Chair; Travis Dezotell; Jim Powell, Ex-Officio; Bill Weiler, Ken McWilliams, Advisor

Mr. Vannatta called the meeting to order at 7:00 p.m. The Board reviewed the minutes of October 7, 2008 and made corrections.

Mr. Weiler made a motion to accept the minutes of October 7, 2008 as corrected. Mr. Dezotell seconded the motion. All in favor.

CASE: 2004-006: Angel Hawk Subdivision – Jaimie Gould aka Advanced Conception Property Development, LLC – Development Agreement

The Board reviewed the proposed Development Agreement drafted by Town Counsel and made some changes to reflect the requirements in the Newbury Subdivision Regulations under paragraphs 14.2, 14.3 and 14.4 and to emphasize the importance of the developer to keep the Town of Sutton informed and included in the progress of the offsite improvements. Additionally, there were some minor changes that did not change the context of the document.

Mr. McWilliams advised the Board that it is up to the Town of Sutton to decide who they want to contract to inspect the offsite improvements in Sutton or if they want their Road Agent to oversee the inspections.

Mr. Powell commented that the burden should be on the developer to communicate with the Town of Sutton. The developer has two obligations, one to Newbury and one to Sutton. It is not Newbury's obligation to make sure Sutton is satisfied.

Mr. Vannatta stated that he will send a copy of the Development Agreement to the Town of Sutton for their review.

Mr. McWilliams stated that he will work with Town Counsel to get the draft completed and then the Newbury Planning Board should send a copy to Advanced Conception. Advanced Conception is fully aware of this proposal. The proposal was initially their idea and the Board has only included a new provision regarding inspection services. This agreement will be recorded at the Merrimack County Registry of Deeds.

CASE: 2004-006: Angel Hawk Subdivision – Harold Buker – Escrow Refund

Mr. Vannatta informed the Board that Mr. Buker has requested a refund of the remaining balance of the escrow account set up for the Angel Hawk Subdivision. There are no liens against the escrow account, and the escrow account was not a contingency of the sale.

Mr. Weiler asked what proof the Board has that the balance of the escrow account should go to Harold Buker and who actually sent the money in to establish the escrow account to begin with.

Mr. Vannatta stated that he will look into those issues prior to authorizing the release of the funds.

CASE: Code – 042: Zoning Amendments 2009 – Small Wind Energy Systems

The Board reviewed the **Small Wind Energy Systems Ordinance** and made changes; the setback should be a standard 200' from the property line; reference to the 'governing body' should be changed to the 'Board of Selectmen'; specific impacts need to be identified and listed; proposed paragraph 22.2.7.3 can be eliminated because there are no airports anywhere near Newbury; the color of the unit should be unobtrusive; and the penalties need to be spelled out.

Mr. Powell suggested putting this amendment off for a year since the State already has an ordinance regulating SWES's. This ordinance is very complicated and the Board does not know enough about it to regulate it. He suggested that the Board focus on straightening out issues surrounding existing ordinances such as the sign ordinance before including more.

Ms. Freeman commented that setbacks are needed for safety.

Mr. McWilliams commented that HB 310 which was passed the year which encourages municipalities to look at alternative energy sources and make provisions for them. The ordinance actually helps someone who wants to erect a SWES because with the ordinance in place, they will not have to go to the Zoning Board of Adjustment.

Mr. Vannatta commented that it is good to be proactive. The ordinance can always be tweaked later if necessary.

Mrs. Freeman stated that wind farms should be prohibited as sight pollution.

Mr. McWilliams commented that he will add a definition for commercial wind farms and add a provision to the ordinance to prohibit wind farms.

Consensus of the Board was that the Board has invested a lot of time and expense into drafting this ordinance and should move forward with proposing it as a zoning amendment.

Mr. McWilliams advised the Board that the amendments need to be noticed to the public by mid-December in order to meet the public hearing deadlines.

CASE: Code – 042 – Zoning Amendments 2009 – Multi-family Housing

Mrs. Freeman commented that there is not much to report, but in researching Multi-family Housing, it appears as though an overlay district would be a more appropriate method to approaching the need rather than re-zoning.

The Board discussed the concept of Multi-family Housing and recognized that there has to be an incentive for a developer to build affordable, multi-family housing, the Building Inspector should be consulted, and the possibility of land banking should be looked into. There is no one solution.

Due to the complexity of this issue, the Board decided to table this ordinance for 2009 but continue to study the subject for a future amendment.

CASE: Code – 042 – Zoning Amendments 2009 – Shoreland

Mr. McWilliams advised the Board that he is suggesting substantive changes made in the shoreland regulations in order to stay in compliance with the new CSPA.

CASE: Code – 003: Subdivision Regulations and Issues

Mr. Powell expressed concern that there is no process in place to guarantee that subsequent to a subdivision or any other process which changes a lot line that a new deed is recorded to reflect those new lines.

The Board agreed that the regulations need to be amended to say that before the Board will send a mylar to be recorded, the new deeds must be submitted. The new deeds and the mylar will be sent to the MCRD together.

CASE: Code – 016: Zoning Board of Adjustment and Issues

The Board discussed the different conditions that an applicant may apply to the Zoning Board of Adjustment for a hearing and agreed upon the following:

1. An applicant may be denied a building permit and referred to the ZBA by the Building Inspector, or
2. The Planning Board may see an issue in a Planning Board Application that needs ZBA approval, and the applicant may be sent to the ZBA by the Planning Board.

Mr. Dezotell made a motion to adjourn. Mr. Powell seconded the motion. All in favor. Meeting adjourned at 9:30 p.m.

Respectfully submitted,

Linda Plunkett
Recording Secretary