

**Planning Board**  
**June 2, 2009**  
Approved July 7, 2009

**Members Present: Tom Vannatta; Chair; Barbara Freeman, Vice-Chair; Deane Geddes; Bruce Healey; Jim Powell, Ex-Officio; Bill Weiler; Ron Williams, Alternate; Ken McWilliams, Advisor**

Mr. Vannatta called the meeting to order at 7:10 p.m.

MINUTES

The Board reviewed the minutes of May 9, 2009 and made corrections.

Mr. Weiler made a motion to approve the minutes of May 9, 2009 as corrected. Ms. Freeman seconded the motion. All in favor

**CASE: Sign Ordinance**

Mr. Powell reported that the Sign Committee met and is reviewing the information that was provided by Mr. McWilliams and trying to narrow down what is pertinent to Newbury. The Committee members are making a list of the number of business people in the community, dividing the list among the committee members, and each committee member is talking to the business people on their list for input. Hopefully there will be a proposal finalized in the fall.

Mr. Healey asked Mr. McWilliams if there were special conditions that New Hampshire recognizes regarding amortization of signs.

Mr. McWilliams explained that in some States amortization of signs is constitutionally accepted, but New Hampshire does not recognize amortization of non-conforming signs. A non-conforming sign has the same rights as a non-conforming land use. As long as it is being used without a set time lapse or change in size or location, the sign may continue to be used.

Mr. Powell added that if a sign needs to come down to be fixed, it does not lose its grandfathering status as long as it is replaced within a year.

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

Mr. Vannatta handed out a copy of an email he had received earlier in the day from Jamie Gould asking for an extension of the timeline to complete the Angel Hawk subdivision for two years, retroactive from March 15, 2008 through March 15, 2010. Mr. Vannatta commented that this request does not appear to be a very viable amount of time to get everything done by March 15, 2010.

Ms. Freeman agreed with Mr. Vannatta, pointing out that Mr. Gould's proposal would mean he would have to perform all of the work this summer in order to avoid the constraints of the winter months.

Mr. Weiler commented that Mr. Gould's proposal could be accepted with the expectation of another extension in March 2010.

Mr. Williams commented that the Board can really only give Mr. Gould what he has asked for. There is plenty of time to get the offsite improvements done if the money is available.

Mr. Geddes commented that it was his own impression after the last meeting that the Board would consider another extension after March 2010. Perhaps that was Mr. Gould's impression, too.

Mr. Healey commented that Mr. Gould has not demonstrated good faith to follow through on what he says he is going to do. He stated that Mr. Gould's request for extension should be on letterhead with Mr. Gould's original signature, not a hurried email sent at the last minute.

The sense of the Board was in agreement with Mr. Healey.

Ms. Freeman made a motion to grant the extension as requested by Mr. Gould until March 15, 2010 conditional upon receiving a formal signed and dated letter of request. Mr. Weiler seconded the motion. All in favor.

Mr. Vannatta asked for input regarding the Town's responsibility to those individuals who have liens on the properties as collateral for money owed by Mr. Gould.

The sense of the Board was that the Town has no responsibility to individuals who have liens on any of the Angel Hawk lots because the lien holders do not own the lots and Mr. Gould is forbidden to sell them per the Agreement.

#### **CASE: NH Fish and Game development of the Wild Goose Boat Launch**

Mr. Vannatta asked for input regarding whether or not the Planning Board should publicly take a position on the Wild Goose Boat Launch as a Board. The Planning Board has not publically come out with as position as a Board.

Mr. Powell commented that the Conservation Commission has weighed in on the application and the Board of Selectmen has spoken out regarding the safety issues of the access. He cautioned the Board members to keep in mind that the Town is very split in opinion over this proposal. There are many people for and many people against the development of this boat launch. The Board has a responsibility to the entire community, not just conservationists.

Ms. Freeman stated that the most responsible way is for the Board to evaluate the proposal as if it were a site plan review coming to the Board and stay focused on the issues within the Site Plan Review regulations; then it should be appropriate.

Mr. Weiler suggested that Charlie Hirshberg from CLD Engineering should be consulted for input.

The sense of the Board was that Mr. Vannatta and Mr. McWilliams will review the most recent site plan submitted by Fish and Game as if it were an application to the Board and draft a response for the Board to review at its June 16 meeting. The deadline for comments to the State is June 26, 2009.

**CASE: Town Counsel Opinion – Paper Roads**

Mr. McWilliams commented that, generally speaking, Bart Mayer's legal advice to the Board is that the area of a public right of way cannot be considered toward lot size. Additionally, paper roads that were never accepted by the Town still need to remain in place so property owners would potentially be serviced by those roads can still access their lots; and likewise, the area of those rights of way cannot be counted toward lot size. Therefore, the surface area of Spring Street and Hemlock Street's rights of way cannot be counted toward lot size. If someone wants to build on a back lot, they would have to go to the Zoning Board of Adjustment for a variance because they do not have road frontage on a recognized street under RSA 674:41. Paper roads do not qualify as providing frontage unless they are brought up to Town specifications.

Mr. Geddes asked if a lot owner could purchase a right of way from another land owner to gain access to their lot.

Mr. McWilliams explained that they could, but the access would not create Road Frontage as required by the zoning regulations. If you were creating a new subdivision, you would prefer to not have the lots divided by a road or right of way, therefore the Board should avoid that type of situation if possible. Mr. McWilliams advised the Board that Mr. Mayer stated that there many lots in the Park 10 development that are considered unbuildable without an appeal to the Zoning Board of Adjustment under RSA 674:41.

**CASE: 2009 CIP Committee**

Mr. Vannatta advised the Board that the CIP Committee for 2009 has been organized. The members include Ivor Freeman, Ron Williams, Deane Geddes, Tom Vannatta, the Board of Selectmen and Dennis Pavlicek. The CIP Committee will begin meeting in July 2009.

Mr. Geddes made a motion to adjourn. Mr. Powell seconded the motion. All in favor. Meeting adjourned at 8:35 p.m.

Respectfully submitted,

Linda Plunkett  
Recording Secretary