

Planning Board
May 3, 2011
Approved June 7, 2011

Members Present: Tom Vannatta, Chair; Bruce Healey, Bill Weiler, Russell Smith, Members; Alison Kinsman, Alternate; Rachel Ruppel, Advisor.

Mr. Vannatta called the meeting to order at 7:03 p.m.

ADMINISTRATIVE BUSINESS

Mr. Vannatta shared a letter from Katheryn Holmes, chair, Zoning Board of Adjustment (ZBA), sent to Paulette Lowe, 226 Winding Brook Road, Newbury, concerning the latter's Motion for a Rehearing on the Special Exception for an accessory apartment granted to Brett & Cindi Croft, 70, Winding Brook Road, Newbury. The letter stated that the ZBA will consider the request for a Motion for Rehearing at its meeting on May 9, 2011 at 7:30 p.m.

Mr. Vannatta said the status of the legal action brought against the ZBA by abutters of the proposed Newbury Elderly Housing project includes an initial hearing in Superior Court on May 5, 2011 [correct date is May 9, 2011] followed by a second hearing on July 5, 2011. The abutters are seeking an injunction to stop the project. Mr. Vannatta said legal counsel has advised that the above action does not affect the Planning Board's review of the application at this time.

Minutes

The Board reviewed the minutes of April 5, 2011 and made corrections. Mr. Weiler made a motion to approve the minutes as corrected. Mr. Healey seconded the motion. All in favor.

2010 Census Data

Ms. Ruppel said the 2010 Census figures have been released and are available on the federal census website and Office of Energy and Planning (OEP) website. She said the figures are broken down by county and town. She said the census data shows that Newbury's population growth in the past 10 years was in excess of 20%. She said figures also reflect occupied versus vacant housing units, adding that more seasonal homes are becoming year round homes.

Mr. Vannatta referred to the data provided by CAP in the Board's requested "Newbury Elderly Housing Cost Benefit Analysis" questionnaire. He said the data provided by the applicant is from the 2000 federal census and questioned whether the applicant could access more current data. Ms. Ruppel said the 2010 age breakdown data is not yet available. However, she said the applicant could access a service the Census Bureau has started called the American Community Survey which surveys two percent of the population in rural areas. She said data for 2005 – 2009 is available and covers age breakdown and income levels.

Training Workshops

Mr. Vannatta said the OEP Conference is on June 11, 2011 and encouraged Board members to attend if possible.

Additionally, he said there are upcoming 2011 Local Officials conferences sponsored by the NH Local Government Center Legal Services. The workshop closest to Newbury is in New London on May 17, 2011.

Rules of Procedures Revisions

The Board discussed extensively the appropriate voting procedure (Roll Call vote or All In Favor vote) for several categories of the Board's Rules of Procedure including appointments of alternates, disqualification, hearings and approval of minutes. There was additional discussion regarding committee creation and distribution of the amended Rules of Procedure.

The Board agreed to review the proposed amendments and vote on same at their next meeting.

Zoning Ordinance Definitions

The Board discussed at length a number of definitions currently in the zoning ordinance along with terms not currently defined. Areas discussed included cottage industry, bed & breakfast, accessory apartment, home occupation, boarding houses, inn and motel/hotel.

There was discussion about including a definition in the ordinance for bed & breakfast and Mr. Weiler suggested the following: *"Overnight accommodations and a morning meal in a dwelling unit provided to transients for compensation."*

Ms. Kinsman said the number of units needs to be addressed. Ms. Ruppel said that issue would be covered during the permitting process.

The Board asked Ms. Ruppel to draft an amendment for a definition of a bed & breakfast for review at the Board's next work session.

There was discussion concerning the site plan review for a bed & breakfast. Mr. Weiler said further review is needed to determine the differences between a standard site plan review for a cottage industry and a site plan review for a bed & breakfast. Questions arose whether a bed & breakfast was an overnight accommodation or a service.

Mr. Vannatta suggested appointing a committee to work on definitions for bed & breakfast, cottage industry, short-term rental, long-term rental, etc.

The Board discussed short-term rental as a per diem situation.

There was further discussion regarding the different residential situations that could be considered bed & breakfast. Mr. Weiler said a bed & breakfast is a subordinated use

within the cottage industry category.

Ms. Ruppel suggested putting bed & breakfast into the cottage industry category in the ordinance as an example and apply the aforementioned definition.

There was general discussion regarding special exceptions and the respective roles of the Planning Board and the ZBA pertaining to site plan reviews, special exceptions and approved uses.

There was discussion concerning the definition and approved uses for accessory apartments. Mr. Weiler suggested that accessory apartments not be used for cottage industries. Mr. Vannatta suggested adding a sentence to the approved uses of an accessory apartment to state that it may not be used as a nightly rental.

Mr. Weiler summed up the Board's discussion into three items: (1) place bed & breakfast under cottage industry; (2) state that accessory apartments may not be used for cottage industry; and (3) state that accessory apartments may not be rented on a per diem basis.

Subdivision Regulations Amendment

The Board discussed an amendment to the subdivision regulations regarding an irrevocable letter of credit for bonding.

Mr. Weiler noted that concerns were raised regarding this issue in connection with the CAP application for the proposed Newbury Elderly Housing project. He emphasized that even if changes are made to the ordinance regarding this issue, those changes will not apply to the CAP application.

There was discussion about acceptable forms of security and whether they are revocable or irrevocable. Mr. Weiler noted that town counsel said irrevocable letters of credit are readily available and recommended requiring same in the town regulations.

There was further discussion about the CAP/HUD bond and whether the town can be named as beneficiary of the bond. Mr. Smith said HUD was not covering the off-site improvements. Ms. Ruppel agreed.

The existing regulations state that the form of security shall be determined by the Board. Ms. Ruppel pointed out that Exhibit C in the subdivision regulations is a "Suggested Form of Acceptable Irrevocable Letter of Credit". She said the site plan regulations refer the applicant to the subdivision regulations regarding security.

CIP Process

Mr. Vannatta said the CIP committee was meeting on May 5, 2011 to review the CIP process and he will inform Ms. Ruppel about the next step.

Consultant Fees/Escrow Account

Mr. Vannatta said the established escrow fund of \$3,000 for the Board's engineer

consultant for the proposed Newbury Elderly Housing project has been exhausted. There was discussion about how to proceed regarding requesting additional funds from the applicant.

Mr. Weiler suggested that Mr. Vannatta consult with the engineer, determine an estimate based on his anticipated future services and request that amount from the applicant to refresh the escrow account. The Board agreed.

Mr. Weiler made a motion to adjourn. Mr. Smith seconded the motion. All in favor.

Meeting adjourned at 9:37 p.m.

Respectfully submitted,

Meg Whittemore
Recording Secretary