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# Planning Board Minutes 5/17/16

Planning Board  
May 17, 2016  
Approved June 21, 2016

**Members Present:** Bruce Healey, Chair; Ron Williams, Bill Weiler, Bob Caia, Members; Russell Smith, Ex-officio Member; Ken McWilliams, Advisor.

(Note: Mr. Williams arrived after the Election of Vice-Chair was completed.)

Mr. Healey called the meeting to order at 7:00 p.m.

## ADMINISTRATIVE BUSINESS

### Election of Vice Chair

Mr. Healey called for a motion to nominate Mr. Caia as Planning Board Vice-Chair for the upcoming year.

Mr. Weiler made a motion to nominate Mr. Caia as Planning Board Vice-Chair for the upcoming year. Mr. Smith seconded the motion. Mr. Healey called for a Roll Call vote.

**In Favor:** Mr. Smith, Mr. Caia, Mr. Weiler, Mr. Healey

**Opposed:** None

### Minutes

The Board reviewed the minutes of April 19, 2016 and made corrections. Mr. Weiler made a motion to approve the minutes as corrected. Mr. Caia seconded the motion. All in favor.

### Zoning Ordinance Corrections

Mr. Healey informed the Board that Paragraph # 3.9.7 was missing from the current zoning ordinance and requested that it be inserted.

Mr. Healey noted that Paragraph 9.6 of the Planning Board Sub-division regulations calls for a soils report. He said the soils report is typically on the plan. Discussion followed.

Mr. McWilliams noted that the soils report contains interpretive details regarding the specifics of the plan and how the soil(s) fit into the proposed project's intended use.

Discussion continued regarding what is included in a soils report and its usefulness to the Board.

### Lot Line Adjustment/Deed Submission

Mr. McWilliams reported on his follow up with Town Counsel regarding the submission of deeds with voluntary mergers, annexations and lot line adjustment plans. He said Town Counsel advised that deed submission should be done before the plat is recorded. Town Counsel also noted that until the regulations are changed, deed submission should be included as a condition of approval by the Board. Mr. McWilliams added that Town Counsel also noted that mortgages also come into play, specifically if one lot has a mortgage and the adjacent lot does not and a piece of the former is to be added to the latter. In such cases, a release from the

mortgage holder should be obtained. Mr. Healey asked Mr. McWilliams to draft language for future use regarding same. Mr. McWilliams agreed.

**CASE: Case: 2016-004: Design Review**– The Fells – Joe Thompson (Landscape Director, The Fells) - 456 Route 103A – Tax Map/Lot # 018-232-347.

Mr. Healey read into the record the following Public Notice.

*Notice is hereby given that the Planning Board will receive submission of an Application for Design Review from **The Fells** proposing to develop a new parking lot area for property located at 456 Route 103A, Newbury, NH, Tax Map 018-232-347 on **Tuesday, May 17, 2016, at 7:15pm** in the Town Office Building at 937 Route 103 in Newbury, NH. The purpose of this meeting is to discuss the proposal in detail and acquaint the applicant with the regulations. No binding decisions will be made at this meeting. Copies of the plan are available for public review at the Town Office Building during regular business hours. Interested citizens are encouraged to attend the public hearing and express their views. Signed written comments will be accepted during business hours at least one (1) business day prior to the meeting at the Land Use Office. Land Use Office hours are as follows: Monday, Tuesday, Thursday, and Friday from 8am to noon.*

Mr. Healey reviewed the procedure for this Design Review with the Board and the Public as follows:

*Design Review shall take place at a public meeting (not a hearing) of the Board for which notice has been given in accordance with Section 5.5. Statements made during the discussion shall not bind either the applicant or the Board in any manner, and statements made by the Board members are for guidance and shall not be construed as prejudging the proposal nor shall they be the basis for disqualifying said members or invalidating any action taken. The Board is not required to accept questions and comments from the public, however the Board may provide time for members of the public to present comments specific to matters that have been discussed. I intend to allow the Public to comment when the meeting is opened to the Public for comment.*

Joe Thompson, Landscape Director, The Fells presented to the Board. He noted that his background is that of a residential landscape architect. He said this proposed project satisfies a long-standing and long-studied need for a well-designed, dedicated parking area on the site. He noted that the The Fells Board of Directors considered four other locations on the 83 ½ acres before selecting the current proposed site. He added that this location was chosen because it offered the lowest impact to the primary historic buildings and grounds.

Mr. Thompson noted that the current proposed plan includes input from a soil scientist and an engineer. He said the plan includes two car parks with 36 spaces each, with three spaces that are ADA compliant. He noted that the proposed site is 159-feet from Bartlett Brook.

Expanding the existing parking lot at the Gate House was considered and rejected because the expansion would have to occur in the upland area in the adjacent meadow. He said the NH Division of Historical Resources wants that area restored to a “fell” and plans are to spread topsoil on the area and seeding it. He noted that the area in question is often muddy and only usable in dry weather. The current parking area contains spaces for 18 cars and the adjacent meadow accommodates 22 cars. He said event parking often ends up on Route 103A or scattered throughout The Fells grounds. He noted that those parked by the edge of route 103A encounter dangerous exit and entry to their vehicles. Also, the existing entrance to the historic drive is not wide enough to accommodate the occasional tour buses, construction and delivery trucks. The current entrance cannot be adapted without unacceptable changes to the entry stonework.

Mr. Thompson reviewed the proposed plans saying the two lots are separated by a landscaped island which will provide a lot of drainage. He described additional drainage plans including level spreaders, rain gardens, under drains and under detention basins. He reviewed how the anticipated stormwater runoff will travel through the aforementioned drainage plans, noting that the water will be

discharged into smaller rain gardens for absorption. He said the stormwater runoff from the parking lots will go into a large rain garden. The runoff rates have been calculated for a 25-year storm event.

Mr. Thompson said there will be an oil collector for whatever drainage comes off the parked cars in the lots. He said the oil drainage is collected in a chamber and pumped out annually.

Mr. Healey asked if the maintenance for the oil drainage system is included on the plans. Mr. Thompson said if it isn't, then he will add it. Mr. McWilliams directed Mr. Thompson to page 30 of the Site Plan Review regulations for guidance.

There was further discussion regarding the potential for overflow in the level spreaders, rain gardens, and oil collector chamber and how that potential overflow will be handled. Mr. Healey requested that a "Note" on the final site plan address this concern. Mr. McWilliams suggested that Doug Sweet, Bristol Sweet, engineer, participate in future presentations. Mr. Thompson agreed.

Mr. Thompson presented and described six drawings of the proposed plan: (1) Existing Conditions; (2) Shoreland Overlay District Boundaries; (3) Planting Plan; (4) Illustrative Plan; (5) Grading; (6) Planting and Lighting Plan. He noted that the Lighting Plan contains seven fixtures on 20-foot high poles which meet the standards of the NH Division of Historical Resources.

Mr. Thompson questioned the wattage and lumen restrictions in the town zoning ordinance for exterior lighting. He noted that the regulations call for a maximum wattage of 100W and he wants to use 134W and 144W. Also, he wants to increase the lumens from a maximum of 660 (per the regulations) to 12,000. He said the lights would be used for evening events and a timer would be used to turn them off. If there is no event scheduled, then the only light at night would be a motion detector located at the kiosk.

Mr. Weiler noted that the LEDs used should be within the yellow spectrum instead of the blue spectrum. Mr. Thompson said that white light is preferred. Mr. Weiler noted that a lighting engineer should be included in the presentation to the Board. Mr. McWilliams suggested that Mr. Thompson give the Board a few local examples of the kind of lighting proposed so the Board can see what it is like at night.

There was discussion about the height of the poles and a suggestion by Mr. Healey to lower the height by placing more poles throughout the site. Mr. Thompson said it is a budgetary question. Mr. Caia asked if the number of lights used will depend on the size of the event. Mr. Thompson said he wasn't sure how that might work since he anticipates that all the lights will be on one timer.

Mr. Healey noted that the 2007-2008 parking lot plan for The Fells included accommodation for three buses and that the current proposed plan does not indicate any parking for buses. Mr. Thompson said buses will park in the lot parallel to the side and that will leave about 60 parking spaces for cars. He added that buses typically come in the morning and afternoon and depart before evening.

Mr. Healey reviewed a list of items he feels are needed for this project:

- Since this plan calls for a lot of tree cutting in a shoreland overlay district, there is a process involved. Requirements include a review of the proposed tree cutting plan by the Newbury Conservation Commission (NCC) and the Code Enforcement Officer (CEO). Following that, the Select Board will review the tree cutting plan prior to granting authorization. Mr. Healey noted that the current plan places this task under the contractor's responsibilities. Mr. Thompson said he will remove this task from the contractor's responsibility and do it himself.
- DES Alteration of Terrain Permit. Mr. Thompson said he checked with DES and learned he did not need this permit. Mr. Healey said there will be more than 50,000 square feet of soil disturbance. Mr. Thompson said DES has indicated that this permit is not needed. Discussion followed.

- DES Wetlands Permit. Mr. Thompson said he has not yet submitted an application for same.
- The DES standards for filling in a wetland versus preserving the “fell” adjacent to the existing parking lot. There was discussion about why the potential for expanding the existing parking area into the adjacent meadow is not considered a better alternative to filling in a wetland. Mr. Thompson said a DES wetland scientist visited the existing lot and determined that it is a mess and that the current entrance has a poor sightline onto Route 103A. Also, Mr. Thompson said the NH Division of Historical Resources will not allow any disturbance to the existing stone entranceway. He added that since the state holds an easement on the property, The Fells must maintain the property as it was received.
- NH Division of Historical Resources permit. Mr. Thompson said that permit is in hand.
- DOT driveway permit. Mr. Thompson said he does not have that yet.
- Site Plan Review application.

Mr. Healey suggested that the Board make a site visit to see the staked markings of the proposed lot on the property. There was Board consensus to schedule a site visit.

Mr. Healey noted that the elevation drop to Bartlett Brook is 65-feet. Mr. Thompson noted that the plans show that the maximum fill depth is no more than 6-feet in any one spot.

Mr. Thompson discussed the existing sight lines onto Route 103A at the entrance and how the proposed plan would provide significantly improved sight lines at the entrance/exit.

Mr. Healey reviewed the proposed stormwater management plan, noting that the design is a sophisticated one. He expressed concern that the Board is unable to determine if the proposed design will provide adequate protection for Bartlett Brook and Lake Sunapee. He suggested that an independent third party expert review the plans. Discussion followed.

Mr. Thompson noted that the contours of the land naturally move stormwater away from Bartlett Brook. He added that the brook veers off and away from the proposed parking lot as it nears Lake Sunapee.

Mr. Thompson described how he wants to move the existing entrance sign to the new location and asked if the sign location needs to be set back from Route 103A. Mr. McWilliams said that signs on a state road are exempt from sign set back regulations.

Mr. Healey read into the record the following letter:

*May 6, 2016, Newbury Planning Board, Mr. Bruce Healey, Chair, PO Box 296, Newbury, NH 03255, Re: The Fells Proposed Parking Lot*

*Dear Mr. Healey and Planning Board, LSPA's Robert Wood and I met with principals from the Fells with regard to their proposed parking lot. The plans were preliminary, more conceptual in nature, but outlined 86 parking spaces. We shared several concerns on the project. Basically, the project requires filling in wetlands and the runoff, we feel, will potentially affect Beech (Bartlett) Brook, the most pristine brook in the Lake Sunapee watershed. While the stormwater management details were not clear, we are concerned about sediment and nutrients making their way to the brook. As you know this is the number one cause of lake decline, and we are now seeing increases in cyanobacteria in Lake Sunapee. Given the year round usage of the parking lot, the management of winter parking lot conditions, including plowing and sanding, are also a concern. The plan has level spreaders as part of the stormwater control, but these require constant maintenance to be effective. It is a difficult area, very wet with slope to the west side of the proposed lot. We have shared our thoughts that a smaller parking lot would have less environmental impact and that the Fells might consider this. Their project summary indicates that 60-85 spaces would fill their "needs". (For comparison, the Newbury Town Hall and Library have 60 spaces; Bubbas and the small commercial building in Newbury has approximately 40.) It should also be noted that there might be other designs that would require less filling of wetlands.*

*NH regulations require projects to be the solution of "least impact". We also note that regulations are "minimum standards", and we would hope that our sister environmental partners would want to be above the minimum in the spirit of protecting the environment and water resources of Newbury. We are also concerned about "lighting pollution" as the plans include several post lights at a height of 20 feet. We realize that The Fells has new directions, but trust that any solution will be in keeping with Newbury's Master Plan and the quality of life around our lake.*  
*Thank you, June Fichter, Executive Director, Lake Sunapee Protective Association*

There being no further questions from the Board, Mr. Healey opened the meeting to the Public.

Katheryn Holmes, Chair, Newbury Conservation Commission (NCC) requested a 30-day extension for submission of the NCC sign-off sheet. The Board agreed. She requested that the Board require full documentation from the NH Division of Historical Resources pertaining to the permits and reasons why the existing parking lot may not be considered.

She added that the plan should include an elaborate erosion control plan. Also, she suggested that a landscape design architect be included in the presentation along with a detailed maintenance plan for all elements of the stormwater control plan.

Ms. Holmes noted that Mt. Sunapee Report has night lighting and that the Board could check it out.

She cautioned that when buses are on site, they run their engines continually which will cause pollution concerns.

She asked how often all 86 parking spaces will be utilized. Mr. Thompson said he couldn't say.

Ms. Holmes said she shares the concerns detailed in the LSPA letter. She added that the Planning Board should consider applying Article 8, 8.1.1, and 8.1.2.

She discussed the point system regarding tree cutting.

Ms. Holmes suggested petitioning the NH Division of Historical Resources to reconsider its decision about preserving the meadow adjacent to the existing parking lot. Discussion followed. Ms. Holmes noted that the Division of Historical Resources should be part of this application and participate in the presentation.

Dave Carlstrom, 41 Malia Terrace, said this plan is twice as big as the parking lot at the Newbury Town Office. He said the proposed lighting will be seen by area residents and the increased number of parking spaces will mean more events, bigger events, and more noise.

He noted that off-street parking will invite off-hours usage by uninvited individuals which will pose a safety issue for neighbors. He said the existing lot is used during off-hours and has become a gathering place for uninvited individuals.

He added that this major increase in traffic, events, noise, etc. will have a direct impact on the culture and mission of The Fells and will damage the residential neighborhood.

Mr. Thompson said the need for more parking spaces is immediate.

Mr. Carlstrom noted that these plans are for the convenience of The Fells and for budgetary reasons but there is no consideration about the long term effects on the neighborhood.

Steve Cheyehl, Malia Terrace, said he has been a neighbor of The Fells for 26 years and he is appalled at their plans to install an industrial grade parking lot. He added that this is a zoning issue since this proposed plan is going into a residential zone.

He said The Fells has over 83 acres and there has to be a better place to build additional parking.

Peter Fichter, Malia Terrace, said the scale of the proposed plan is excessive since it is being placed in a residential area. He said the proposed lighting is not within keeping for a residential neighborhood.

He added that the plan does not adhere to the town Master Plan which clearly states a preservation of the town's rural character.

He noted that the off-hours usage of an unpoliced parking lot attracts underage drinking. He said the plan needs a gate that can be locked after hours.

Mr. Fichter cited the Comprehensive Conservation Plan for the John Hay National Wildlife Refuge published in June 2010 by the U.S. Fish & Wildlife Service, Chapter 4 Management Direction and Implementation, Section 2 and 10. He noted that the Plan calls for an intent to build a parking lot at the south end which means that in an area of less than ½ mile, there would be two parking lots on route 103A. He added this would not be in keeping with the rural character of the area.

Mr. Fichter said he appreciates that The Fells could benefit from additional parking but he added that this plan is not an appropriate plan to accomplish this.

There was additional general discussion about the closing of parking lots at dusk and what happens in the off-usage hours.

Mr. Carlstrom asked if the proposed parking lot is a Fells parking lot or a federal parking lot for use 24/7. Mr. Thompson said the parking lot will close at dusk every day. Mr. Carlstrom added that the lot will end up being used for more than just The Fells functions.

June Fichter, Executive Director, LSPA, noted that the needs expressed by The Fells is for 60 to 86 parking spaces. She encouraged The Fells to consider planning for just 60 spaces instead of 86. Also, she suggested turning the lot design by 90 degrees which would lessen the impact on the wetland.

Mr. Williams asked why the design was not parallel to Route 103A. Mr. Thompson said there was a cistern that had to be preserved that was preventing a parallel placement of the lot.

Bob Stewart, NCC Member, and RCS Designs, wetland scientist, strongly recommended that an engineer review the entire stormwater management plan. He raised concerns regarding the proposed underground detention plans that would be located in an already water-saturated wetland area. He noted that there is groundwater already there so discharging runoff into ground water will mean the level spreaders will be running all of the time.

Mr. Thompson said the underdrains will catch all of the ground water.

Mr. Caia asked if test pits were done in the upland areas to test for ground water. Mr. Thompson said there isn't a lot of upland area. Mr. Caia noted that the pipes will be running all of the time. Mr. Thompson said yes, they will run all year long.

Mr. Caia expressed concern that zero impact will not be achieved.

Ms. Holmes noted that a wetland is a natural filter system for cleaning stormwater runoff before it enters streams, ponds and lakes.

Additional comments from the Public included the following:

- Ms. Holmes: "I was under the impressions that you [The Fells] were planning to use your facility on a year-round basis." Mr. Thompson: "There are sometimes, some small workshops and things like that in the winter time, or meetings in November and early December. But the whole site won't have a need for a large parking area [for events]. A big part of the parking area [in winter] will be for snow storage. We don't need that much parking in the winter time."
- Mr. Carlstrom, Malia Place: "...even though you say that the parking lot use will be situational [as-needed] only, if you build it, they will come. So you will have bigger events pushing longer into the night. If you have 87 spaces the events will get bigger." Mr. Thompson: "The need for increased spaces is now. It's not to accommodate additional things. It's not 'if you build it, they will come'. They are coming now. (Existing lot holds 40 cars max, and Joe parks another 40 cars on grassy areas near the house). In the years to come we are going to come in here to propose a formal event space to replace using the Rose Garden."
- Mr. Cheyehl, Malia Place: "This [industrial-sized parking lot] makes no sense when this is done for the furtherance of a commercial enterprise [in a residential zone]. It isn't the visitor problem, it isn't the member problem, it is the event problem. That's a commercial activity. Zoning does not permit that commercial activity."

There being no further comments from the Public, Mr. Healey closed the public portion of the meeting.

There was discussion about whether or not the Board was ready to move the application out of Design Review and into a Final Site Plan Review. Mr. McWilliams suggested that the application be continued and that Bristol Sweet attend the next meeting along with a lighting engineer.

Mr. Smith made a motion to Continue the Design Review to June 21, 2016 at 7:15 p.m. Mr. Williams seconded the motion. Mr. Healey called for a Roll Call vote.

**In Favor:** Mr. Smith, Mr. Caia, Mr. Weiler, Mr. Williams, Mr. Healey

**Opposed:** None

Mr. Healey requested a Site Visit at The Fells on May 23, 2016 at 4:30 p.m. The Board agreed.

**CASE: Case 2016-005: Conceptual – Minor Subdivision-** Michael & Susanne Quimby – Bob Stewart, Agent, Tax Map/Lot # 028-789-456.

Bob Stewart, RCS Designs, agent, was present to discuss the proposed minor subdivision with the Board.

Mr. Stewart described the property as one lot of 8.4 acres which was originally two lots that were merged by the Planning Board. The Quimbys want to move out of their existing home and into a one-level aging-in-place house to accommodate Mr. Quimby's medical condition.

Because of a drainage swale that is the result of off-site culverts, and extensive wetlands, the 1-acre building envelope requirement cannot be met because the existing conditions segments the area that would normally be used for the required building envelope. Mr. Stewart noted that he is meeting with the Board to ensure that the proper procedure in this case is to apply to the Zoning Board of Adjustment for a Variance.

Mr. Stewart discussed the existing wetlands and noted that he has monitored the ephemeral stream on the property which runs in the fall and spring. He said the stream is dry and it runs into a wooded wetland and not into another stream. He noted that this ephemeral stream bisects the lot and takes away the 1-acre buildable envelope.

He said there is a septic plan and a test pit has been done. He noted that it is a pre-existing legal lot and this proposal does not change the buildings on the property. He added that there will be two state approvals needed – a sub-division approval and a septic design approval.

Mr. Healey said the Planning board will require a ZBA variance, state sub-division approval, and a DOT driveway permit.

Mr. McWilliams asked what the hardship is, noting that the wetlands restrict the buildable area, per Paragraph 5.10 Building Envelopes of the zoning ordinance. Mr. Stewart said the type of wetland and the reason the wetland is there is the reason for hardship. He added that this is a lot affected by what has been done to the lot and the creation of drainage on the lot.

There was Board consensus that Case 2016-005: Minor subdivision Tax Map/Lot # 028-789-456 required a variance from the Zoning Board of Adjustment.

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

Meeting adjourned at 9:45 p.m.

Respectfully submitted,

Meg Whitemore  
Recording Secretary