

OFFICIAL  
HILLSBOROUGH PLANNING BOARD  
MINUTES – JANUARY 6, 2010

The meeting was called to order at 7:01 p.m. by Herman Wiegelman, Chairman.

Members present: Arlene Johns, Fred Murphy, Elisabeth Olson, Gary Sparks and Alternate Robert Eckberg.

Patricia Cote was designated as Alternate member voting in place of Ann Poole.

Shane O’Keefe, Planning Director, was present.

Present from the public: Chris Pinkham, Jean Pinkham, Michael Gallagher, Naomi Payne, Bill Goss, Rob Buker, Michael Barrett, Chris Dunklee, Brigita Veidis, Mikelis Veidis, Jack Meaney and Marian Baker

**MINUTES:**

*Gary Sparks MOVED and Arlene Johns SECONDED to approve the Minutes of the meeting of December 16, 2009, as amended.*

VOTED - YES: *Arlene Johns*  
*Fred Murphy*  
*Betsy Olson*  
*Gary Sparks*

VOTED - NO: N/A

ABSTAINED: *Pat Cote* (due to her absence at the subject meeting)

*MOTION passed.*

**PUBLIC INPUT/DISCUSSION:**

- 1. The Library Board of Trustees Chairman Bob Woolner spoke to the board about the charrette, held on December 12, 2009, which looked at potential improvements to the library as well as the Town offices.**

Mr. Woolner presented a plan of existing properties that was created after the charrette, and spoke of goals and options; some property purchases would be necessary to meet the municipal needs. It was his understanding that the TDS building is not available for purchase.

Mr. Woolner presented and explained a conceptual plan which showed the potential end result.

In answer to Johns, Mr. Woolner replied there are no phases being proposed at this time.

Murphy spoke of a US Supreme Court case in New London, Conn. where property was taken by the municipality for commercial needs, stating that we don't want that to happen here.

Rob Buker stated there are five or six employees working at the TDS building which houses telephone equipment, and is not for sale.

Sparks spoke of the library having wonderful outdoor events for children. He hoped the Town would come up with a comprehensive plan for the Town offices.

Mr. Buker said there are plans, with phases, to upgrade the upstairs of this building. (Some of the Town offices and the meeting room now occupy the first floor.) The upstairs would be able to house additional Town offices and a voting area; the lower floor of the library building, formerly used for the Town offices, has been cleaned out.

Sparks asked if any work has been done since the charrette was held.

Mr. Woolner answered that the Trustees have been doing some investigating, and mentioned there are some maintenance issues that need to be addressed at the library building.

Mr. Woolner was thanked for making his report to the Board.

**2. 7:23 p.m. PUBLIC HEARING – NAOMI PAYNE – Consider a proposal to upgrade an unmaintained portion of a “scenic road” per RSA 231:158.II (COUNTY ROAD)**

This matter was previously discussed on an informal basis at the Board's December 2, 2009 meeting. At that time plans and an explanatory letter were presented and reviewed by the Board.

Ms. Payne is a property owner who wishes to build a new single-family home (and possibly a guest house) and proposes to upgrade several Class 6 roads, including County Road which is designated as a “scenic road”. The applicant owns a total of 1378 +/- acres located between Hillsborough and Bradford, and would like to have a new driveway (approximately one mile long) extending to Bailey Adams Road and/or Kellom Road, and then improve both Bailey and County Roads.

She has received an access permit for her proposed driveway.

Johns stated that this Board's authority is to determine that no trees are cut and there is no disturbance of stone walls.

Chairman Wiegelman agreed with Johns and noted that this issue comes under our jurisdiction.

Michael Gallagher, Architect, with the assistance of an interpreter, made presentation and showed a plan of the property; the house would be near the water falls.

A discussion was held.

Chairman Wiegelman asked if there was anything else from the Board.

Bill Goss, Road Agent, asked what standards they wanted for the road.

Ms. Payne answered that she only wants to be able to drive her car on the road.

Mr. Goss asked if they would be maintaining the road, and Ms. Payne replied that this is the question.

Mr. Goss stated that she could upgrade the road, and then it may not be approved at Town Meeting; there would be a lot of work to do; they would have to widen the road, and blasting would be involved.

Ms. Payne said she would not do any blasting.

Mr. Goss noted there is considerable ledge in this area.

Plowing was discussed.

Mr. Goss suggested that Ms. Payne have work done on the road until she is satisfied, and then maintain the road herself.

In answer to Mr. Gallagher, Mr. Goss replied that the distances vary between the stone walls.

O'Keefe said that road acceptance is made by the voters at Town Meeting in order for the Town to be responsible for the maintenance.

Ms. Payne was agreeable to improving the road enough in order to drive over it, and then maintain the road herself.

Chris Duncklee, owner of neighboring property (about a mile from the green house), stated that he brought this matter of maintenance up some time ago to the Town, and was told to maintain the road himself.

Chris Pinkham spoke of being physically responsible for the road maintenance the past twenty-two years (since he moved here). He was not in favor of the Town maintaining the road as there could be the potential of eventually opening the road to Bradford. He was concerned about future development; in the winter the road conditions can be difficult; the Town provides a little grading in the summer.

Mr. Pinkham welcomed Ms. Payne to the area, and said he would be happy if she maintains her road in the same manner as he and other neighbors.

Marian Baker said she has been well acquainted with this area for many years. Her sister owns 500 acres behind the Pinkham's. She questioned whether they are planning to have their road go in the direction of East Washington Road or Bradford.

The plan was reviewed again and discussed.

Mr. Goss presumed they would go ahead with improving and maintaining the road; they need to let the Board of Selectmen know what they are doing.

Ms. Payne questioned why she was not previously told about the necessity of going to the Board of Selectmen.

O'Keefe stated that the Planning Board is only involved in whether there is a proposed disturbance of stone walls and cutting of trees on scenic roads.

Mr. Dunklee spoke of obtaining a waiver of responsibility from the Board of Selectmen prior to receiving a building permit.

7:56 p.m. The public hearing closed.

*Arlene Johns MOVED and Gary Sparks SECONDED to consent to the applicant's request to repair, reconstruct and maintain a portion of County Road, a designated scenic road, pursuant to RSA 231:158.II, provided such work is acceptable to the Hillsborough Board of Selectmen, and further move to authorize the Chairman to execute all documents necessary for such consent on behalf of the Board.*

Murphy said there is nothing in the Motion relative to not cutting trees and/or not disturbing stone walls.

Chairman Wiegelman explained that the RSA (copies in members' packets) deals with trees and stone walls on scenic roads.

In answer to O'Keefe, Mr. Gallagher replied there would not be any disturbance of stone walls.

*VOTED - YES: Arlene Johns  
Fred Murphy  
Betsy Olson  
Gary Sparks  
Pat cote*

*VOTED - NO: N/A*

*ABSTAINED: N/A*

*MOTION passed unanimously.*

All persons from the public left the meeting at 7:59 p.m.

Chairman Wiegelman continued the meeting at 8:00 p.m.

## **Old Business**

### **1. DISCUSSION: Enforcement of Board Conditions of Approval:**

A discussion was held relative to the issue of municipal enforcement of zoning and site plan review matters, which has been a matter of considerable discussion over the past few months

Members were in receipt of copies of a memo, dated January 4, 2010, to Chairman Wiegelman from Kelly Dearborn-Luce, Building/Health/Code Enforcement Official.

The memo explained her enforcement procedure for Planning Board conditional approvals that have not been met in an appropriate manner.

Memo was reviewed and discussed.

Further discussion was held on the following issues:

- Determination by the Planning Director and/or the Code Enforcement Officer whether an applicant needs to submit an application, and if so, the type of application.

O'Keefe stated that he looks over the zoning regulations every time a person inquires about a particular matter.

- Changes of use.
- Home businesses versus home occupations.
- O'Keefe remarked that the Code Enforcement Officer only works twenty-five hours a week.

A discussion was held

(There is no State certification for this position.)

- A discussion was held relative to the advantage of receiving, from the Code Enforcement Officer, copies of correspondence dealing with enforcement. Members agreed that this would be done from now on.
- Building Permits

O'Keefe noted that he was contacted by the Federal Bureau of Alcohol, Tobacco and Firearms inquiring about whether someone who proposes to sell guns on the internet from their home requires Town approval. It was his position that this likely constituted a Home Occupation and did not need Planning Board approval.

It was the opinion of Johns that the person should come before the Board, and spoke of the potential impact.

A discussion was held.

Sparks said that things come up we need to talk about; two people in the past wanted to sell guns from their home.

Chairman Wiegelman spoke of not burdening the people by having them come before the Board when it is not necessary.

Sparks spoke of objectionable home businesses, and read from the Town regulations – 229-86 (A5):

“The building and premises used for the home business or occupation shall not be rendered objectionable or detrimental to the residential character of the neighborhood because of exterior appearance, traffic emissions of odor, smoke, dust, noise, electrical

disturbance, on-site storage of hazardous materials as determined by the Hillsborough Fire Department or in any other way. Examples of home businesses and occupations that would be objectionable or detrimental to the residential character of the neighborhood are automotive repair garages, sawmills and slaughter houses.”

**2. NOTICES OF DECISION:** Board members thanked O’Keefe for presenting copies of the Notices of Decision dating back to 2007.

Members will be receiving copies of the future notices.

### **New Business**

1. Murphy asked when the budget meeting would be taking place.

Chairman Wiegelman replied that the meeting is to take place next Tuesday.

2. It was noted by Wiegelman that no Planning Boards receive compensation in the State.

A discussion was held.

3. Murphy spoke about low housing prices and noted a particular piece of property on his street that had a low selling price.

4. O’Keefe reported receiving from the Department of Environmental Services, copy of final alteration of terrain permit in the name of N.E. FARMSTEADS, Center Road.

5. Wiegelman read aloud a public notice announcing the CNHRPC presentation of the North Branch Rivers Management Plan update. Meeting is to take place at 7:00 p.m. on January 25, 2010, at the Pierce Elementary School in Bennington.

6. O’Keefe announced that a grant has been received, and the NHRPC would be contributing thirty hours of professional assistance relative to assisting the Town to create access management guidelines.

Board members expressed their gratitude to O’Keefe.

**7. LINDA KRUEGER – voluntary lot merger. 30 Winter Road (Map 14, Lots 432 and 433).**

The property owner proposes to merge two adjacent lots within the Emerald Lake District.

O’Keefe referred to RSA 674:39-a (Voluntary Merger): “Any owner of two or more contiguous preexisting approved or subdivided lots or parcels who wishes to merge them for municipal regulation and taxation purposes may do so by applying to the planning board or its designee. Except where such merger would create a violation of then-current ordinances or regulations, all such requests shall be approved, and no public hearing or notice shall be required. No new survey plat need be recorded, but a notice of the merger, sufficient to identify the relevant parcels and endorsed in writing by the planning board or its designee, shall be filed for recording in the registry of deeds, and a copy mailed to the municipality’s assessing officials. No such merged parcel shall thereafter be separately transferred without subdivision approval.”

A discussion was held relative to procedure.

**Fred Murphy MOVED and Gary Sparks SECONDED to re-authorize the chairman and past chairmen to endorse NOTICES OF VOLUNTARY MERGER.**

VOTED - YES: Arlene Johns  
Betsy Olson  
Fred Murphy  
Gary Sparks  
Pat Cote

VOTED - NO: N/A

ABSTAINED: N/A

**MOTION passed unanimously.**

**Other Business**

**1. DISCUSSION: Zoning and Site Plan Ordinance amendments.**

In response to the Board’s request from the previous meeting, O’Keefe read his proposed recommendations for amending the Zoning and Subdivision Ordinance (December 31, 2009 Draft).

Members reviewed and discussed the amendments.

Members were generally in agreement to accept the following amendments as follows:

## CHAPTER 229, ZONING

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### ARTICLE II, General Provisions

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#### § 229-6. Definitions and word usage.

- A. For the purposes of this chapter, the word "shall" indicates a mandatory application, and the word "may" indicates a permissive application; the present tense includes the future; the singular includes the plural, and the plural includes the singular; the word "used" includes the words "designed," "arranged" or "intended to be used"; and the word "person" includes an individual, partnership, firm, association, corporation, proprietorship or organization.
- B. Subject to the foregoing rules of construction, the following definitions apply to this chapter:

**BUILDING** -- A structure built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind and includes all structures.

**SITE PLAN REVIEW** - Review procedure as adopted by the Hillsborough Planning Board in its Site Plan Review Regulations.

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### ARTICLE IX, Administration and Enforcement

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#### § 229-58. Administering agency.

It shall be the duty of the Selectmen of the Town of Hillsborough to administer and enforce this chapter. They may, in their discretion, appoint a Building Inspector to administer and enforce this chapter.

#### § 229-59. Permits.

- A. Permits required. Upon passage of this chapter, no person may commence excavation or construction for a new building or addition to an existing building until a permit is issued by the Selectmen or their agent. This permit must certify that the proposed construction complies with the provisions of this chapter. For residential construction, an application for permit must be issued or denied within 30 days. For nonresidential construction, an application must be acted on within 60 days.
- B. Permit fees. The Board of Selectmen is hereby authorized to establish reasonable permit fees and to revise and amend those fees as necessary, provided that no fees may be established, amended or revised without a public hearing with 10 days' published and posted notice. Said notice shall contain a listing of all proposed fees. The Selectmen shall establish fees to sufficiently offset the administration and enforcement of the Building Code.

- C. Permit applications. No application for a permit shall be accepted or approved unless it is filed in writing on a form prescribed by the Selectmen, accompanied by the required permit fee and accompanied by whatever information, including drawings, the Selectmen may reasonably establish as necessary for the review of such applications.
- D. Stakes and markers. No applications for a permit shall be approved until stakes or markers shall be fixed on the lot to indicate the location of lot lines and all corners of building(s), structure(s) and alterations proposed.
- E. Permit conditions. The Selectmen or duly authorized Building Inspector may attach conditions which they deem necessary to the enforcement of this chapter to the issuance of a permit.
- F. Revocation of permit. The Selectmen or duly authorized Building Inspector may suspend or revoke any permit upon determining that the work or project in process is not in conformity with the permit as granted or is otherwise in violation of the terms of this chapter. In event of such suspension or revocation of a permit, the work or project concerned shall immediately cease or legal action to enforce such cessation shall forthwith be taken by the Selectmen or duly authorized Building Inspector.
- G. The Zoning Board of Adjustment shall serve as the Building Code Board of Appeals. alteration or proposed land use, or otherwise, under the authority of which no work has been commenced within one year after issuance shall expire and become void upon such anniversary. For new buildings, the commencement of work shall be considered to be the completion of the foundation.
- I. Renewal of permit. A permit under which work has commenced may be renewed for an additional year for a renewal fee to be established by the Selectmen as per Subsection B above.

## **Chapter 185, SITE PLAN REVIEW**

### **§ 185-1. Applicability.**

These site plan review regulations apply to the development or change or expansion of use of tracts for nonresidential uses or for multifamily units, which are defined as any structures containing more than two dwelling units. All such development or change or expansion of use requires site plan review approval, unless exempted by these regulations

### **§ 185-5.2. Commercial design and landscaping standards.**

These standards apply to commercial projects involving construction of a freestanding building, a building addition, or combination thereof with a footprint area greater than 1,000 square feet in all zoning districts in the Town of Hillsborough.

**§ 185-9. Definitions.**

A. For the purposes of these regulations, the following terms shall have the meanings indicated:

CHANGE OF USE -- Occurs when the use of a building or site changes to a new use. For example, a gas station succeeding a hardware store or an office succeeding a retail use is change of use. By contrast, one restaurant succeeding another restaurant a real estate office succeeding an insurance agency are not changes of use. Some changes of use occur without any development, as defined herein. These regulations provide for site plan review of such changes of use in certain situations.

DEVELOPMENT -- The construction of improvements of a tract or tracts of land for nonresidential uses or for multifamily dwelling units other than one- or two-family dwellings. The word "development" here shall not include structures of improvements for farming, logging or forestry.

B. Zoning and Subdivision Regulations. The definitions contained in the Zoning Ordinance and the Subdivision Regulations<sup>iEN</sup> shall, where applicable, apply to the Site Plan Review Regulations.

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Chairman Wiegelman asked if there was any other business to conduct this evening.

9:05 p.m. Fred Murphy MOVED and Gary Sparks SECONDED to adjourn.

VOTED - YES: Arlene Johns  
Fred Murphy  
Betsy Olson  
Gary Sparks  
Pat Cote

VOTED - NO: N/A

ABSTAINED: N/A

MOTION passed unanimously.

Respectfully submitted,

Patricia M. Cote  
Recording Secretary