

HILLSBOROUGH PLANNING BOARD

January 18, 2012
Official Meeting Minutes

Present:

Members: Herm Wiegelman (Chair), Martha Caron (Vice Chair), Russ Galpin, Rachel Hawkinson (Alternate), Bob Eckberg (Alternate)

Shane O'Keefe, Planning Director
John P. Segedy, Recording Secretary

Jon Gibson, Zoning Task Force Member (ZTF) and Historic District Commissioner
Roger Racette, Zoning Task Force Member and Chairperson – Zoning Board of Adjustment (ZBA)
Harvey Chandler, Zoning Task Force Member
Leigh Bosse
Benjamin Chadwick
Kelly Dearborn-Luce
Daniel C. Luce
Iris Campbell
Bob Hutchinson, Emerald Lake Village District (ELVD) Commissioner and Chair
Troy Cornock, ELVD Commissioner
John Dahood, ELVD Commissioner
Nan McCarthy

CALL TO ORDER

The meeting was called to order at 7:01 pm by Martha Caron, Vice-Chairperson.
Shane O'Keefe, Planning Director had provided a staff memo to the Board regarding the meeting's agenda items which was provided as part of a packet of information to the Board..
Bob Hutchinson provided a letter that had previously been submitted and circulated electronically to Board members.

DESIGNATION OF ALTERNATE MEMBERS

Rachel Hawkinson was designated to vote for Ann Poole.
Bob Eckberg was designated to vote for Paris Wells.

MINUTES

January 4, 2012

Rachel Hawkinson moved: *To approve the minutes of January 4, 2012 as presented.*

Russ Galpin seconded. Motion passed 3-0-2 (Bob Eckberg and Herm Wiegelman abstained).

PUBLIC INPUT/ BUSINESS

1. PUBLIC HEARING - Proposed amendments to the Site Plan Review Regulations.

Chair Wiegelman opened the Public Hearing at 7:05 pm. He noted that since Notice had been posted for it to start at 7:15 pm, he would not close the hearing until after 7:15, giving anyone who arrived at that time a chance to speak.

Kelly Dearborn-Luce provided copies of a suggested change to Section 185-12 A she had prepared:

These regulations shall be administered and enforced by the Board of Selectmen and /or the Code Enforcement Official, as an agent duly appointed by the Board of Selectmen.

Should it be determined that an applicant for the Planning Board is proceeding contrary to these regulations, an approved plan, the terms and conditions of an approved plan or application or other agreement with the Planning Board, then the applicant shall be notified by the Code Enforcement Official, as the appointed agent of the Board of Selectmen, of the specifics of the violation(s) and the appropriate steps and timetable to undertake in order to remedy said violation(s). The Planning Board shall notify the Code Enforcement Official of any alleged violations under this chapter. The Code Enforcement Official shall report back to the Planning Board and/or Board of Selectmen of all findings.

Herm Wiegelman said he had a concern that there might be a time that the Town is without a Code Enforcement Official.

Ben Chadwick suggested that the Selectmen could appoint a temporary Code Enforcement Official.

Russ Galpin said that normally when there is a vacancy the Selectmen assume responsibility.

Shane O'Keefe pointed out that some of the language proposed to be removed had been suggested for inclusion by the Town Attorney.

Martha Caron said it appears that this would take out the right of the Planning Board to take action itself and only would be able to do so through the Code Enforcement Official.

Shane O'Keefe said he would recommend just making a slight change to the warned versions Section 185-12 A 's first sentence by adding the words 'Planning Board' after the word administered.

Chair Wiegelman asked if any other members of the public wanted to speak.

John Segedy, speaking as a member of the public addressed 3 sections:

Section 185-14 B

John Segedy said that he believes it should say 'less restrictive or lower standard'. He said it is his belief that when a government exercises its powers to take away someone's rights (which is the whole reason for the existence of these regulations and of the Board itself) it should be very clear. When there is a conflict in the law he believes that the benefit of the doubt should go to the person whose rights are being taken or restricted.

Section 185-12 C

John Segedy said he believes penalties - per day ones in particular - should not accrue until after a conviction. He does not believe that an individual should be subject to losing their property simply because they may disagree with an opinion/finding of one person and may want to challenge said finding of violation.

Section 185-10 D

John Segedy said he thought the expiration of approvals after only 18 months was not a good idea. Specifically he thought that by having approvals expire, developers will not be able to do projects with partial approvals as the Board and Economic Development Commission had discussed a few months ago.

Shane O'Keefe said an applicant could ask for an extension.

The Board went back to discussing the enforcement issue (Section 185-12 A).

Martha Caron summarized that the way it should work is that if there is a problem in the field then the Code Enforcement Official would go out and deal with it. She continued, if there is a paper work issue then the Planning Board would send a letter.

Kelly Dearborn-Luce said that was what her proposed language would do. She said she didn't see the warned version as saying that.

Martha Caron moved: To close the Public Hearing.

Rachel Hawkinson seconded. Motion passed 5-0.

Rachel Hawkinson moved: *To adopt and certify the proposed amendment to the Hillsborough Site Plan Review Regulation as warned, and to file same with the Town Clerk, all in accordance with RSA 675:6.*

Martha Caron seconded. Motion passed 5-0.

2. PUBLIC HEARING – Proposed Zoning Ordinance Amendment extending the expiration of Article XVI, the Interim Growth Management Ordinance for Emerald Lake Village District.

Chair Wiegelman opened the Public Hearing at 7:30 pm.

Chair Wiegelman asked Bob Hutchinson, ELVD Commissioner if he wanted to give the Commission's position.

Bob Hutchinson said he would let the public speak first.

Nan McCarthy said that Jim Coffey had sent a letter to the Board that she didn't think accurately reflected conditions. She said, to clarify, the water ban has been relaxed, but has not ended.

Nan McCarthy continued, saying that until there is enough water for all, she feels they still need the building moratorium. She said that they need to manage growth and that the poor economy and \$4,500.00 hook up fee is not management.

There was some back and forth discussion of the water ban and whether there was one or not.

Nan McCarthy said that Jim Coffey also seemed to have a problem with the Master Plan. She said that she hadn't read it, but that if there were problems they should be fixed, which could be done during the moratorium.

Nan McCarthy said that the moratorium needs to be continued for at least another year during which they can work on the plan and work to have a controlled managed growth.

Martha Caron said that she had two questions for Bob Hutchinson:

1. If hookups are allowed, will the water ban be lifted?, and
2. What is your interpretation of the phrase "and implementation" as added to the ordinance (Section 229-105 B) last year?

Bob Hutchinson said that starting April 15 they will begin \$1,500,000.00 of water system work. He said that already they have gone from 60 gallons per minute (gpm) to 145 gpm, which amounts to 208,000 gallons per day. Bob Hutchinson said he would like to lift the ban, but still would like to have people conserve and not waste the water.

Bob Hutchinson said that will be putting in new lines. He said they have six lots 'tagged' as wetlands that are unbuildable including two that have hookups that they may have to reimburse. He said there are three that have been approved for hookups but have been waiting six years to build and it isn't fair for these people.

Martha Caron asked if these were the five that were discussed last year.

Bob Hutchinson answered yes. He said that the State has written a letter, that the Board saw last year, saying that they won't support the moratorium anymore. In addition he said he thinks that most of the residents support the work they have done and ending the moratorium.

Martha Caron asked if the Board agrees to lift the moratorium then will the water ban be lifted.

Troy Cornock said that places have water bans without having building moratoriums. He asked: Who was suffering?

Troy Cornock asked: Are you suffering Nan?

Nan McCarthy answered yes. She said: Until I can water with a hose then I am losing value in my gardens.

Martha Caron asked if there is a water ban.

Bob Hutchinson said he prefers to think of it as having “water conservation”.

Ben Chadwick said he isn't an Emerald Lake resident, but he drives up there every week and sees the water ban sign.

Nan McCarthy said that there is a water ban.

There was discussion of the ELVD Master Plan.

Herm Wiegelman said that in the past the ELVD Commissioners have come to the Planning Board and asked for the Moratorium and the Board supported them. Now he said, they are coming and saying that they don't want it extended, so the Board should support them.

Martha Caron said that first the issue was lack of water and now it is one of fairness. She said she couldn't see allowing new hookups if the people who are hooked up all ready don't have enough water.

Bob Eckberg said he saw them as two separate things. Supplying water and any ban is ELVD's responsibility, but the Moratorium is through the Town.

Leigh Bosse said since the Emerald Lake officials have asked that the Moratorium not be continued, he thinks it's clear that is what the Planning Board should do.

Martha Caron said that the Board does have a duty to discuss and consider it.

Nan McCarthy said she takes exception to Bob Hutchinson's statement that most people at the lake support ending the moratorium.

Bob Hutchinson said they expect to end the water ban but still want people to conserve and not waste water.

Shane O'Keefe noted that a letter had been submitted from Glenn and Laura Brilla to be considered and that copies were included in the Board's packet of information.

Rachel Hawkinson moved: *To close the Public Hearing.*

Martha Caron seconded. Motion passed 5-0.

Martha Caron said she would support ending the moratorium if the water ban is lifted.

There was a brief discussion of whether the water ban is within the Board's jurisdiction.

Russ Galpin moved: *To not continue the building moratorium on the recommendation of the ELVD Commissioners.*

Bob Eckberg seconded. Motion passed 4-1 (Martha Caron voted no).

3. Public Hearing - Proposed Zoning Ordinance Amendments

Chair Wiegelman opened the Public Hearing at 8:07 pm.

Shane O'Keefe had copies of the proposed ordinance amendments and chart available.

Harvey Chandler pointed out that text removed had a line through them and text added had a line under them.

Herm Wiegelman asked for a summary of what the changes are from one of the Zoning Task Force members.

Roger Racette said that they are required by the Zoning Ordinance to review the regulations and that is what they have done. He said the biggest change made was to pull all the definitions into one area and to create a chart to indicate where uses are or aren't allowed. Roger Racette said he would answer any questions.

Russ Galpin noted on page 3 there was a typo in that the title 'cluster development' shouldn't have been crossed out. O'Keefe stated that he would fix this error.

Martha Caron said that she expects that some fine tuning will be needed of the regulations in future years.

Ben Chadwick said he and his wife had concerns about cluster development being allowed in the Lower Village.

Jon Gibson replied that it was allowed when the district was adopted and therefore is allowed now. He said that hasn't changed, it was just indicated on the chart now.

Ben Chadwick asked how it can be removed from there.

Shane O'Keefe said that the Board can make changes if it chooses.

There was discussion of cluster development.

Iris Campbell said she was concerned about the removal of the reference to parking in the Central Business District on page 7 of 8.

Shane O'Keefe answered that the reference was removed because the parking regulations were removed from the ordinance a few years ago and there are currently no parking regulations to be referred to.

Gary Sparks said he recalled having to deal with what were outdated parking standards with the Wal-Mart proposal

Chair Wiegelman asked if there was any further public comment.

John Segedy, speaking as a member of the public, said that while he supports the idea of compiling information into the chart to make it easier to understand as is proposed in Article 1, he thinks that that should have been separate from adding any new restrictions into it. As examples of new restrictions that were added he pointed out the definition of structures which now included everything from fences to picnic tables to grape arbors which will now be subject to regulation. John Segedy also noted that the phrase 'all commercial uses' had been removed from what was allowed in the Commercial zoning district, which together with the addition of the prohibition of 'any use not specifically allowed' will significantly limit commercial development which is something this town desperately needs.

Shane O'Keefe noted that it only applied to fences over seven feet.

John Segedy urged the Board to separate the reorganization from the changed regulations.

John Segedy said he also disagrees with Article 2. He said that this specifically places a limitation on what someone can have inside their garage or barn. He said to enforce this we will have the Code Enforcer, Kelly Dearborn-Luce, checking what is inside peoples barns! Is she going to be peeking in

windows? he asked. John Segedy also said that only allowing a trailer to be parked in the back or side yard is impractical for many people who only have driveways in their front yard. He asked if they will need to pay to try to get a variance for that and if so will they need a new one each time they move it and park it in a slightly different spot. He said this was one of the worst pieces of regulation he had ever seen and urged the Board to not go forward with it.

John Segedy said he also disagreed with the addition in Article 5 of a requirement for a hearing for a home business. He said that, while this requirement will mean additional pay for himself (as he does the noticing for such hearings), he doesn't think that it is a good idea.

Shane O'Keefe said that was referring to proposed section 229-86 C (1). He said that in the past that hearings had been required but that it had been changed at one point by virtue of a re-codification of the Subdivision Regulations and this was changing it back.

Martha Caron moved: *To close the public hearing.*

Rachel Hawkinson seconded. Motion passed at 8:45 pm.

Martha Caron moved: *To approve and certify the proposed amendments to Hillsborough Zoning Ordinance, as warned, and to forward the amendments, as approved, to the Selectmen and Town Clerk for consideration by the voters at the 2012 Town Meeting, all in accordance with RSA 675:3.*

There was discussion of whether they needed to specifically note the typo noted by Russ Galpin or another grammatical typo noted by Herm Wiegelman. Consensus was it wasn't necessary.

Rachel Hawkinson seconded. Motion passed 5-0

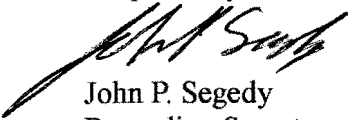
There was discussion about having a public forum to explain the proposals.

ADJOURNMENT

Martha Caron moved: *To adjourn.*

Rachel Hawkinson seconded. Motion passed 5-0 at 8:49 pm.

Respectfully Submitted:



John P. Segedy

Recording Secretary

Approved February 1, 2012