

PLANNING BOARD MINUTES

February 26, 2014

APPROVED:

3/26/14 __jrl_____

AGENDA: ANNUAL LAW UPDATES, ATTORNEY BERNIE WAUGH

ATTEND: Denice DeStefano (Chairman), Dan Paradis (Vice Chair), Joe Denning (Sel. Rep.), Clay Dingman, Elizabeth Seeler, Steve Favorite (alternate)

ABSENT: -----

OTHER: Attorney Waugh, Janet Cote (Selectman/Conservation Commission), Michael Capone (Town Administrator), Sandra Heaney (Historic District/Conservation Commission), public

The meeting opened at 7:00 p.m. Alternate Steve Favorite sat in for one of the open member positions.

LAW UPDATES: ATTY. BERNIE WAUGH

Attorney Waugh stated that he has been doing these updates for 27 years as education for the communities. He then directed all to the 1013 Municipal Law Update pamphlet. He has written this in two parts: Land Use and Environment and then various cases.

The first law that Atty. Waugh addressed was PROTECT ARCHEOLOGY, CH. 76 (HB295). Mr. Favorite mentioned that Ashland has written up a document on wind mill farms. These have strict requirements. Atty. Waugh explained that there is no Home Rule in NH. The SEC evaluates their review. The towns have no say if the output is over 30 kilowatts. Any strict requirements by a town are not supported by law. The SEC is supposed to take into account any town comments, however.

The next law discussed was HOW LONG DO VARIANCES & EXCEPTIONS LAST? CH.93 (SB12). An applicant has at least 2 years to exercise either of these before the time limit expires. Towns may extend this time but not shorten it.

LANDOWNER LIABILITY, CH162 (HB522). This covers liability protection to landowners and municipalities who open their land for FREE recreational activities. Volunteers working on things such as a recreation path are included.

PLANNING BOARD APPEALS TO ZBA. CH.179 (SB49). An appeal does not apply when the Zoning Ordinance says that the Planning Board can determine a certain situation.

SPRINKLERS FOR RESIDENCES. CH.207 (HB28). Not required in one- or two-family residences. The homeowner may voluntarily add sprinklers to an application, however. Mr. Favorite asked about chemical systems and Atty. Waugh had no information on these.

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LAW UPDATES continued:

STATE PREEMPTION OF LOCAL TELECOMMUNICATIONS REGULATION. CH267 (SB101). The State has now set regulations (previously it was just Federal regulations). Any proposal to collocate on an existing tower, building, water tower, electric pole, etc. is exempt from local review. Only new structures are subject to local regulations.

INTEGRATED DES LAND DEVELOPMENT PERMIT. CH.270 (SB429). Any multiple copies of permits to the DES is now on one integrated permit process and DES must complete these within 45 days or the permits are deemed issued by default.

FILING FOR OFFICE ON LAST DAY. CH.14 (HB309). Anyone filing on the last day of the filing period must file in person rather than by mail. The candidates are also required to swear that they are actually registered to vote, not just qualified to vote.

DAMAGES FROM ROAD, CULVERT & DRAINAGE WORK. CH.16 (HB575). All landowners should be notified before any municipal work is started.

SELECTMEN SIGNING MANIFESTS. CH.124 (HB522). Allows Selectmen to sign manifests without a public meeting.

EXPANSION OF "FIREMAN'S RULE". CH169 (HB123). Prohibits firefighters, EMT's and other public safety officers who are injured while responding to a call from suing the landowner.

WATER OR SEWER DISTRICTS. CH214 (SB11). Atty. Waugh feels that this is an overlapping law to RSA 149-1 (sewers) and RSA 38 (water) and could be confusing.

CASES IN THE COURTS: The cases that Atty. Waugh went over were pretty much spelled out in his document. Those looked at were: SITE PLAN REVIEW, GRAVEL EXCAVATIONS, VARIANCE APPLICATIONS (Atty. Waugh stated that the ZBA should always ask first if the Variance is even needed before they proceed.), SIGNS, ZBA APPEALS, STANDING TO APPEAL, LOT MERGER (Folks have until the end of 2016 to unmerge their properties if they were not merged voluntarily.), LOT MERGER, ACT II, LANDLORD-TENANT, RECORDING, LOCAL WELFARE, EMINENT DOMAIN, MUNICIPAL LEASES VS. MUNICIPAL TAXES, LAND USE CHANGE TAX (Ms. Seeler asked the rate to pay when a property is taken from Land Use and Atty. Waugh answered that it is 10% of the Fair Market Value.), U.S. SUPREME COURT – "TAKINGS" (The most important lesson here is that land is not to be taken by coercion.), and INVERSE CONDEMNATION "TAKING".

Having covered all items that Atty. Waugh felt was relevant to the group present, he prepared to leave and the Board thanked him for his presentation.

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MINUTES OF FEBRUARY 12, 2014:

The following amendments and clarifications were made: Page 1, under PCC: CAROLYN PARKER, 2nd line of the paragraph, replace “Led” with “LED”. In the 2nd paragraph, 1st line, following “Mr. Paradis read” insert “part of”.

C. Dingman made a motion, second by S. Favorite, to approve the minutes as amended. The motion carried.

REPORTS:

HISTORIC DISTRICT: Have not met.

SELECTMEN: Nothing to report until town meeting is over.

CIP: have not met yet.

CONDITIONAL USE PERMIT: Ms. DeStefano explained that there is no Site Plan for Cumberland Farms (pre-Site Plan regulations). She asked what we want to require for an applicant in this case. Ms. Seeler felt that a drawing of what is there, to scale, is needed, with more of the detail of the pumps. Mr. Paradis suggested the need be like in a minor site plan. A discussion followed and it was determined to ask for a plan as what is required for a minor site plan.

OTHER:

Mr. Capone mentioned that the Select Board is working on a lease form for Mr. Smith regarding parking. They will meet next on March 6th. A discussion followed as to how many spaces are needed with nothing decisive.

Mr. Paradis stated that Ms. Goodwin (Land Use/Assessing) is now sending all applicants for a PCC. Ms. DeStefano thought that she meant only those in which a determination is not easily made.

COMMUNICATIONS: None.

NEXT MEETING: The next meeting of the Planning Board will be March 12th at 7:00 p.m. On the agenda: Elections, Cont. Minor Site Plan for Anson Smith, and work on Site Plan/Subdivision Regulations & Architectural Standards.

With no other business before the Board, C. Dingman made a motion, second by D. Paradis, to adjourn at 8:35 p.m.

Respectfully submitted,
Jan Laferriere, recording secretary