PLANNING BOARD
TOWN OF PETERBOROUGH, New Hampshire
Public Hearing

Minutes of April 12, 2010

The Peterborough Planning Board held its regular monthly meeting on Monday, April 12, 2010 at 7:00 p.m. in the Selectmen's Meeting Room at the Town House.

Members Present: Chairman Leandra MacDonald, Vice Chair David Enos, Rick Monahon, Michael Henry, Richard Freitas, Ivy Vann, Carl Wagner and Barbara Miller, *ex officio*.

Staff Present: Carol Ogilvie, Director and Laura Norton, Administrative Assistant, Office of Community Development.

Reinstatement of Wetlands Workgroup:
Chair MacDonald called the meeting to order at 7:00 p.m. She noted the first item on the agenda was to discuss the reinstatement of the Wetlands Working Group but noted "it is really a next step issue." Mr. Enos noted the Workgroup never really had a set time to conclude and that they had discussed continued meetings prior to the public hearing where the amendment was not moved forward. Chair MacDonald agreed noting "the consensus was to go forward with the ordinance" adding "there is no intent on my part to drop this." The discussion that followed included a review of the public hearing process, the need for multiple public hearings on the subject and the goals for a new improved version of the amendment. Mr. Enos also noted "another step is a definitive statement with a strong look at the Shoreland Protection regulations." A brief discussion about letting both the Wetlands and Shoreland regulations stand independently or rolling them into one regulation followed. When asked if the town was able to exempt the downtown from the state Shoreland regulations Ms. Ogilvie relied "it is possible and we have looked into it but it requires a fair amount of work that has not been completed yet."

Mr. Monahon in at 7:08 p.m.

Ms. Miller noted several thoughts about the ordinance that included doing a better job of defining terms and explaining exactly what Special Exception, Variance, and Conditional Use Permits mean. "A lot of people out there do not understand that the amendment is less restrictive and has added flexibility" she said. Ms. Von Mertens went on to use the Wilson Farm property as an example of how the new amendment would have granted greater relief to the developers than the current ordinance did. Chair MacDonald noted "people assume the worst in change," with Ms. Miller replying "that is why we have to explain what the current ordinance is and what the new one does." She went on to note "it sounds so basic I know but I really think we need to do that." Ms. Carr suggested presenting a visual of a side-by-side comparison much like the Wetland Workgroup had completed in one of their workshops. Mr. Monahon suggested that it would be very helpful to have several ordinance models available to review with the public. Mr. Enos noted "the purpose of the ordinance is to recognize the value of the wetland for the functions that it has; right now we take an arbitrary number and apply it." Mr. Monahon interjected "I know and now somehow *flexibility* has become arbitrary and capricious."

The members then discussed the Wetlands Workgroup makeup with Ms. Von Mertens stating "this group is a highly qualified group with staff support, *that* has never been the case before." She noted she felt the Public Hearing was full of people orating without giving the group a proper chance to discuss the amendment in a question and answer type forum. She referenced an individual who read a list of prepared questions, which was a good approach, and another who read a statement adding "there was no opportunity for the group to respond." Many of the members agreed with Chair MacDonald when she said "you can read it and read it but it is not the same as having questions asked of you." A brief discussion of the importance of the amendment's simplicity followed with Ms. Von Mertens noting "when you (Planning Board members) are all supportive, understand it and have assisted in crafting the amendment it will be ready for public hearing." Ms. Carr interjected "I am surprised we posted it knowing we were not ready." She went on to note "I feel like we lost a lot of ground by posting it, it doesn't look good for any of us." The discussion that followed included remarks from several Board members that agreed they felt "blind-sided and unprepared" at the Public Hearing. Mr. Henry said "I think we looked transparent and created a feeling of us trying to get away with something." He added "that perception hurt the dialogue." Ms. Von Mertens reiterated the qualifications of the workgroup members and said "they are extremely qualified, you cannot have a better wetland workgroup than you have with them."

Chair McDonald suggested the members discuss their goal, "let's get to the product" she said. A brief discussion about coming up with a scientifically sound document and then addressing the political issues involved followed. Ms. Vann noted the science behind the amendment was quite good and proposed that the Wetland Workgroup reconvene and concentrate on criteria for Conditional Use Permits. "If we can get that done then we can have as many Public Hearings as we need to have" she said.

Mr. Monahon noted the use of several different methods to assess the functionality of wetlands and asked "is there a reason we cannot adopt one method and use it?" A brief discussion about the importance of letting an applicant choose their method followed. The members also discussed the importance of having all the stakeholders participating early in the process. Mr. Henry noted "there is what should be and there is reality" adding "they need to join the process and make it better."

Ms. Von Mertens stated that much of what was said at the Public Hearing was inaccurate. She used the Wilson Farm project as an example noting "if we had more time to explain the amendment they would have seen the relief would have been greater than under the current ordinance." She added "we need to sort the valid comments from those that were not and *a lot* were not" she said. "Oh, I disagree" interjected Mr. Henry.

The members went on to discuss the importance of the buffer zones in the ordinance. Ms. Carr noted the buffer "is the real protective zone" and suggested "we come up with reasonable numbers and have a politically viable solution for them." She also suggested having examples using specific parcels for review.

One member asked why Wetland Scientist Sharon Monahan had been so opposed to the amendment with Ms. Carr replying "with all due respect, she was wrong." She went on to note that she felt Ms. Monahon had misinterpreted the draft ordinance and state laws pertaining to the scope of work for wetland scientists.

With further discussion the consensus that emerged was that the Planning Board needed to use their credentials and have an equally authoritative response to nay-sayers in the Public Hearing setting. Ms. Von Mertens reiterated that if the dialogue was not presented in question form "you do not have an opportunity to respond." Mr. Henry noted he felt the swaying of undecided votes by nay-sayers at Public Hearings could be diluted "with multiple public hearings." Mr. Lundsted noted the importance of support from groups like the ZBA and the Conservation Commission. Ms. Miller mentioned the support of the Chamber of Commerce would also be a positive thing.

Ms. Carr stated she felt that taking wetland crossing decisions away from the ZBA was a concern for her. Many of the members disagreed sighting the ZBA's inability to do any planning. "They are not allowed to do any planning, only access. That is the way it is written" replied Chair MacDonald. She added "no town infrastructure will ever survive with a series of dead-end roads." Ms. Carr reiterated "I feel that was a big piece to take away from the ZBA." Ms. Carr went on to suggest the Board consider adopting regulations. "Have a set of regulations that support the ordinance and you have flexibility within the regulation" she said. Mr. Enos interjected "Performance Standards, reference them in the ordinance with a set of regulations, this has long been promoted by OCD." Ms. Von Mertens asked about the ability to monument the buffer protection area noting "we really have no buffer protection right now." She went on to explain that once a homeowner is in "they can do pretty much whatever they want to," giving examples such as planting lawns and removing stumps.

Mr. Wagner mentioned the recent rainfall adding "people don't see the wetlands as protection." He referred to the wetlands as natural storm water holding tanks. "You don't want to mess with that water flow" he said.

The members briefly discussed a comprehensive wetland and shoreland protection change that included a functional analysis for streams and surface waters. They reviewed some of the redundancy of the two separate regulations.

In an effort to wind up the discussion Ms. Vann suggested the Wetland Workgroup continue to meet and work on the amendment while the Planning Board worked on the political aspect of things eventually leading to a joint meeting with the ZBA. Mr. Enos suggested "as a regular part of our duties we add questions of what may be missing in the regulation." Ms. Vann also reiterated the need to have regulations "rather than cramming everything into the ordinance." Ms. Carr encouraged the Board and the Workgroup to consider a vote in the fall. Chair MacDonald asked Ms. Ogilvie to create a schedule that would "work back" the amount of time the members would have for a fall consideration. Ms. Ogilvie noted she would have that information available for their Monday Workshop. Ms. Von Mertens noted that by addressing the amendment right away "it shows that the Planning Board believes this is top priority and wants to come up with something that will answer legitimate concerns." Chair MacDonald reiterated the need for the Workgroup to work with the stakeholders by taking a prospective look

at their property and using mapping examples. Ms. Von Mertens added "with the Workgroup working on the feedback of the stakeholders they will be able to come back to the Planning Board with a product all agree is a strong one." She went on to note that *dialogue*, not *oration* was the necessary tool.

The discussion concluded at 8:10 p.m.

Request for Waiver of Site Plan Review:
Chair MacDonald noted the second item on the agenda was a request by Scott Swanson (representing MicroSpec Corporation) for a waiver of Site Plan Review and appointed Alternate Vann to sit. Len Pagano introduced himself as being the representative for Mr. Swanson. Mr. Pagano showed the members a graphic of the proposed addition to the MicroSpec building noting it was 2266 square feet, or 11.4% of the existing building footprint. He pointed out the grassy area and gravel swale in the back of the building as well as the existing detention pond for water coming off the hill. He noted that when the addition was completed additional paving would be laid. Chair MacDonald asked about the size (area) of the new pavement with Mr. Pagano replying "about 1100 square feet." A brief discussion about paving versus gravel and their likenesses followed. Mr. Enos noted his concern was the construction of the swale "gravel or dirt I am concerned about the depth and size of the swale" he said.

Mr. Monahon interjected "I don't see a civil engineer at the table" adding "I don't think we are qualified for this conversation." Chair MacDonald asked "what is the issue here? Do they want to get started right away?" Mr. Pagano replied that in preparing the plans for the addition the Director of OCD had noted that given the size of the building it was reasonable to request a waiver and that if that was not granted, another option could be a Minor Site Plan Review. Mr. Monahon urged the members to "move on whether we can entertain this." It was noted that a cover letter from Ted Fellows the Project Engineer noted minimal additional impact on the retention pond "and the infrastructure for dealing with storm water as well" interjected Ms. Vann. A brief discussion about the Minor Site Plan Review followed with Chair MacDonald noting "as a minimum we should have landscaping and an as-built on the plan." Mr. Monahon replied "without engineering support I am hard pressed to grant it."

A motion was made/seconded (Vann/Monahon) to send the proposed addition for MicroSpec to Minor Site Plan Review with all in favor.

The discussion concluded at 8:30 p.m.

Report out of Board Members Serving on Other Committees:
Mr. Monahon updated the members on the Cultural Resources Subcommittee. "They have been working very hard" he said. He went to note that they have been meeting regularly and were very close to having a draft chapter.

Ms. Ogilvie briefly reviewed the energy audit and having Steve Whitman do a presentation for the Board. She noted Mr. Whitman's schedule had not correlated with the Board's Monday night meetings and asked if an alternative night might be set up.

Chair MacDonald asked about the rain garden project currently happening at the corners of Grove and School Streets adding "the Planning Board never saw it" she added "I don't care but there should be a policy." Ms. Miller noted the project had gone through the Board of Selectmen and there had been a public hearing on it. Chair MacDonald replied that she would like clarification "as to what we are supposed to see and what we are not."

The meeting ended at 8:38 p.m.

Respectfully submitted,

Laura Norton
Administrative Assistant

Next Meeting: Monday, April 19, 2010 at 5:15 p.m.

Approved as written 5-10-10