

Town of Albany, New Hampshire  
Planning Board Monthly Meeting Minutes  
Monday, April 14, 2014 7:00 P.M.

Next Work Session Meeting Monday, April 28, 2014 7:00 P.M.

The Planning Board Monthly Meeting was held at the Albany Town Hall.

Present: Tara Taylor, Adrian Simons, Peter Carboni, Alternate; Joe Ferris, Alternate; Matt Parker, Alternate; David Maudsley, Technical Advisor, Selectmen Representative Rob Nadler, Theresa Ann Gallagher, Recording Secretary

Absent: Chairperson Mike Helmers, Vice Chairperson Josephine Howland

Also Attending: Alan and Leah Valladares, Ron Briggs, Kelly Robitalle

Tara Taylor called the Planning Board Meeting to order at 7:00 P.M.

Tara Taylor appointed Peter Carboni and Matt Parker as voting members.

Approval of the Agenda: Tara Taylor asked for a motion to approve the proposed agenda for April 14, 2014 Monthly Meeting. Selectmen Representative Rob Nadler made a motion; seconded by Adrian Simons. No discussion. Tara Taylor asked all those in favor of accepting the agenda signify it by saying "Aye". All in favor.

Approval of the Minutes: Tara Taylor asked for a motion to put the minutes from March 24, 2014 Work Session on the table for approval. Selectmen Representative Rob Nadler made a motion; seconded by Adrian Simons. Selectmen Representative Rob Nadler had a comment on page 1, where it states "The Board of Selectmen did not inform the Planning Board about the petition," it should state which Planning Board member said that. Also, on page 2, second paragraph he wants it to be stated clearly that both the Chairperson and the Vice Chairperson agreed that properties can have a dual use. Tara Taylor suggested having a lawyer look at this issue, and table it for future discussion, since that was Josephine's and Mike's opinions. Tara Taylor asked for a motion to accept the March 24, 2014 minutes as amended. Selectmen Representative Rob Nadler made the motion to accept the minutes as amended; seconded by Adrian Simons. Tara Taylor asked all those in favor of accepting the minutes as amended say "aye". All in favor.

Alan and Leah Valladares' Site Plan Review Application was projected on the wall for all to see by David Maudsley. Two small points to consider: 1) He told the Planning Board that when they revise the application process one change they should make is that the application be signed by all property owners. He reported that the application as presented is complete.

2) Some Details: The Driveway permit from the DOT is standard, to be paved 24 feet in width; the State has to be notified 48 hours before they begin construction. The driveway cannot be used until it is approved by the State, and they have one year to complete it, or apply for a renewal or extension. The Plot Plan was reviewed; TBM is the Temporary Bench Mark for elevation control, which is set; but one is missing. David Maudsley told Ron Briggs to mark on the Plot Plan the ones that have been set. The elevation in the back is 478 feet and it also shows an elevation of 540 feet,

which indicates a substantial drop off before it gets to the level of the slab. The paving will be done all the way around the building, with 8 parking spaces. The septic is in place. The Right of Way to the back parcel, where the house is located, is being maintained. The landscaping will go to the end of the border. A critical issue is the drainage, dealing with snow melt and storm water run-off. Several things to note: On the Plot Plan the elevation of the building is about 490 feet; on the drainage Plot Plan the engineers are taking it down to about 470 feet, making it 4 feet lower than the slab itself, which is a good thing. There are two dry wells in the back, three dry wells in the front, and there's a vegetated burn. The real crux of the issue is that this is a large building on a paved lot, where the affected building area is small. The engineering recommendations need to be correct. David Maudsley suggested to the Valladares they work with the Town Engineer, Burr Philips, to review the plans once they are accepted by the Planning Board. Tara Taylor commented that the dry wells are 20' x 60' where the landscaping is; the Valladares said the landscaping will be on top of it. Peter Carboni pointed out that the building is 4,800 square feet and it has only 8 parking spaces; Ron Brigs used a number of 4.2 per employee. Tara Taylor reviewed the driveway specs and suggested to the Valladares when they are building it, to make sure the water doesn't come out into the road. Tara Taylor told Alan and Leah Valladares they will have to apply for a building permit from the Board of Selectmen; the Planning Board does not handle building permits, which are separate issues from a Site Plan Review. Leah said she read the regulations and it does not say anything about getting a building permit. She told Selectmen Representative Rob Nadler that they were learning the regulations and went over them together; she asked him if he knew they had to get a building permit and he said no, he did not know that. The building details will be addressed in the Building Permit. Theresa Gallagher gave out the written observations and comments that were submitted by Chairperson Mike Helmers. Leah Valladares said she doesn't want to pay for the evaluation by Burr Philips. David Maudsley explained that it is in the regulations that the Town Engineer always reviews the drainage on Plot Plans at the expense of the applicant, and it is not that expensive. It would cost about \$200 or \$300 dollars, unless there is a problem, in which case he will contact HEB Engineers directly. Tara Taylor noticed on the application it's called a repair shop, but on the Plot Plan it is called an industrial repair shop. "Industrial" has to be added to the application. Leah Valladares said they want to make the building energy efficient, as Mike Helmers suggested. Leah also commented that Kelly Drive, which is in the right of way, will remain because they use it to get to their house. It will come off the new driveway and not off Route 16. Peter Carboni commented that he sees it as an improvement. Regarding the excavation calculations Leah Valladares said she has a permit to excavate, which can be looked up by anyone. Tara Taylor said it doesn't apply to the application being accepted as complete.

Tara Taylor asked for a motion to accept Leah and Alan Valladares' Site Plan Review application as complete; Selectmen Representative Rob Nadler made a motion to accept Leah and Alan Valladares' Site Plan Review application as complete; Adrian Simons seconded the motion. Tara Taylor asked all those in favor of accepting Leah and Alan Valladares' Site Plan Review application as complete say "aye". All in favor. Tara Taylor announced that the Public Hearing will be on Monday May 12<sup>th</sup> at 7:15 P.M. David Maudsley said HEB and Burr Philips do not have to attend if they both are in agreement. Tara Taylor said if there are any changes about setting pins, etc., then the Planning Board will send them a list to place on the Mylar. There is no septic design in place yet, which should be submitted to the State. If it's not submitted to the State by the time of the Public Hearing, a conditional approval will be granted. Then the next step will be to apply for the building permit from the Town. David Maudsley gave a recommendation to the Planning Board that someone has to check that all the construction is done properly, especially with respect to the back slope. Burr Philips will be the one to check that. Leah and Alan Valladares left the meeting.

Tara Taylor asked for a motion to retain Burr Philips to review the drainage calculations on the Plot Plans for the Valladares' Site Plan Review application; Selectmen Representative Rob Nadler made the motion; seconded by Peter Carboni; Tara Taylor asked all those in favor say "aye". All in favor.

Board of Selectmen Report: Board of Selectmen Representative Rob Nadler reported that the Board of Selectmen have started enforcement procedures on structures regarding tents. A letter was sent to the Lundblads telling them to go before the Planning Board for a Site Plan Review, and they declined to do that. The Board of Selectmen checked with the Town Council, The Mitchel Group, who said it states clearly in the ordinances that the tent is a structure. So they sent a second letter requesting they comply with the RSAs. If they decline again, it will be turned over to the Town Council. Peter Carboni reminded Selectman Rob Nadler that the Attorney's answer had another part, that is, if a tent structure on a commercial lot is being used for residential, they could be issued a cease and desist order by the Town. This should be discussed. Another part of this case is that because they also live on the property, they can have a tent for residential use without coming before the Planning Board.

Board of Selectmen Rob Nadler said the Board of Selectmen have to pick a point in time when to start enforcing the building permits, therefore the Board of Selectmen are enforcing the RSAs on the commercial properties first for tax purposes. There is no intent to address the residential properties for tents until the Planning Board can work with the Board of Selectmen to come up with a rational plan for the Town. The initial step is to address taxable structures on commercial properties.

David Maudsley advised Board of Selectmen Rob Nadler that the correct procedure is for the Board of Selectmen to deny the permit and refer the Lundblads to the Planning Board. The structure already exists and so the first questions is "are they eligible for a valid building permit?" Do they meet setbacks? It has nothing to do with a Site Plan Review. Referring the applicant to the Planning Board would come after the building permit was resolved. If the building doesn't meet the setbacks, then the applicant has to go before the ZBA or take it down. A Site Plan Review would not apply in this case. If it does meet the setbacks, then a building permit will be issued. The next question is if it is a residential use or a commercial use? For the Lundblads it is a commercial use.

Selectmen Representative Rob Nadler said the Lundblads were asked to go before the Planning Board for a Site Plan Review and they refused. David Maudsley advised that is the wrong procedure; the Board of Selectmen would have to deny the permit first. It does not have to be referred to the Planning Board at all at this point. If the Planning Board were asked to enforce the ordinances, then they should be enforcing it of their own volition. Board of Selectmen Rob Nadler agreed, but he said it's a new procedure for the Board of Selectmen, and has only been in place for a few months. David Maudsley reminded him that tents have been up in the Town for a long time. Peter Carboni said complaints were made but they were avoided. David Maudsley suggested that they bring the issue down to a simple one, asking is the structure eligible for a valid building permit. Peter Carboni said they can't answer that because Mr. Lundblad won't apply for the permit. David Maudsley said then he has to be taken to court.

Board of Selectmen Rob Nadler asked that if someone comes for a normal commercial application, does the Board of Selectmen approve the permit? David Maudsley said yes. Then Rob Nadler asked if they then send the applicant to the Planning Board? David Maudsley said no, if they haven't built it yet, they go for a Site Plan Review, and then go to the Board of Selectmen for the

building permit. But this situation is a building permit issue only. He already had a Site Plan Review. Board of Selectmen Rob Nadler asked what would the process be for waiving a Site Plan Review. David Maudsley said the Planning Board would review what was going on and they decide if it needs a Site Plan Review according to the Town Ordinances. Rob Nadler said it would be good for the Board of Selectmen to know. David Maudsley suggested that if an applicant goes for the Site Plan Review it would be useful for the Town Tax Assessor to know that there is a new building on the property, and the Town should have the applicants put that on their survey (for just a few dollars).

Peter Carboni asked if someone had an existing structure on their property for years and someone wanted to do the right thing by getting a permit, can the Board of Selectmen recommend to the Planning Board that they waive the Site Plan Review. David Maudsley said a Site Plan Review is not applicable in such a case, even if it is commercial. He explained that it is an accessory building and it has nothing to do with the Planning Board. He suggested that if tents go up in the Town without building permits, the Board of Selectmen have to act fast to enforce the ordinances. Board of Selectmen Rob Nadler suggested that the Planning Board come up with an ordinance to address the tents and state a size requirement for a permit.

Code Enforcement Officer's Report: Peter Carboni said he doesn't have much more than what was just discussed. He reported the permits issued in 2014: 3 commercial permits, 2 residential new homes, and 10 small residential permits for remodeling and repairing.

Theresa Gallagher said there were no other correspondences besides Mike Helmer's comments. She looked on the OEP website for the May 3<sup>rd</sup> conference and it's off the calendar and there is no program listed. However, they are having some workshops, one of which is for ground water protection. Theresa said she will let Chairman Mike Helmers know about that one.

There is no report for the budget. Meeting attendance is the only expense so far.

Tara Taylor asked Matt Parker about only attending two meetings; he disagreed and said he was here for four meetings. He has an issue with the second meeting each month. He believes he was in attendance at the January meeting. Theresa Gallagher will check the tapes and look into it. Tara Taylor said she will be missing some meetings in the summer due to work.

Ordinance Changes for the Town Meeting in 2015 were discussed. Peter Carboni commented on the residential cottage on Tin Mountain's property. He thinks it shouldn't have a sprinkler system, but it is up to the Fire Chief, Steve Solomon. The people staying in the lodge are not paying to stay there, but the Town of Albany can still enforce the law for a residential cottage. Adrian Simons said sprinkler systems go according to the size of the building. It's up to the Fire Chief to decide and the Town has to enforce what he decides. David Maudsley said usually there is one primary purpose for a lot and one primary building and everything else is an accessory to it. David Maudsley said the Planning Board can change any zoning from residential to commercial. Tara Taylor commented that Albany wants to encourage business. Rob Nadler asked if someone has two structures on their property would they be taxed for two instead of one. David Maudsley said yes, but the impact can be minor.

Plan for the work sessions:

1. Tara Taylor suggested working on the dual use of commercial properties to clarify it.

2. Tara Taylor brought up the running water setbacks, which is a State RSA. David Maudsley said the running water setback of 75 feet are only for the streams that the State controls. There are a lot of places that it doesn't cover.
3. Adrian Simons suggested everyone come to the work session with a list and the Planning Board pick three ordinances to work on.
4. David Maudsley suggested that the Planning Board work on the Site Plan Review application process:
  - a. making it mandatory that the applicants submit electronic copies;
  - b. the Planning Board has to decide about pdfs and 11" by 17" in size;
  - c. the Planning Board should review the SPR application checklist to make sure it matches exactly with the SPR application;
  - d. the application also needs to be streamlined to make it easier for the applicant and for the Planning Board to review;
  - e. the Site Plan Review application should include a written authorization for the Planning Board to visit the site.

David Maudsley said the changes for the Site Plan Regulations can be made by the Planning Board and do not have to be voted on by the residents; however there has to be a Public Hearing just for the residents to review changes made to the procedure.

Tara Taylor said the Planning Board will work on the Site Plan Review application regulations at this month's work session, and she asked everyone to review them for changes that are needed.

Theresa Gallagher created an outline summary of the decisions, actions and discussions that the Planning Board has been working on at each meeting. David Maudsley suggested that the Planning Board issue every two or three months a one page summary of what it has been working on, and submit it to the website. Board of Selectmen Rob Nadler said Theresa Gallagher will have access to post the minutes on the website and will have access to the calendar that can be interactive with all the Boards. Tara Taylor said she will look at the list Theresa Gallagher created and will summarize it to be one page.

Old Business: Theresa Gallagher reported that the Master Plan as finalized was sent to Tara Bamford for review. Mike Helmers asked if Tara could meet with the Planning Board at the work session meeting in May, which is Memorial Day weekend. Tara did not want to come to Albany on the holiday weekend, so Theresa is coordinating a meeting on the 19<sup>th</sup> with Tara Bamford.

Adjournment: Tara Taylor asked for a motion to adjourn the Planning Board Monthly Meeting at 8:33 P.M. A motion was made by Selectmen Representative Rob Nadler; seconded by Adrian Simons. Passed unanimously.

Respectfully submitted,

*Theresa Ann Gallagher*

Recording Secretary