

Town of Albany, New Hampshire
Planning Board Work Session Minutes - Approved
Monday, February 24, 2014 7:00 P.M.

Next Monthly Meeting Monday, March 10, 2014 7:00 P.M.

The Planning Board Work Session was held at the Albany Town Hall.

Present: Vice Chairperson Mike Helmers, Tara Taylor, Adrian Simons, Joe Ferris, Alternate; David Maudsley, Technical Advisor, Selectmen Representative Rob Nadler, Theresa Ann Gallagher, Recording Secretary

Absent: Chairperson Josephine Howland, Peter Carboni, Alternate; Matt Parker, Alternate

Vice Chairperson Mike Helmers called the Planning Board Work Session to order at 7:00 P.M.

Approval of the Agenda: Vice Chairperson Mike Helmers asked for a motion to approve the proposed agenda for February 24, 2014 Work Session. Tara Taylor made a motion to approve the proposed agenda for February 24, 2014 Work Session; seconded by Selectmen Representative Rob Nadler. Vice Chairperson Mike Helmers asked if there were any additions or changes; Tara Taylor suggested having #2 on the agenda as "Appointment of Alternates". The Chairperson assigned the senior alternate to the position. Vice Chairperson Mike Helmers asked for a motion to approve the amended agenda for February 24, 2014 Work Session. Tara Taylor made a motion to approve the amended agenda for February 24, 2014 Work Session; seconded by Selectmen Representative Rob Nadler. Vice Chairperson Mike Helmers asked all those in favor of accepting the agenda as amended to signify it by saying "Aye". All were in favor.

Vice Chairperson Mike Helmers assigned Alternate Joe Ferris as a voting member of the Planning Board.

Approval of the Minutes: Vice Chairperson Mike Helmers asked for a motion to approve the minutes from the February 10, 2014 Monthly Meeting; Tara Taylor made a motion to approve the minutes of the February 10th Monthly Meeting; seconded by Selectmen Representative Rob Nadler. Vice Chairperson Mike Helmers asked if there were any comments or changes; Rob Nadler commented that Alan Valladares was not present; it was one of Todd Provencher's abutters. Leah Valladares was not present as an applicant. She was just present. Todd Provencher did not obtain a waiver; he got a setback variance from the ZBA. Coleman should be "Coleman and Pike Industries". There were a few grammar corrections.

Discussion: Tara Taylor reminded the Planning Board to make sure #3 is in place \ on page 3; it's up to the CEO to make sure it does happen. #4 regarding DES, all businesses should follow that procedure. The Town has to make sure the big businesses are liable for their hazardous waste generator problems; if they do not have the funds to fix them, the Town ends up being responsible. The DES is supposed to address it, but the Town has to make sure the business follows the right procedures. The Board of Selectmen can delegate someone to check on the businesses. Tara Taylor suggested that the Board of Selectmen make a list of these businesses and check on them. A question was asked of David Maudsley if the Board of Selectmen have the authority to enforce a state regulation. David Maudsley said it depends on the regulation; sometimes the State will delegate it to

the local authority, but if it is a DES issue, the DES will address. However, anyone from the Town can check on the situation and call the DES, according to the Right to Know.

In the minutes Leah Valladares commented that her public hearing was not closed before going on to Todd Provencher's application. That is not the correct procedure; the public hearing does not close and open for each application. Also, the Planning Board did not accept her application. David Maudsley suggested that the Public Hearing should have continued in the next month. To answer Leah Valladares' concern about the abutters being notified that it was a public hearing, if the application was complete there would be no problem. The Planning Board could have handled it in 2 ways; to say the first session is a consultation, and the second session will be the public hearing; or just let the applicant know that the application is not complete and they cannot bring it before the Planning Board until it is complete. This is the first time an application has not been complete. In some occasions the "to be determined" is satisfied by the time the applicant has a Public Hearing and goes before the Planning Board. When the application has been submitted at the Town Hall it doesn't mean that it is accepted as complete. Going forward Kathy Vizard will tell the applicant that she is accepting it as submitted and will pass it on to Theresa Gallagher for the next Planning Board meeting; the Planning board will determine at the next scheduled monthly meeting if it is a complete application.

In further discussion it was noted that the Board of Selectmen needs to address the tents that are appearing on Albany's residential and commercial properties.

Vice Chairperson Mike Helmers asked for a motion to approve the amended minutes from the February 10, 2014 Monthly Meeting; Tara Taylor made a motion to approve the amended minutes of the February 10th Monthly Meeting; seconded by Adrian Simons. Vice Chairperson Mike Helmers asked all those in favor of accepting the amended minutes of February 10, 2014 with the edits signify it by saying "Aye". All were in favor.

Definition of Structure: Selectmen Representative Rob Nadler asked the Planning Board if the green tent on the Lundblad's property is a structure. The Planning Board responded that since it is permanently attached to the ground, it is and it needs a building permit. The only time it doesn't need a building permit is if it is used for agriculture. The Planning Board needs to find out the purpose of the structure, and then they can decide. It's possible that wrecked vehicles are being stored in the structure. Also, since it is on a commercial property it needs to follow safety rules and regulations, because it is open to the public. Rob Nadler suggested sending a letter to them asking for the permit for that structure. Another question came up about the taxes being paid on it. Tara Taylor reported that there is another structure on Bald Hill Road on a residential property that was placed in the Right of Way. The Board of Selectmen also need to address that structure. In future meetings the Planning Board will continue to work on the definition of "structure". Rob Nadler commented that if a situation happened to end up in court, the State would interpret what the ordinance meant; David Maudsley noted that the current definition of structure is anything that is fixed in the ground; the courts would then look at it that way. Tara Taylor commented that there are a lot of situations in the Town where that would apply. Vice Chairperson Mike Helmers noted that going forward this definition would apply, including if someone made alterations or additions that change the size of the structure.

Another issue is concerning signs in Albany. If a tent is put up with a price on it, that is considered a sign.

Todd Provencher did not apply for a commercial driveway permit according to the State DOT.

David Maudsley gave a presentation on how the Town's records could be digitized. One of the advantages is that the records can be accessed as quickly as possible. The system used is a simple spreadsheet. Each record has an ID which includes columns that contain the year-month-document #, what is it, where is it from, and what it is about and the outcome (must include key terms). Standard descriptions can be used. The files are linked to the index. Documents are in separate files in PDF form. Only the final approved minutes are filed, not the draft versions. When the Planning Board is approving the minutes, the draft version can be posted on the wall with a projector as they are approved. Tara Taylor suggested having the Monthly Meetings posted as "Monthly Meeting" and not "Monthly Meeting/Public Hearing". The program used is "OpenOffice.org". Theresa Gallagher will be able to digitize the documents. Everyone can have access to them because they are public information. Confidential files can be kept in a separate file and protected. Documents can be made into OCR so they can be searched by topics. Tax Maps, Applications, Minutes and Resources can be included in the files. One example of a resource is the NH Town and City publication, which should be included in the files. The Planning Board should see if copies are delivered to the Albany Town Hall. A recent article, "Attaching Conditions to Site Plan Review Applications", is one that the Planning Board should read. David Maudsley will be working with Theresa Gallagher to digitize all the files. The Albany Planning Board should look into getting their own computer to store the files on. Vice Chairperson Mike Helmers expressed his concerns that the hard copies of documents could be missing from the files and this would be one way to secure them. David Maudsley suggested the Planning Board give one year to decide if they want to go forward with this method. Over the course of one year each month would have its own tab with stored documents. The Number system for naming the documents goes from 0 to 99. Rob Nadler suggested keeping a history of every property in Albany so that if they have a sign, the Planning Board can trace the sign permit, etc. David Maudsley said the Assessors should keep track of all that. The Planning Board responded that the Assessors are not always aware of changes that are made on properties.

Vice Chairperson Mike Helmers asked for a motion to pursue the project to digitize Albany Planning Board files; Joe Ferris made a motion to pursue the project to digitize Albany Planning Board files, and go before the residents at the Town Meeting to ask for an increase of \$1,000 in the budget to include the cost to begin this project; seconded by Tara Taylor. Vice Chairperson Mike Helmers asked all those in favor of accepting this motion to digitize the files to signify it by saying "Aye". All were in favor. Vice Chairperson Mike Helmers commented that the second part of the project will be to purchase a laptop sometime in the future.

David Maudsley advised the Planning Board that he has concerns about the Albany Zoning Board of Adjustments. On the bottom of Todd Provencher's applications it states that if you are seeking a use variance, you must meet the following three part requirements." In 2004 the Supreme Court separated the variance requests into use variance and area variance, and it created a lot of chaos. In 2010 they did away with that decision. Now in 2014 this application still discusses the use variance and the area variance, which indicates that the Albany ZBA is completely not up with the times. There is no excuse for the ZBA not to be familiar with the changes that were made. That is a serious flaw for the ZBA. If you read the minutes, you can tell the ZBA doesn't know what the issue of the setbacks is about; they never raised one question about the purpose of the setbacks. Another issue is regarding the NH Statutes and applying for a variance; the Planning Board was following the requirements for the proposed use to meet all five conditions. The question to the Town is "on what grounds did the ZBA approve the variance based on the result of unnecessary hardship for the owner. The Planning Board

checked to see if the owner could move his garage anywhere else on the property to meet the setbacks and the answer was yes, he could. Therefore, there was no unnecessary hardship. The other issue is that the structure is nonconforming, being close to the property line. The use will increase traffic, noise, and pollution, which means the owner is increasing the non-conforming use, which is not allowed unless the Albany Zoning Ordinances permit him to do that. They do not allow him to do that. At the initial meetings some of the abutters were against it for the same reason. The ZBA is a concern for the Town of Albany. David Maudsley suggested taking the ZBA's records and decision for an attorney to review, but that would cost the Town money. Instead of that he offered to distribute the same information he gave to the Planning Board to the ZBA; he will advise them to meet with the Planning Board. The problem is that they don't meet often enough during the year to have the skills and knowledge they need to make informed decisions. The members of the ZBA do not meet and spend time preparing for the meetings that are scheduled. In March of 2013 there was a major presentation at a conference to bring everyone up to date, and no one from the ZBA attended. David Maudsley suggested the ZBA have a lawyer sit with them at the ZBA meetings. Vice Chairperson Mike Helmers suggested having candidates for the ZBA be persons who served on the Planning Board, because they have enough background information to know the issues that can arise with the zoning ordinances.

Rob Nadler suggested having the Boards meet together and hire professionals to give presentations for the purpose of training and to bring the Board members up to date on changes made.

Rules of Procedures: Vice Chairperson Mike Helmers reviewed the changes he submitted for Albany's Rules of Procedure, which include meeting on Monday nights and Standards of Conduct in Article II. If a Board member misses two meetings, he will have to spend a lot of time catching up with the information discussed at the last meetings. With this change the Planning Board will have a mechanism to dismiss a member for missing the meetings without a valid excuse. The Planning Board can make exceptions for illness, etc. The signers on the rules of Procedure will also be updated. Tara Taylor made a motion to accept the proposed changes to Albany Planning Board's Rules of Procedure; seconded by Joe Ferris. Vice Chairperson Mike Helmers asked all those in favor of accepting the proposed changes to the Albany Planning Board's Rules of Procedure to signify it by saying "Aye". All were in favor.

Site Plan Review changes were discussed, regarding notifying the abutters that the completed application is at the Town Hall. The Planning Board will make the application digital in the future, not allowing any "to be determined" answers. This topic will be discussed at length in future meetings, but is tabled for now.

Master Plan: Vice Chairperson Mike Helmers submitted his section on Ground Water Protection to be added to the Master Plan. This is a concern because the aquifer in Albany is close to Route 16, which is very busy. There can be problems with infiltration. By adding this section the Albany Planning Board will be able to address this issue with new ordinances in the future. Rob Nadler commented that the former State DOT garage has the potential to pollute the Conway Village aquifer. Vice Chairperson Mike Helmers asked for a motion to add the section on Ground Water Protection to the Master Plan; Tara Taylor made a motion to add the section on Ground Water Protection to the Master Plan; seconded by Joe Ferris. Vice Chairperson Mike Helmers asked all those in favor of adding the proposed section on Ground Water Protection to the Master Plan signify it by saying "Aye". All were in favor.

Final Edits: Vice Chairperson Mike Helmers made a motion to date the Master Plan as being completed in 2014; seconded by Joe Ferris. All were in favor. On page 4 the last paragraph will discuss the 2014 Albany Master Plan. On page 5 New Hampshire State University should be called the University of New Hampshire. On page 10, section 3.3 “Housing”, remove the last sentence in the first paragraph. Tara Taylor made a motion to remove the last sentence; seconded by Joe Ferris. All were in favor. On page 12, section 4.2 “The Albany Town Forest”, “source of drinking water” will be allowed if the Town of Albany is the one to use it as a source and no one else. It was decided to leave the sentence as is. On page 16, under “Contract Services”, Rob Nadler said the town of Albany does not contract with the Conway Library. Remove the section on the Conway Library. On page 17, in the section under “Emergency Assistance” take out the “Conway Police” and replace it with “State Police”. Tara Taylor made a motion to make this change; seconded by Joe Ferris. All were in favor. On page 18 “The Tax Base” needs to be updated. It should include the total and the breakdown of municipal, school and county. The map of the Albany Town Forest will be added to the Master Plan, as well as the Aquifer Map.

David Maudsley suggested that the Planning Board make their Public Hearing formal and not allow more than one person to speak at a time, while following the Rules of Procedure. Theresa Gallagher and David Maudsley will work together on reviewing the applications in the future.

Adjournment: Vice Chairperson Mike Helmers asked for a motion to adjourn the Planning Board Work Session at 9:21 P.M. A motion was made by Joe Ferris to adjourn the Planning Board Work Session at 9:21 P.M.; seconded by Tara Taylor. Passed unanimously.

Respectfully submitted,

Theresa Ann Gallagher

Recording Secretary