

APPROVED *** APPROVED ***

Planning Board Meeting
7:00 p.m. Town Hall
Wednesday, June 28, 2017

Members Present: Darcy Horgan, Tom Hammer, Kate Murray, Geof Potter

Others Present: none

Members Absent: Bill Stewart, Margaret Sofio, Rich Landry

Chair Darcy Horgan called the meeting to order at 7:10 p.m. and noted the voting members: Mr. Tom Hammer, Ms. Kate Murray, Mr. Geof Potter, and Chair Horgan.

1. Review and approve minutes of the meeting on March 22, 2017

Members unanimously APPROVED the minutes of the March 22, 2017 meeting as written.

2. Review and approve minutes of the meeting on May 24, 2017

Members unanimously APPROVED the minutes of the May 24, 2017 meeting as written, which describe the meeting as canceled due to lack of a quorum.

3. Old Business

There being no old business, Chair Horgan encouraged the Board to use the meeting to discuss issues of importance to Members.

4. New Business

a. Compliance

Mr. Hammer presented his frustration over the lack of enforcement tools available to the Planning Board, resulting in projects that apparently or potentially violate their Planning Board approvals and/or town ordinance.

As an example, the Great Island Inn represented its food prep capability at the September 28, 2016 meeting of the Planning Board as a kitchenette, "an amenity which makes it more attractive, a convenience for making coffee, heating up small meals" (minutes 9/28/16), but have built "apartment-style rooms featuring full kitchens and in-room laundry" (Great Island Inn website), including oven, cooktop, microwave/range hood, refrigerator, washer and dryer.

Members acknowledged that unique circumstances, including the absence of a town ordinance definition for "inn," may cloud the issue of whether there would have been grounds to reject the plans for full kitchens.

Mr. Hammer noted that there is little awareness of or control over the interior building plans which, in some cases, are linked to the use of the building. In the case of the inn, the presence of full kitchens is compatible with long term rentals, which the inn now offers between December and March.

Mr. Hammer believes the problem lies in the permit and final plan approval process for projects that require Planning Board (or other land use board) permission. Other towns require a zoning approval before the project is complete. Because in New Castle, the Building Inspectors don't attend Planning Board meetings and thus are not privy to the specifics of the Planning Board's approval, he proposed a requirement for Planning Board approval of all final plans.

Chair Horgan indicated that the scope of the Planning Board is dictated by state RSA, and wondered whether Mr. Hammer was discussing duties that are typically delegated to a town planner or compliance officer, which are typically on staff in larger municipalities, but not in New Castle. Whether the Building Inspector attends the Planning Board meetings is likely to be a function of his job description.

Mr. Hammer and Ms. Kate Murray wondered whether the RSA prevents the town from adding a Planning Board review as a prerequisite to the issuance of any and all Building Permits. Chair Horgan suggested that mandatory permit approval is not within the purview of the Planning Board. In New Castle, it is the duty of the Building Inspector to determine whether applicants require Planning Board approval prior to permitting and further contended that the Building Inspector, via his site inspections, is the gatekeeper for alerting the land use boards of any potential violations or issues.

Acknowledging that the added level of vigilance would require the collective will to become a town priority, members suggested taking the matter to the Select Board.

Chair Horgan reported that a similar frustration is felt by the Conservation Commission. For example, they cite a lack of oversight of the tree removal at 350 Wentworth Road. Planning Board members remembered being advised that that project did not require its approval. However, there appears to have been substantial tree removal in the 150-foot Natural Woodland Buffer which should have triggered the Building Inspector to require Conservation Commission/Planning Board approval.

Chair Horgan speculated that if, in the case of 350 Wentworth Road, the applicant only presented building plans (but not tree cutting plans) to the Building Inspector, he would have had no reason to suspect a conflict with the Natural Woodland Buffer ordinance, nor any reason to refer the applicants to the Planning Board.

The owners of 110 Beach Hill Road constructed a large fireplace located in both the side setback and Buffer Zone. Members questioned if this was on the plan that was approved by the PB and if it met the dictates as stipulated in the ordinances. How do we become alerted to this type of situation and what is the follow through if violations are suspected?

Chair Horgan reported that Mr. Rich Landry shares the concern and read his note: "I'm working on some ideas for ordinance changes, mostly related to defining a mandatory process in the event of a violation. This might involve some changes to the Building Permit applications and amendments to a few different sections of the ordinance."

Members agreed that the concern is significant and has repercussions for many town Boards and Committees. Ms. Murray proposed a meeting of the relevant boards -- Select Board, Historic District Commission, Conservation Commission, Zoning Board of Appeals, and Planning Board-- to lay out a path forward. Chair Horgan summarized that the responsibility for communicating, educating, and

monitoring the Buffer Zone regulations is the Building Inspector's. The Select Board needs to get involved in order to sort out the issue and then hold Building Inspector responsible.

The next step, Chair Horgan continued, is adding teeth--in the form of fines-- in the ordinance. Mr. Hammer also suggested the Building Inspector use red tags to stop construction in the event a project is in violation of the ordinance.

Members agreed that the Planning Board can take point on the issue and loop in the other concerned groups.

Chair Horgan outlined next steps:

- Chair Horgan to talk to Conservation Commission Chair, Lynn McCarthy for her feedback
- Chair Horgan to speak with Building Inspector, Don Graves, for his feedback
- Subsequently, involve Select Board Chair, Bill Stewart
- Possibly the Planning Board could drive the process of bringing the boards together to work through the issues

b. Upcoming issues

Chair Horgan described a number of forthcoming topics slated for future agendas:

- The Conservation Commission has requested a review and definition for pervious and impervious surfaces. Ms. Murray asked, and Chair Horgan answered, that the Conservation Commission enforced limits on impervious surfaces by negotiating with applicants, prioritizing limits in a give and take.
- Tree cutting permits
- Consider whether the definition of structure should be changed to not exclude retaining walls and fences
- Conservation Commission's proposal to change the zoning ordinance on lot coverage

5. Adjourn

There being no further business, *Ms. Murray MOVED to adjourn and Mr. Potter SECONDED the motion. The motion CARRIED, unanimously.*

The meeting adjourned at 8:09 p.m.

Respectfully Submitted,

Anne Miller, Secretary