

# **Haverhill Planning Board Minutes**

## **June 24, 2014**

### **Draft Subject to Review, Correction, and Approval at Following Meeting**

#### **1. Call to Order**

The Chair called the meeting to order at 7:00 p.m.

Planning Board members present:

Don Hammond – Chair

Bill Daley

Tom Friel

Mike Simpson

Also present: Ed Ballam, Clerk

Members absent, Mike Bonanno, Tara Krause

There were no members of the public

#### **2. Designation of Alternates**

No alternates to designate

#### **3. Agenda Approval**

Bill D. made a motion to approve the agenda. The motion was seconded by Tom F. The vote was unanimous.

#### **4. Approve Minutes of Previous Meeting**

Mike S. made a motion to approve the minutes of the May 27 meeting. Bill D. seconded the motion. The vote was unanimous.

#### **5. Scheduled Public Appearances previously scheduled.**

None.

#### **7. Correspondence/Communications**

Ed B. said he had received an email from Jeff Cox regarding property on French Pond Road. The questions were general and vague having to do with taxes and lot sizes. He said he had just received it and not fully understood what Mr. Cox wanted. It appears, however, that it might not have anything to do with the planning board and Ed B. said he would forward it to the appropriate agency, or bring it back to the planning board if needed. Tom F. said it appears that Mr. Cox needs to do his homework and not the planning board. Tom F. said Sandy Roy should be informed of the change in address for the tax bill.

Ed B. said he also had an inquiry about a lot merger from Susie Tann on her property. Ms. Tann thought that merging her property might make her taxes go down, which it might, but not this year because she missed the April 1 deadline for any changes to take affect this year.

Ed B. also said he got a call from Tom Smith, surveyor, regarding a minor subdivision and a lot line adjustment on property owned by Lois Henson. Ed B. reported that Mrs. Henson would like to subdivide out a piece of land for one of her grandsons and to make a lot line adjustment to give her daughter more land on an adjacent parcel. Tom Smith had a question about whether he could make it one application. Bill D. said the only issue he could see with doing one application is that if anything happened to one parcel or

decision, it might affect the second step. Bill D. said if he was OK with that possibility, he thought one application would be OK. Mike S. thought it would be better to make two applications and keep it clean. Tom F. said he agreed with that because of any complications one application might have on the other. Don H. said he thought it could be handled on one plan, but it would require two decisions. Ed B. asked about collecting fees for two applications, Tom F. said he would want two application fees collected. Ed B. asked about two notifications which will likely include the same abutters. There was some discussion about abutter notification. Tom F. said two notices could go in one envelop and collect fees for just one notification. Ed B. asked for additional clarification about collecting fees for two applications. Tom F. said yes, collect two fees. Mike S. said the fees were \$15. Ed B. corrected him and said they were \$150. Mike S. said that one application fee should do it because there would be only one mylar and one plan considered.

Don H. said the issues should be dealt with separately and that way there won't be any questions. Don H. said having two separate applications and two separate files will simplify things in the long run and he said it would be registered as two separate decisions at the registry of deeds. Ed B. said he would talk to Tom Smith about it.

## **8. Reports of Committees**

None

## **9. Pending Business**

Ed B. said there's news to share about the biosolid issue and asked Tom F. to report what was discussed at the last selectboard's meeting. Tom F. said the selectboard had received information from the town's attorney regarding Biosolids. Reading from the letter the town had received from its lawyer, he said Class A sludge is not regulated by the town existing ordinance. The lawyer also cautioned the town to make sure it verifies what is being land applied is indeed Class A sludge. Tom F. said that in the town's lawyer's opinion, the spreading of Class A sludge is permissible, but not Class B. Ed B. said that the current town ordinance in effect for Biosolids states that the ordinance does not apply to Class A sludge. Tom F. said the board should "let sleeping dogs lie."

Don H. said he thinks the board should have a public hearing on the lawyer's findings so everyone is aware of the opinion so both sides know the town's position. Ed B. said the ruling has already been made public and is part of the selectboard's minutes.

Tom F. said he thought it was best to leave it alone. Don H. said he wants to make sure the public knows so no one can say the opinion was keep secret or hidden. Tom F. said Dale Lewis pointed out the clause in the ordinance already which is what prompted the request for a legal opinion from the town's attorney. Tom F. also pointed out that Susie Tann and Shirley Grille said at a public hearing they had no problem with the spreading of Class A sludge, it was Class B they were concerned.

Don H. said the current ordinance says farmers have to have their property topographically surveyed to apply Class A sludge. Ed B. pointed out that because of the clause that says the ordinance does not apply to Class A sludge, they don't have to adhere to any of the requirements stated in the ordinance. He said while the ordinance may state, somewhere in it, that the mapping is requirement, the exempt clause makes all of it irrelevant. He said that clause exempting Class A may have been entered into the ordinance in error because of copying from boilerplate language, but it is in there.

Ed B. said that when he talked to Susie Tann about her lot merger request, Susie T. asked about the legal opinion and how it might work as a health ordinance. Ed B. said that he told her, to the best of his knowledge neither the selectboard nor the planning board were doing anything regarding the spreading of sludge. He said Susie T. said OK on receiving the news, but he wasn't sure if that meant she was OK with the ruling and the direction, or was just acknowledging receiving the information.

Ed B. asked Don H. what he meant by holding a public hearing on the lawyer's ruling. Don H. said he wanted to invite both sides of the issues to a meeting and explain to them the lawyer's opinion.

Bill D. said Don H. was making a good point, but he wondered if there was a better way of disseminating the information rather than holding a public hearing. Don H. said maybe all parties involved should be sent a copy of the lawyer's opinion. Bill D. said maybe placing an advertisement might work too. Mike S. said it was reported in the Selectboard minutes. Don H. said people are confused by what is going on. He said there's nothing he's read that indicates that the lawyer said the ordinance is OK. Ed B. said the lawyer has offered an opinion about one part of the ordinance which doesn't mean he's said the ordinance is OK as is. Tom F. agreed saying it's not an opinion that says it's right or wrong. Ed B. said if the ordinance was ever challenged, there may be another legal opinion and ruling by a judge.

Ed B. said the lawyer's opinion belongs to the selectboard and not the planning board. He said the selectboard might not be comfortable sending out a letter from its lawyer to the public because it is a product of legal counsel with is protected. Tom F. said he wouldn't want the letter being sent to the public.

Mike S. said the planning board is appointed by the selectboard and therefore, does that entitle the planning board to the legal opinion. Ed B. said the opinion and the issue still rests with the selectboard because the issue was brought to the selectboard and the selectboard asked for the opinion. Ed B. agreed that the question came out of a public hearing held by the planning board, but it was challenged to the selectboard to verify and to enforce the ordinance. There was a perception that the revelation that Dale Lewis was spreading Class A sludge in violation of the ordinance and the town's lawyer said, in his opinion, the ordinance doesn't apply to Class A sludge, so there was no need to pursue any allegations of violations of the ordinance, Ed B. said. He added the issue is clearly in the selectboard's court and he was just informing the board of the latest development. Enforcement, Ed B. said, is an issue for the selectboard. The planning board has an obligation to be informed and to make records of the information through minutes which are available to the public. That should be sufficient.

Don H. also complained about the house numbering and how the ordinance should be enforced. He said he was going to bring up the issue at the June 30 meeting with the selectboard.

Moving on to other pending business, Don H. asked how many gravel pits needed to be inspected. Ed B. said by his count there are eight possible sites, but it was later corrected to six sites that need to be inspected. Ed B. said he wanted to make sure July 12 was still OK with everyone. Don H. said he had to do a supper in the afternoon. Tom F. said most of the time taken inspecting in years past was consumed by driving from one pit to the other.

Bill D. said in Piermont, the town's conservation commission was involved in the gravel pit permitting process. He said the planning board members are not experts in wetlands issues, and the conservation commission members may not be either, but they have resources to help. He asked if Haverhill's conservation commission should be invited to participate, or at least a few of them.

Tom F. said the wetlands in Haverhill have been mapped and copies are available.

Don H. reviewed the check sheet for the inspection process. He said a lot of the questions can't be answered in the field. Don H. asked that for plenty of copies of the check sheet be available. Ed B. said only one for each pit needs to be completed and there is no need for each member to fill out one.

Ed B. also suggested the board take the roll-around gravel pit filing system in case there were any questions about maps and boundaries. The files have all the maps in place. It was also decided that the board meet at 9 a.m. at the town office to start the review of the gravel pits. Don H. said he may have to leave early because of a fund-raising dinner that evening. Ed B. said he couldn't be there because of the Proudly bicycle event to raise money for cancer research. Ed B. asked if the board wanted to do it another time. The board agreed to do it at 9 a.m. on July 12. Ed B. said he would alert the pit owners. There was a discussion of which pits to do. Don H. said he heard Cottage Hospital is planning to purchase the concrete block pit on Swiftwater Road. Mike S. said there was a plan for that to happen and there's a purchase and sales agreement in place for that to happen. \

#### **10. Other New Business**

None

#### **11. Public Appearances (Not Previously Scheduled)**

None

#### **12. Comments of the Clerk**

None that haven't already been made

#### **13. Comments of the Planning Board**

Don H. said Harry Burgess's house burned to the ground on Saturday, June 21. Harry B. is a well-known land surveyor who has appeared before the Haverhill Planning Board on many instances.

#### **14. Other**

None

#### **15. Adjournment/Next Regular Meeting**

The meeting was adjourned at 7:45 p.m. on a motion made by Bill D. seconded by Mike S. The vote was unanimous.

The next meeting is scheduled for July 22.

Respectfully submitted,

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Ed Ballam, Planning Board Clerk