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Planning Board Minutes January 7, 2016

Chair Carl Hanson called the meeting to order at 6:57 p.m. The meeting was held in the Jerry Whitney Memorial Conference Room of the Grantham Town Hall located at 300 Route 10 South in Grantham, NH.

Present: Chair Carl Hanson; Vice Chair Charlie McCarthy; Selectmen's Representative Constance Jones; Mary Hutchins; Peter Guillette; Thain Allan.

Absent: Selectmen's Representative Warren Kimball.

Public Attendance: Linda Bohrer; Gary Bohrer; Aleene Hastings; Barry Schuster; Philip Hastings; Zoning Board Chair Conrad Frey; Town Administrator Melissa White; Gene Barton; Selectmen and Zoning Board Member Sheridan Brown; Joshua Height.

Chair Hanson stated that he would like to thank Selectmen's Representative Constance (Connie) Jones for being here this evening in place of Selectmen Warren Kimball who is on vacation.

Approval of Minutes

Chair Hanson asked the Board members if there were any corrections to the December 3, 2015 minutes. He stated that on page two; third paragraph; line eight remove "was occurring" change to "has occurred". Page three; third paragraph; first sentence remove "chipping" change to "chip"; line two remove "multiple". Page four; first paragraph; line three remove "they" change to "logs". Page five; first paragraph; remove last sentence. Page seven; second paragraph; first sentence; remove "colleague of Attorney Schuster" change to "son of abutter Aleene Hastings". Page eight; end of first paragraph; remove "for this in his mind". Third paragraph; first sentence; remove "logging" change to "recording" and line two remove "log" change to "record". Page eleven; third paragraph; first line; remove "Gillette" change to "Guillette" and repeated again line three. Page twelve; second paragraph; line two remove "their" change to "the Boards".

There being no more changes motion by Vice Chair C. McCarthy and seconded by M. Hutchins to approve the minutes as amended. ***Unanimously Approved***

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New Business

1. Annexation Application # 01 – 2016

Joshua & Keri L. Height

Map 213 Lots 081 and 083 Eastman/West Shore Section II

Height stated that he recently purchased an abutting property from the Town of Grantham and would like to merge them together as one. McCarthy asked if these were the two pieces on Shore Drive and Height said yes.

Chair Hanson entertained a motion to approve the annexation of Joshua & Keri Height. A motion was made by M. Hutchins and seconded by C. McCarthy to approve the application.

Unanimously Approved

New Business

2. Proposed Zoning Ordinance Amendments

Chair Conrad Frey and Selectmen Sheridan Brown

Zoning Board of Adjustment members

The following is the changes to amendment requests for the Zoning Ordinance:

- A. Article X-B Forest Lands Conservation District: The Grantham Zoning Ordinance lists the officially known properties that are under some form of conservation protection in Grantham. It was noticed that “Brookside Park”, a protected property since 1987, had not been included on the list and it is requested that the Ordinance be revised so that said property will appear on the list of conserved properties in Article X-B.

Chair Hanson stated that in the first set of amendment changes requested was to expand the conservation over-lay district to include Brookside Park, and the second set of amendment changes have to do with regulation of junk and junkyards in the town. Chair Hanson stated that the original set of language changes for the Zoning Ordinance which was received at the Dec. 3, 2015 Planning Board meeting is slightly different, but not substantially different with some minor modifications that was given the Board today, January 7, 2016. Chair Hanson felt the Board could still proceed and decide on this at the end of the meeting which then would be notified out to the Town to be voted on at the March 8, 2016 Town Meeting.

APPROVED

Zoning Board Chair Frey stated the first amendment was to include Brookside Park which inadvertently had been left off the zoning ordinance back in 2004/2005 and would like to see this amended.

Chair Hanson asked if there were further questions for this amendment change, there being none the Board continued onto the next request for changes:

B. Article XII General Provision

- 1) Obnoxious Use: Any use that may be injurious or obnoxious use by reason of production or storage that creates the emission of odor, dust, smoke, fumes, refuse matter, noise, vibration or similar conditions, or that is dangerous or is detrimental to the comfort, peace, enjoyment, visual impact, health, safety of the surrounding neighborhood or the community or to its ground or surface water, is prohibited.

Frey said this clause does not pertain to smoke from the burning of wood for heating of buildings or maple syrup evaporators. Quality standards shall be at least as stringent as those established by the State of New Hampshire.

Frey continued obnoxious use shall include the accumulation of junk which is detrimental or injurious to the neighborhood. This provision shall become effective March 8, 2017.

C. Article XVIII Definitions

- 1) Junk: Two or more unregistered motor vehicles which are no longer intended or in the condition for legal use on the public highways; or used parts of motor vehicles; or old iron, metal, glass and paper; or construction and demolition materials; household waste; and all other discarded or second hand material.
- 2) Junk Yard: Any business and any place of storage or deposit, whether in connection with another business or not, which stores such items as described above under "JUNK" or any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling vehicles

APPROVED

for parts or for use of the metal and scrap and where it is intended to burn material which are parts of a motor vehicle or cut up parts thereof.

Frey stated that over the years there have been formal complaints to the Selectmen's Office and for the safety and welfare of the town, the original ordinance does not specifically state anything for Junk or Junk yards. He said what they have done is to broaden the definition of each category that might be helpful to the Select Board. Frey said that should these be approved by the Planning Board, the changes would take effect March 8, 2017, one year from town meeting approval on March 8, 2016.

Chair Hanson asked if there were further questions from the board and T. Allan questioned the word usage of "second hand material" were legal terms to be used whereas he has seen a lot of brand new materials that were obnoxious. Frey reiterated and said they were trying to limit it to waste.

S. Brown said that he had taken a few things from other towns where similar language in their ordinances had been used. Frey stated most cities and towns across the country he had researched for Junk Yards there was only mention of motor vehicles and nothing mentioned about debris and or demolition waste and felt it should not be omitted.

Abutter L. Bohrer questioned if this would pertain to commercial zoned areas as well. Frey stated that most commercial places would have a defined area for junk where it was kept picked up. L. Bohrer felt if the area is in a residential area that should include those area businesses too. Frey said that the wording does not only apply to residential. Chair Hanson said this would apply to all areas of town; residential and commercial. Brown stated that is why these "housekeeping changes" is necessary for enforcement.

P. Hastings (son of abutter Aleene Hastings) questioned if this was to be retroactive in any sense or just prospective because, what if someone already has an accumulation of junk would that be "grandfathered" in March 2017 when the Town would take enforcement action. Chair Hanson stated that was an important question. S. Brown said that the goal of the Zoning Board after Town Meeting vote on March 8, 2016, there would be a one year grace period which would give

APPROVED

a reasonable amount of time to come into compliance before any action were to take place.

Frey said that earlier it had been questioned if this would be for every district in the zoning ordinance, and he stated yes. Allan asked if that meant that in March of 2017 all the lots that exist are subject to the spirit of this ordinance could be subject to the changes. Frey said yes. C. Jones said that technically if someone has a junkyard they would have to go through the process of having a proper junkyard. Chair Hanson agreed and said there is a state regulation.

Schuster said his question was in the definition of "JUNK YARD": Any business and any place of storage or deposit; does this mean it has to be both or any business or any place of storage or should it be and/or. Frey said that was the old wording and the only changes are highlighted. Chair Hanson said that what Schuster is talking about is the same in both versions that had been presented to the Board for the ordinance changes. Chair Hanson agreed to change the wording to and/or in the second paragraph under ARTICLE XVIII DEFINITIONS, line three should read; above under or any place of business and/or storage or deposit.

Chair Hanson stated that under "Obnoxious Use" that he was confused as how the wording was and that these conditions might potentially migrate across property boundaries that might trespass so to speak, and did not agree with the rest of the wording. Allan suggested it read and/or in the continued sentence on line three under "Obnoxious Use". Chair Hanson agreed with adding the wording Allan had suggested. S. Brown shared the concern also of the wording of the proposal. Frey felt the wording was all inclusive and that it was just an addition and there had been other wording they had contemplated. Chair Hanson stated this was getting regulated in a way that he did not agree with.

S. Brown said the alternative the Board of Selectmen is looking for is some sort of assistants dealing with these situations when they arise. Frey stated that this has been going on for several years and something should be done about it.

Chair Hanson stated that task of the Planning Board was to vote on this proposed ordinance to recommend or not recommend so when it appears on the Town Hall meeting March 8, 2016 ballot the notation will appear whether or not the Planning Board recommended the changes.

APPROVED

Chair Hanson next asked who would like to make a motion. Motion by Vice Chair C. McCarthy to recommend that the Zoning Ordinance changes be placed on the ballot is recommended by the Planning Board and seconded by P. Guillette. Chair Hanson opposed the changes.

Approved by majority vote

Old Business

George H. Evarts / Stocker Brook Realty, LLC / Saw Mill
Tax Map 236 Lot 10 – 631 Route 114

Representing George H. Evarts was his lawyer Barry Schuster. Schuster stated that Evarts sends his regrets for not attending the hearing this evening and requested that Schuster continue for him.

Schuster said since the last meeting there have been two (2) mechanical developments. One (1) being all of the exterior lights have been put on a timer from 6:00am – 6:00pm that way the lights are off all night long. Schuster said he has spoken to one of the neighbors and that he could certainly comment on the impact. The lights have been turned off at night as an accommodation and whether or not that will be adequate is for the to decide. Schuster said he believed the Board has a copy of the letter from Evarts written by Donald Rumerill/ Grantham Sawmill Manager dated December 23, 2015 with regards to the changes made and would like it to go into the record. Chair Hanson agreed.

Schuster stated secondly they have contracted with TASCOS Security and will have four (4) cameras placed around the property so they (Stocker Brook Realty, LLC) can create a video log or record of what goes on at the property covering “all hours”.

Schuster felt it would be most helpful going forward to have a visual record to determine the difference between operating and cleaning up, also referring to a summary of the Police reports that had been passed out to the Planning Board members (Schuster was provided a copy as well). Town Administrator White explained that the list was just a general recap of the most recent original police reports which he (Schuster) had copies of.

Schuster continued with regards to consideration of what Evarts would like to do so business can continue in the industrial/residential zone. He also wanted to

APPROVED

know if any of the Board members had been out to the site. Chair Hanson said he had been there but not recently. Schuster suggested that the members do so because it is a very revealing exercise because yes, you will hear the saw mill and noise coming from I-89 and the traffic on Route 114 there is no doubt about it. Schuster stated that Evarts would like to think that things have improved over the last three (3) months and more regular. Schuster stated that Evarts is in the high season now for deliveries and January through March the ground and roads are solid, until the roads are posted, is when the majority of the logging occurs and for Evarts to stay in business has to accommodate that.

Schuster said that Evarts has told the delivery drivers not to come in early or late (that's why the lights are out after hours now). There will be times when that will happen. Schuster told the Board they would like to have the cameras up for three months and then come back. Schuster said that forestry is a state business and what they are doing is foresting, and this is a permitted zone and business. Evarts is looking for some accommodation and not looking for the Board to change their decision from three (3) years ago. Maybe there was ambiguity in that decision and that is the structure of where they are today. Schuster stated that they would like to have the cameras installed at the end of next week to provide the Board with certified records of everything that is going on with video backup. Schuster ended that he felt it would be a useful tool.

Chair Hanson asked Schuster if what he was saying is that their (Sawyer Brook Realty, LLC) proposal would be to continue this hearing until March or April 2016 and at that point there would be some further information as to what the winter season would be like. Abutter G. Bohrer reiterated saying that by that time they would be all done. Chair Hanson told G. Bohrer no decision had been made yet and the Board was just trying to clarify what the proposal is.

Schuster said that they are not trying to have after hours deliveries. Chair Hanson said that he would think that it would be incumbent to not have that happen. Schuster agreed, but with weather conditions there might be a delivery after hours and that is the problem the sawmill faces.

Guillette asked Schuster if he was talking about the mill operating after 6:00pm or deliveries. Schuster stated he hadn't heard of any issues from Evarts about the saw mill running after hours it would only be the logging deliveries. Abutter L.

APPROVED

Bohrer reiterated if you listen for 12 hours a day it is a lot of noise day after day and what she understood from the initial meeting was they (Stocker Brook Realty, LLC) were to operate only during the permitted hours; not after. Guillette asked L. Bohrer if she was talking about the hours the mill is running or the afterhours of log deliveries and woodchips being picked up due to the loud noises coming from the trucks. L. Bohrer stated that there is constant noise whereas it has now started to impact their lifestyle.

Allan said he realizes Evarts is trying to do everything he can to manage or control the after hour deliveries, what things is he doing to keep them at a minimum. Schuster stated that he is contacting the drivers directly and getting "the word" out to everybody. Allan said what if he gated it. Schuster stated that Evarts is not going to gate it at this point. Allan said he found that interesting because earlier he (Schuster) had talked about the lights were important for security and protection and yet they leave the "front door open".

Guillette stated he had suggested down lighting as an alternative to the current lighting at a previous meeting that would give them the security they need and not be offensive to surrounding neighbors. Schuster said that he felt Evarts thought it would be easier to turn them off altogether at night.

Selectman Jones asked Schuster what the trucks do when they come in at night. Schuster stated that there are large cranes and claws that remove the logs off the trucks and there has been deliveries coming in after 6:00pm at night on occasion. Abutter L. Bohrer reiterated how loud all this noise and vibration is after hours.

Abutter Barton said that if Evarts had done his homework he would not be in this predicament, but he did not, and now he (Evarts) wants them (the surrounding residents) to sacrifice.

Chair Hanson asked Schuster how TASCOS Security was going to do the video and how is this going to be presented. Schuster explained how the video would be set up for operation and that there would be a digital feedback. Chair Hanson asked if it would record everything from the time there is movement to when it would stop and Schuster said yes. Abutters L. Bohrer and Barton asked how they will know the tapes have not been altered in any way. Chair Hanson stated that it was unfortunate there was no trust in this situation. Schuster said that Evarts is aware

APPROVED

that when you have a business next to a residential neighborhood these tensions exist, and they are not doing anything illegal. They are doing a traditional logging business in New Hampshire. Schuster said that down the road they have a woodchip power plant.

Chair Hanson stated that he agreed that logging is a traditional business, but is not traditional to operate in the middle of the night, and particularly not when there was a site plan application asking for the hours from 6:00am to 6:00pm and then they proceeded to operate after those hours.

Further conversation ensued amongst board members, Schuster and abutters with regards to the original site plan approval and its definition of what was aloud or not and again discussing when would be a good time for board members to come out to the site.

Allan stated that he didn't understand how it is not possible to figure out how to manage deliveries and have some sort of compromise. Allan said that it absolutely astounds him that Evarts would not have the property gated and the reason it astounds him is that he could not understand why he (Evarts) would leave a multimillion dollar business with its doors open. Allan continued that he does not understand this unless someone is encouraging and making it easy to go beyond the spirit of the hours. Allan reiterated that he just does not understand how a business person who wants to be successful cannot figure out some kind of compromise, and that maybe because he (Allan) is just naïve enough to think the other side has some compromise too. Allan said otherwise there will be meetings continuing on month after month through next year's timber cutting time and the Board will still be having these conversations. Schuster stated that he will inquire into having the property chained or gated, and they were not looking for a rule to the exception, but an exception during these three (3) months when there will be at times after hour deliveries. Schuster said that Evarts does not always have control over the times when the loggers make their deliveries and that if the drivers cannot make their deliveries, Evarts would lose their business. Schuster stated that he understood the concept that Allan was discussing and he would take this information back to Evarts.

Chair Hanson said back in September 2015 Schuster had been before the Board with a proposal for hours of operation and felt that Stocker Brook Realty, LLC

APPROVED

intentions were to go by that proposal and asked Schuster if that were correct. Schuster stated yes.

Abutter Aleene Hastings stated that she did not want this to become an exception during those three months; she wanted it to become a rule because this is a year round business. A. Hastings continued that her husband was a logger for 40 years and he worked just as much in the summer as he did in the winter.

Abutter G. Bohrer stated the most obnoxious noise to him was the jake brakes on the trucks and every single truck that passes through uses them; he felt that it was not necessary. Chair Hanson said that he thought the Selectmen could do something about this since there is nothing in the zoning ordinance about this. Schuster stated that he knows there are signs posted in other towns to this effect. Abutter G. Barton said that there is a switch on the dashboard of the trucks that could turn the jake brake off. Barton said he knows someone that has a saw mill and they only operate during the day with over 20 deliveries during the day only and they do not have deliveries in the night time, and they also have signage that says "no jake brakes".

Chair Hanson stated that the Board does have a request from the applicant to continue this hearing in order to do the videotaping for three (3) months and also a site visit and the Board could certainly schedule a visit for January 2016 and asked the board their values on this.

M. Hutchins said she felt it was a good idea, but not for a three (3) month period of time, and felt asking the abutters to agree on this was too much.

Guillette said first with the lights being off after 6:00pm, a month from now the Board could see if this helped. Second regarding deliveries and having it gated after hours; someone would have to go there to allow the truck in to unload the logs and they would have more control over someone just showing up when they wanted to. Guillette agreed the loggers are hard working and try to follow the schedules but did not believe they would be doing deliveries every night until midnight, this would be an exception to the rule and asked this to be considered. Next Guillette said that regarding TASC Security, they are a legitimate independent business and he would not question them. Guillette thought that if Sawyer Brook Realty, LLC wanted to change what was on the original site plan

APPROVED

they would need to come back to Planning Board with an amended site plan application.

Schuster said that if the members did not go out to the site as a group he would suggest if going individually they should record what period of time they see or hear things so Evarts would also be informed of these recordings. Schuster suggested perhaps instead of waiting three (3) months they should get together at next month's meeting so they can go over some of the changes that will have been made.

P. Hastings (son of abutter Aleene Hastings) suggested what Evarts had asked for was clarification for what had been approved on the original site plan application back in 2012. P. Hastings felt the Board could give the applicant approval for the hours of 6:00am to 6:00pm with no after hours deliveries tonight if they wanted to, with the understanding the applicant has the right to revisit the site plan application with a modification after having installed cameras, adjusted the lights and other operational changes. P. Hasting continued that way Evarts would not be locked into coming back month after month given the Boards decision on the specific request. Schuster said he was here this evening due to the compromise from the enforcement actions taken. Guillette stated that he agreed with Schuster with regards to enforcement and coming to some sort of compromise. Vice Chair McCarthy agreed that part of the solution will be additional information.

Chair Hanson stated that when the applicant came back with the clarification process and the input of the neighbors, and deciding what was feasible and doable, that the applicant could come in for a modification of the site plan approval. Chair Hanson said having an idea that it would probably be approved, they (Stocker Brook Realty, LLC) would know where they stood otherwise there will continue to be disagreement whether the site plan is ambiguous or not.

Abutter L. Bohrer questioned how often they (the abutters) will have to keep coming back before a decision is made. Chair Hanson explained that the property owner of any business can always bring in a site plan application to have it modified whether it is regarding hours, the traffic or lighting. L. Bohrer again asked about wetlands and Chair Hanson informed her that the Planning Board

APPROVED

does not have any jurisdiction on this subject and suggested contacting the Conservation Commission and or the State.

Chair Hanson said that it is clear that this meeting will continue to the next meeting. Vice Chair McCarthy commented that he agreed with what Allan had talked about earlier with securing the property for unauthorized access but felt that it was not up to the Board to decide what type of secure access should be used.

Chair Hanson entertained a motion to continue this application to the February 4, 2016 meeting. Motion by P. Guillette and seconded by Vice Chair C. McCarthy.
Unanimously Approved

Adjournment

Chair Hanson asked for a motion to adjourn the meeting. Motion by M. Hutchins and seconded by Vice Chair C. McCarthy to adjourn the meeting at 8:48p.m.
Unanimously Approved

The deadline for the next Planning Board meeting is January 14, 2016.

The next Planning Board meeting will take place on February 4, 2016 in the Jerry Whitney Memorial Conference Room of the Grantham Town Hall at 7:00 p.m.

Respectfully Submitted,

Martha Norris
Planning Board Clerk