

## MINUTES OF THE PLANNING BOARD PUBLIC MEETING

NOVEMBER 4, 2004

**Members present**

Bill Stephens  
Charlotte Dewey  
Dan Miller  
Gisela Walker

**Members absent:**

Ursula Nebiker  
Trevor Mackie

**Others present:**

Phil Banks  
Jim Gariepy

Bill convened the meeting at 7:01 p.m. and begins by reading a letter from Earl Bowen, seeking a reversal of the Cease and Desist order of the Building Inspector. Bill explained that the decision of the ZBA hearing, dated October 12, 2004, was inadvertently not filed by the Secretary to the Boards, within the 14 days allowed, thereby allowing Mr. Bowen a Constructive Grant.

After some discussion as to the part of the Secretary to the Boards in this, and her performance, the Board felt that while it was tragic this decision was not filed as it should have been, there was some level of inexperience on the part of the Secretary, as well as the new ZBA Board.

The Board discussed filing the decision late, as it was better than not filing at all and it was suggested to hold a meeting to take a vote on the filing. Jim supported the Board's decision to file, and wrote a letter to the Secretary to the Boards, instructing her to do so.

Phil Banks asked to make a few statements. Phil wanted it on the record that he never objected to the operations of Earl Bowen's gravel pit, his only concerns were of the environmental impact it has, such as the oil, diesel fumes and noise and the safety of the operation. Phil said he was willing to get together with Earl and the Planning Board to discuss this. Phil further mentioned that the water from his well was contaminated from the gravel operation.

Phil supported filing the decision and offered to pay half of whatever the Board would need to pay in filing. Phil suggested all the lawyers involved get together with Earl and the Planning Board to work on a permit, and that when the 110 days are up (as directed by the ZBA), then so should negotiations with Mr. Bowen be.

Jim stated that the Town would not accept money from Mr. Banks, but that as he was appealing the ZBA decision, then if Mr. Bank's attorney led the appeal, this would help the Town.

Bill stated the PB has tried to negotiate with Mr. Bowen, and that their only concern was that the crushing be limited. After more discussion on the gravel operation, it was mentioned that the Town has no fee policy in place for a business that is operating on a Cease and Desist order, and the need for a strong policy on this.

The issue of the lapse was discussed more and Phil reiterated the need to move forward on filing the decision.

Phil mentioned that any appeal of the Constructive Grant, would need to be done by November 18, 2004.

Bill communicated the Board's intentions of allowing Mr. Bowen the 110 days to work out terms for a Special Permit, then on the 111<sup>th</sup> day, if no progress was made, the intention to file a Restraining Order against NEIHCO.

Gisela mentioned the futility of making a decision based on assuming Bowen will cooperate, as he most likely will not.

Jim Garipey suggested having Attorney Bard come the Select Board meeting on November 9<sup>th</sup> and said he would ask Kathy to contact him. Phil Banks mentioned bringing his attorney to the meeting also, to brainstorm. Phil noted that the most important thing the PB needs to do is to work on Earth Removal Bylaws.

Charlotte brought up another issue for Town Counsel; that of the building permits being issued on historic roads, such as Cherrie Pierson. The Building Inspector has been turning down permits based on the condition of the roads, to people who have purchased land already. According to the Subdivision regulations, the roads are deemed not up to standards. Discussion ensued as to whether or not the PB had a right to ask of the property owner, for minimum standards on a road, to make them passable to vehicular traffic, as well as emergency vehicles.

Jim stated that the Subdivision laws require that the property owner maintain the roads, and if the roads are not maintained, the PB can refuse the Building Permit based on that reason.

The Board mentioned that they met with Ken Hall to get his opinion on the condition of the road, and figured out what it would take to get an emergency vehicle on the road. Bill felt the need to bring in more material to improve the profile of the road. It was decided that the Board should get together some questions for Town Counsel, regarding such subdivision roads.

Next, Bill read a letter to the SB, requesting an appointment at the November 9<sup>th</sup> meeting, regarding the location on the Deerfield River where PFD's are currently allowed to be put in. Bill explained that at Marie Hall's hearing, she expressed a desire to have her clients allowed to put tubes in at Zoar Gap, and it was felt that moving the location would be a benefit to the Town as well. The PB felt that there would be a better chance for this if they had the SB's support. Jim agreed it sounded like a good idea.

The Board then reviewed Marie Hall's Notice of Decision, wording was discussed and some changes were made.

Bill commented that the River Etiquette and Safety rules should be posted at various locations in town.

The Board discussed the need to have calendars for future years, so that Permits can be followed up on.

A date of December 2, 2004 was decided on for the hearing for Doug Dean's change of use. Secretary will contact him and take care of this.

The next meeting was slated for November 18<sup>th</sup> at 7:00 p.m., with the focus being on internal Board discussions.

Dan commented that he felt that Carlene (Secretary to the Boards) was indispensable and that the Board would be lost without her. It was also mentioned that the Secretary was never given any training for her job.

**The procedure for submitting and reviewing minutes was discussed and it was decided that Carlene would submit the minutes to all members via email, the members would submit a final copy to Ursula for corrections, and Ursula would then send them to Carlene for signatures. Carlene will write draft 1 or 2 on the top of the minutes, to eliminate confusion.**

Gisela asked for an agenda to be emailed to the Board, so that there was notice of what would take place at the meetings.

The Board then discussed some topics of the agenda for November 18<sup>th</sup>.

Business having been concluded, the meeting adjourns at 8:47 p.m.

The Board reconvened at 8:53, to vote on the appeal of Earl Bowen's Constructive Grant.

The motion was moved, discussed and, after a unanimous vote, the motion was withdrawn. The Board will convene on Tuesday November 9<sup>th</sup>, at the Select Board meeting to discuss the matter further.

The meeting adjourns at 9:12 p.m.

Respectfully Submitted,

Carlene Millett,  
Secretary to the Boards.

