

**SOMERSWORTH PLANNING BOARD  
MINUTES OF MEETING  
JANUARY 18, 2012**

**MEMBERS PRESENT:** William Sweeney, Chairman, Anthony Delyani, Vice Chairman, Brian Tapscott, City Council Representative, Bob Belmore, City Manager, Ron LeHoullier, Erwin Grant, Dan Proulx, Paul Robidas and Paul Maskwa, Alternate.

**MEMBERS ABSENT:** None.

**STAFF PRESENT:** Dave Sharples, City Planner and Tracy Gora, Planning Secretary.

The meeting was called to order at 6:30 p.m.

**1) APPROVAL OF MINUTES.**

**Motion:** Belmore moved to accept the minutes of the workshop meeting of November 15, 2011.

Seconded by LeHoullier. Motion carried with a 5-0-4 vote with Sweeney, Tapscott, Grant and Proulx abstained.

**Motion:** Robidas moved to accept the minutes of the meeting of November 16, 2011.

Seconded by Belmore. Motion carried with a 6-0-3 vote with Delyani, Tapscott and Proulx abstained.

**2) COMMITTEE REPORTS**

**A) ZBA Report**

See attached.

**B) City Council Report**

Tapscott stated that the City was awarded a \$39,000+ grant for the Noble Pines Park. Stated that the money will be used for a misting station, a skateboard park, a pavilion and other things. Stated that on February 1, 2012 there will be a public meeting with the MEDOT at the Berwick, ME Town Hall to discuss the Somersworth/Berwick Bridge. Stated that this Monday at 6:00 pm there will be a joint meeting with the City Council and the School Board to discuss the upcoming budget season. Stated that there is a CIP hearing scheduled for February 21, 2012.

Sweeney stated that at last night's City Council meeting. Planning Board member Matthew Durkee resigned from the Planning Board. Thanked him for his time and effort on the Board.

**C) Site Review Technical Committee Report**

Sharples referred to the attached report stated that the Next Level Church has submitted an application for a building addition and change of use for property on Route 108. Stated that they have had one review at the SRTC and that they are meeting again next week. Stated that he anticipates them being before the Planning Board in February or March.

**D) Minor Field Modification Report**

None.

E) Strafford Regional Planning Commission Update

Tapscott stated that they haven't had a meeting for several months but that there is one coming up this Friday.

F) Vision 2020 Report

None.

3) OLD BUSINESS

The Board discussed New Business first (see item 4A)

- A) Proposed Zoning Ordinance amendment to Table 5.A.1 regarding the temporary placement of handicap ramps and similar structures within the required minimum setbacks.

Sharples reviewed his memo (see attached) and stated that he was requested to draft a proposed amendment regarding handicap ramps being built within property setbacks. Stated that he thinks that the impetus for this was that these ramps would be exempt from having to meet setbacks. Stated that he presented the proposal at the last meeting and that the Board had four comments for revisions. Stated that there was a comment that there be a note on the building permit indicating that the structure is temporary. Read new suggested language to address that comment. Stated that there was a comment about the language allowing the ramps to be placed anywhere. Stated that he addressed this by adding language that the structure shall comply with setbacks to the maximum extent possible. Stated that the third comment made was a concern that the proposal doesn't address a scenario where a new owner of the property may need to use the structure also. Stated that he addressed this by allowing the City to waive the requirement that the structure must be removed after the person it was originally built for no longer needs it. Stated that any waiver requests would have to be in writing. Stated that for the fourth comment, he researched and found that Dover has a similar provision with three criteria but is silent on a timeframe. Read from the Dover provision.

Sweeney complimented Sharples on a job well done.

Robidas stated that it looks like everything has been addressed.

Sweeney stated that Maskwa had made the third comment and that it was a great idea.

Belmore suggested that the language be changed to name the title of the person who has the right to waive the removal requirement. Stated that he likes the term "physically and/or mentally challenged" from the Dover regulations. Suggested using that term in these regulations as well.

Robidas stated that he could go either way and that changes could be made and brought back to the Board because there is no one waiting on adoption of these regulations.

Maskwa stated that he likes the idea that the title of a person that can waive the removal requirement should be named. Stated that Dover's regulations don't speak to the structure being temporary but that ours would be for a temporary structure that would be removed. Stated that he likes Belmore's idea of using the term "physically and/or mentally challenged".

Sweeney asked who would ensure the safety of the structure being built.

Sharples stated that the structure would still need a building permit and would still need to go through that process.

Proulx referenced the handout from Dover's regulations and stated that it specifies that it be for one year.

Sharples clarified that the wording he is referring to is for a different provision. Stated that they could put a specific timeframe on the structure if they would like.

Belmore stated that Dover's regulation is indefinite and asked why the City would have to police the structure and make sure it is temporary. Stated that he is inclined to just let them have it.

Sweeney stated that if someone were in a wheelchair for six months then the ramp would stay up after they are out of the wheelchair.

Grant stated that if he puts it up then he should be allowed to keep it up. Stated that he should be allowed to sell his house with the ramp. Stated that he is more in favor of the Dover wording. Stated that if he wants a ramp on the front of his house rather than the side he should be able to do that.

Sharples stated that it could be put up anywhere if it meets setbacks. Stated that this proposal is if the structure didn't meet required setbacks. Stated that the proposal expands a person's rights.

Robidas stated that he partially disagrees with Grant because it is against the zoning requirements to let someone put up a ramp within setbacks and just keep it there.

Proulx echoed Robidas comments and stated that the intent was that this wouldn't be permanent. Stated that this would be allowing someone to break the rules of setbacks. Stated that it has to be regulated.

Delyani stated that he agrees with Proulx and Robidas. Asked if a waiver could be granted from the "maximum extent possible" language.

Sharples stated that the language offers a lot of discretion.

Grant asked if the ramp could be left up if it meets setbacks.

Sharples stated that this provision would only be for handicap ramps that violate setbacks. Stated that if it doesn't meet setbacks, then you would only need a building permit.

Robidas stated that if the City is going to tell people where they can put the ramps, then Code Enforcement would also need to look at the interior of the home to make sure it would work there also.

Sharples stated that there will always be the option to go to the ZBA for a variance.

Belmore stated that he would vote against this proposal the way that it is written and asked why we would make the property owner pull the structure out. Stated that it would be hard to track it. Stated that he likes the idea of taking the extra step and notifying abutters that there will be a violation.

Sweeney asked the Board how many of them would want the abutters to be notified. Everyone but Proulx raised their hand. Asked how many members like amending the proposal for a specific staff person who can waive the removal requirement. Everyone nodded.

Robidas stated that he would have a problem with allowing the structure to be permanent because they would be letting someone not have to conform to setbacks.

LeHoullier stated that someone could still go through the variance process.

Sharples stated that there was a discussion on the language of using the term "physically and/or mentally challenged". Asked which language people would prefer.

Everyone agreed on the current language.

B) Any other old business that may come before the Board.

Sharples stated that Label Tech received their Alteration of Terrain permit and that Rymes Heating Oils received their driveway permit. Stated that recently a Board member asked about the carwash on South Street. Stated that the Code Officer has had verbal communications with the owner but did send a letter asking for compliance on a date certain. Stated that the date was December 31, 2011 but that the date came and went with no action. Stated that the owner has indicated that he doesn't want to put money into the building.

Delyani asked who owns it.

Sharples stated that Rufus Realty, LLC owns the property.

#### 4) NEW BUSINESS

A) Request of Gerrish Park, LLC for a waiver from Section 7.O.2.ii of the Subdivision Regulations to reduce the maintenance security for Hawthorne Circle from 25% to 15%.

Sharples reviewed his memo (see attached) and stated that the applicant is seeking a waiver from the Subdivision Regulations to have the maintenance bond for newly developed roadways be 15% instead of the required 25%. Reviewed the costs of the road and what the amount of the bond would be. Stated that Public Works Director Tom Willis and contracted Engineer Joe Ducharme have no issues with the request. Stated that the City used to only require 15% but that in 2005 it was increased to 25%. Stated that he researched the files and found that the only reason listed for the increase was because of inflation. Stated that most communities only require 10% to 15%. Stated that he doesn't have any objection to the request.

Jeff Rhuda with Gerrish Park, LLC addressed the Board and stated that Sharples explained the request clearly. Stated that they did a good job of constructing the road and that they are not expecting any issues, but that if there were any, \$120,000 would cover any issues.

Sweeney verified that most communities require 10% to 15%.

Sharples replied yes and stated that his research couldn't find any rationale for the increase.

LeHoullier stated that he is puzzled as to why the City requires 25% and suggested looking into changing the regulations.

Sharples stated that he could look into it more but that 15% is usually plenty. Stated that the City inspects the road as it is being constructed and that it has been in place for about four years.

Belmore stated that he will vote favorable for this request but that he agrees that research can be done to possibly change the regulations. Stated that the maintenance bonds are requested for more than just the construction of the road. Stated that it involves everything in the right of

way such as utilities and sidewalks. Suggested looking into the wording of the maintenance bond requirement to explain what is actually involved. Stated that he is inclined to move forward with this request.

Grant asked if there are any other developments that would be affected by this.

Sharples stated that there haven't been a lot of new roadways approved for a while. Stated that he doesn't think it would affect anyone else.

**Motion:** Robidas moved that the request of Gerrish Park, LLC for a waiver from Section 7.O.2.ii of the Subdivision Regulations to reduce the maintenance security for Hawthorne Circle from 25% to 15% be **APPROVED**.

Seconded by Proulx. Motion carried with a 9-0 vote.

B) Any other new business that may come before the Board.

**5) WORKSHOP BUSINESS**

A) Low Impact Development (LID) Stormwater ordinance review and discussion.

Sharples reviewed his memo (see attached) and stated that the Board discussed the latest draft proposal with the consultant Brad Mezquita at the last Planning Board meeting. Stated that he attempted to address all the comments in the new draft. Reviewed suggested changes. Stated that they already have a waiver process in the regulations. Stated that he has asked the consultant to number the sections of the draft ordinance so they can be referenced easier. Talked about the two proposed changes on page one. Stated that the Board discussed adding a section for the Lily Pond watershed but that he didn't because he didn't think there was consensus from the Board. Stated that Willand Pond was chosen because it is a known impaired water body.

Sweeney asked how many Board members feel that Lily Pond should be added.

Robidas asked what the ups and downs would be for adding a section on the Lily Pond watershed.

Sharples stated that he is not sure if there is a difference. Stated that he is not sure there would be a site plan application for any property in the Lily Pond watershed. Stated that there are a lot of wetlands and that it is in the R1 district.

Robidas asked about the massive piece of land by Rouleau Drive.

Sharples stated that it wouldn't trigger site plan approval; it would fall under the Subdivision Regulations.

Sweeney asked about if the golf course closes and someone wants to put up a commercial building.

Sharples stated that site plan approval is for multi-family structures and commercial uses.

Robidas verified that there would be no downside to including the Lily Pond watershed.

Sharples stated that it may just be an added expense.

Robidas asked if it is the right thing to do.

Sharples stated that if he was a voting member, he wouldn't vote to put it in there.

LeHoullier asked if the golf course has any effect on Lily Pond.

Sharples stated that he doesn't know for sure but that golf courses are usually good and knowledgeable at applying chemicals. Stated that they generally aren't an issue.

Sharples continued to review his memo and mentioned annual reporting on page five. Read the language he added for a third party review and stated that he isn't sure if he adequately addressed the concerns for that. Stated that there were questions on whether people were actually doing the inspections or just filling the report out. Stated that he is looking for feedback.

Most of the Board agreed that the language sounded good.

Proulx stated that he feels like there is some ambiguity with the language and suggested putting something in to indicate when the City would require a third party inspection.

Sharples stated that he wasn't sure how to word that.

Proulx suggested that when the submitted report is unclear.

Sharples stated that there are times when they go out to the site and there is sediment build-up and trash but the report indicates that everything was completed. Stated that he doesn't know how to encapsulate that and that he can't list every example.

Sweeney suggested the language "if discrepancies exist" so that it is open-ended.

Sharples stated the City wouldn't really want to have to go through the process of requiring a third party review. Stated that they just want compliance.

Proulx stated that he just doesn't want loopholes. Asked if the Planning Board would be notified.

Sharples replied yes and stated that he hopes it never gets to that point.

Belmore suggested stronger language, like "the City has the right" rather than "may require" a third party review.

Sweeney asked about the Salmon Falls Source Water Collaborative.

Sharples stated that there was some language changed on page three but that it is not in the version that the Board has. Stated that regulated substances were not defined and that a reference has been put in.

Sweeney stated that there needs to be a vote to have a public hearing.

**Moved** by Belmore.

Seconded by LeHoullier.

Grant asked why the owner or association would have to have the expense of the third party review in case the City is wrong.

Sweeney stated that the City would have had to already done their due diligence.

Grant stated that he thinks it should be spelled out more and have more wordsmithing.

Belmore stated that it is a valid point but that there is give and take. Stated that the City is reasonable and that the City should have the authority where there is evidence warranting it. Stated that there would be documentation and picture evidence. Stated that they need to err on the side of protecting the environment. Stated that there has to be due process.

Grant stated that he feels that it is left open-ended.

Belmore suggested adding the sentence “where there is evidence that the plan hasn’t been complied with”.

General agreement.

Motion carried with a 9-0 vote.

B) Any workshop business that may come before the Board.

6) **COMMUNICATION AND MISCELLANEOUS**

Sharples stated that Tapscott mentioned the public meeting for the Somersworth/Berwick Bridge. Stated that there will be two public meetings and that he is hoping that one of them will take place in Somersworth. Stated that these first meetings are probably going to be the most important because it is better to state desires early in the process. Stated that he plans to attend the meeting. Stated that this bridge is the gateway to the City and it abuts the largest Historic District in the State.

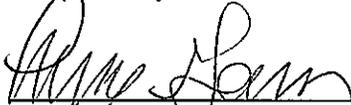
Tapscott stated that it is going to be an important project for the City and Berwick.

**Motion:** Robidas moved to adjourn the meeting.

Seconded by Delyani. Motion carried with a 9-0 vote.

Meeting adjourned at 7:47 pm.

Respectfully submitted:



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Tracy Gora, Planning Secretary  
Somersworth Planning Board