

North Salem Planning Board Minutes

November 18, 2009

7:30 PM – Annex

PRESENT: **Cynthia Curtis, Chairwoman**
 Charlotte Harris, Board Member
 Bernard Sweeney, Board Member
 Robert Tompkins, Board Member
 Gary Jacobi, Board Member
 Sonja Teichmann, Planning Consultant

ABSENT: **Roland A. Baroni, Town Attorney - not required to attend**

Chairwoman Cynthia Curtis calls the November 18, 2009 North Salem Planning Board Meeting to order.

WORK SESSION:

1. Discussion Regarding Wetlands Law Revisions.

Cynthia states that the Board received the latest Draft very late today. Several large submittals came in recently, which were provided to the Board tonight. Cynthia states that in general all the right parts and pieces have been incorporated into the Draft. Cynthia states that she asked MDRA to keep all of the parts of the Law that are not changing in tiny print. The larger print shows what has been added or deleted.

Starting on the bottom of Page 2, a few definitions will be added.

Beginning on Page 3 Joe Bridges has added more technical definitions under the Controlled Area caption. Sonja has a question about the Controlled Area. After speaking with Joe he noted that A(2) is hardly ever applied, as well as B. We are wondering if both of those should stay. The Board decides to take them out, and just leave A(1). Sonja states that the problem is that we never have a five foot contour on the maps. Robert states that he lives on a swamp and there is probably 200 feet or more where there isn't a five foot elevation difference. Robert states that would be considered a taking. Robert agrees that A(2) should come out, as well as B. Cynthia does not recall whether Bruce had an opinion on this at the last meeting. Cynthia asks Sonja if Joe spoke with Bruce. Sonja is not sure.

Robert has a question relative to defining wetland boundaries. Cynthia states that we will get to that a few pages ahead.

Referring to Page 4 there is a discussion about a Water Control Structure. Gary asks if a pump is considered a Water Control Structure. Cynthia states that a pump is not a structure, so she does not believe it would be a Water Control Structure. Cynthia will double check with Bruce. Sonja reads the definition of Structure. Robert states that brings us back to fences that go right up to swamps, as far as if the fences are legal or illegal. Cynthia states that Water Control Structures are getting a pass, we will see later on in the Draft where they may be exempted. We had a question as to what is a Water Control Structure, and there was a determination that a bridge was. It was decided to better define what a Water Control Structure is. Cynthia states that a repair or replacement of a Water Control Structure is an exempt item. Gary suggests we check pumps because according to the definition of a Structure, a pump would also consist of materials necessary to power the pump. On Page 4, the definition of Wetlands is discussed. The list of soil types have been taken out. We now have a short definition.

Everything on Page 5 has been taken out.

The Hydric Soil definition on Page 3 is discussed. Cynthia asks Robert if he has gone out on any of the wetlands site visits when the soil is looked at to determine whether the soil is wetlands. He has not. Cynthia states they use a long auger, and after they bring it up they match the colors. Robert does not have a problem with this as long as there are exemptions for the farms.

Referring to Page 6, Cynthia states that there is a definition for the Wetlands Review Committee which has been added. Sonja states that everything is so clearly defined, it might not be necessary any more. The Board could make a decision once they go through the entire document. Cynthia states that is a good point. Cynthia states that in some cases the Building Inspector would decide if he has enough material, or needs more. In the case of a Minor Permit it would be the Wetlands Inspector and the Building Inspector who handle the review. Robert asks who the Wetlands Inspector is. Cynthia states that Joe Bridges is the Wetlands Inspector. Referring to Page 7(B), there is a typo in the first word of the first sentence. Cynthia advises the Board that she has the floodplain maps in her office if they ever need to see them.

Referring to Page 8, Cynthia states that we took out the installation of new sewage systems as a prohibited activity. Before it was implied it could possibly be done with a Permit. Cynthia refers to Page 8(8) regarding the manure stockpiles being prohibited. Robert asks how that would affect an operation of how Stony Creek used to be, as far as cows needing to get to water. Cynthia states that the animals can go into the buffer. The storage of feed would be prohibited in a controlled area. Robert states that an animal feed area may be at the end of a big pasture where the animals are going for water, and technically feeding on the pasture. Charlotte states that there are a lot of pastures in Town in wetlands. Cynthia asks if a feed lot would be a pasture. Cynthia states she will check with Bruce as to how he would interpret an Animal Storage Area.

Cynthia suggests we take a look at the Watershed Agriculture Council's Best Management Plan. Bernard refers to Page 8(6), and asks who is going to discharge untreated stormwater? Cynthia states that used to be a practice. The Town is starting to identify all of the areas. Bernard talks about his property and all of the salt runoff, which lead down to a stream. Bernard states that a portion of his land is being turned into wetlands. Cynthia suggests Bernard write to the Town Board. Bernard is worried some of his trees will die. Cynthia states that if there is no easement, Bernard should write a letter to the Town Board stating he would like this practice not to continue. At the bottom of Page 8, excluded activities are discussed, which continue on Page 9. Cynthia states that is why we are defining Water Control Structures. Culverts are not listed, as we don't want them to be exempt. Robert confirms the agriculture exemptions are listed on the top of Page 9. Cynthia states that we may want to take out "draining land or wetlands for growing agricultural products" from C(1)(b) on Page 9.

Referring to Page 8(5), Gary suggests we add a definition of exactly what a stormwater basin is, and how big. Cynthia states that is a good point. Maybe we can add in the specific Stormwater Chapter if it is defined there. Cynthia states that all of the excluded activities are on Page 9. The Board discusses (J) on Page 9. Cynthia states that we don't want to imply that the Applicant may not need another permit. Sonja refers the Board back to Page 8(C)(1). Cynthia states that it is not prohibited, and it may require a permit under another Chapter.

Cynthia states that Page 10 lists the Application Process, as well as all of the details required.

Gary refers to Page 11(C) and states that the Wetlands Review Committee language may come out and be replaced with the Building Inspector.

On Page 11(B) will come out all together. On Page 11, (C) Cynthia states that the first step can be handled by the Building Inspector.

Cynthia states that on Page 12 there is a note at the bottom about a temporary disturbance to a buffer area. Gary agrees it does not work, and asks why we would want it to work when we don't want temporary disturbances. Cynthia states that we are talking about Minor Wetlands Permits, when the Applicant does not need to go to the Planning Board. The Building Inspector would handle it. Cynthia states that Bruce suggested the language added in the box. The Board discusses the boxes on Pages 12 and 13. These all trigger Wetland Permits. Cynthia does not want it to sound as though these are acceptable practices. The Board goes down the list on Page 13 to confirm which items are minor. The Board confirms the last three items are not considered minor, and would fall into the category of a regulated activity which would not receive a quick review. Cynthia states the Applications are referred to the Planning Board by the Wetlands Inspector if he determines they could have significant adverse impacts. The Wetlands Inspector would have discretionary power that he has always had. Cynthia states that the threshold of 5,000 square feet will trigger a Stormwater Pollution Prevention Plan.

On Page 16(1)(d) the word "heavy" is discussed. Sonja will prepare a definition. The Board discusses the use of "hand-held" equipment instead of "heavy motorized equipment". There is a discussion about specific equipment used for the installation of fences.

On Page 17, Item C(2), Conservation Advisory Council should come out. The word "recommendation" will change to "comments".

On Page 18, Public Hearings and Waiver of Public Hearing are discussed. The Board talks about Page 18(4)(d) to see if there are any other references to add. On Page 18(4)(b), the square footage is discussed. Less than 200 square feet is a small number. Sonja will check with Bruce regarding the square footage.

On Page 19(A)(8) Gary suggests the word "necessary" come out. Cynthia will speak with Roland about this.

On Page 20, Item C, Mitigation Measures are discussed.

On Page 20(B)(4), Gary is not sure about the wording. Cynthia states this is the wording that was there already. Cynthia will speak with Roland for an example.

On Page 21 there is a discussion about inspections and monitoring. Cynthia states that this process was done for Clearwater and Monomoy. Sonja will double check with Joe about this page. Cynthia will also check with Bruce regarding his opinion. On Page 21(B)(1), Gary asks if the language should be changed to "are being met", instead of "have been met". The Board decides changing the language to "are being, or have been met". Cynthia states that the Applicant pays for the monitoring. Sonja will make the language easier to understand. Bernard confirms the monitoring is only for large projects. Cynthia states that the Planning Board decides if monitoring is necessary when the Permit is given. Robert asks if there are any thresholds in place to determine which conditions would require monitoring. Cynthia refers to Page 19(7), where conditions are listed regarding requirements for monitoring. Cynthia states that it will be hard to define thresholds for monitoring. Cynthia will speak with Roland about this.

On Page 21(B)(1 and 2) are discussed. Gary refers to Page 22(A) at the bottom of the page regarding fines and states the fines should be reoccurring if possible. Cynthia states that (B) covers that concern.

Sonja will revise the Draft and forward it to Bruce for his comments.

2. Discussion Regarding Radio Frequency Specialist for the T-Mobile Northeast LLC Project.

Cynthia states that T-Mobile Northeast will not be on our Agenda for December 2nd. Their escrow replenishment check just came in today, and their latest submittal circulated. Robert states that a joint effort with Somers regarding a specialist sounds fine with him. Cynthia states that she heard back from Kreines & Kreines and they were a little bit discouraging. Cynthia was advised that a lot of the work done by radio frequency specialists are not being supported in court. Gary states that once T-Mobile decides they want to put up a telecommunications facility in an area, it is going up. We may talk with them about alternative locations. Cynthia states that MDRA may not have enough expertise to advise the Board properly. We still need a specialist to advise us. Gary states he is all for a specialist. Gary states that the location needs to be in a tall spot. Cynthia wonders why the top of the hill at Turkey Farm would not be sufficient. Cynthia states that the purpose is not to defeat the tower, it is to find the best location. Robert talks about the railroad property. The Applicant was supposed to look into that area. The Applicant stated a concern about receiving cooperation from the MTA. When Cynthia called Mr. Kreines, he mentioned another specialist by the name of David Maxim who is located in the northeast. Cynthia will contact Mr. Maxim and speak with him regarding the proposed site, and possibly having him provide the Board with reasonable alternative sites.

3. Next Meetings:

- December 2, 2009
- December 16, 2009

4. Resolution:

Chairwoman motions to adjourn the Planning Board Meeting. Gary Jacobi seconds. All in favor. No opposed.