

**LINCOLN PLANNING BOARD  
REGULAR MEETING MINUTES  
WEDNESDAY, MAY 23, 2018 – 6:00PM  
LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN NH**

**APPROVED**

**Present:** Chairman Jim Spanos, Selectmen's Representative OJ Robinson, Alternate Stephen Noseworthy

**Members Excused:** Vice Chair Joseph Chenard, Member Patrick Romprey, Member Mark Ehrman, Alternate Callum Grant and Alternate Norm Belanger.

**Members Absent:** None

**Staff Present:** Town Planner Carole Bont

**Staff Excused:** Ellyn Franklin, Recorder

**Guests:** None.

- I. CALL TO ORDER** by the Chairman of Planning Board (PB); announcement of excused absences, if any, and seating of alternates(s), if necessary.

*Chairman Spanos called the meeting to order at 6:00 pm.*

*Joseph Chenard, Patrick Romprey, Callum Grant, Norm Belanger and Mark Ehrman were excused.*

*Stephen Noseworthy was seated.*

- II. CONSIDERATION** of meeting minutes from:

- May 9, 2018
- Chair Spanos said the Planner passed out the bylaws at the last meeting's end but the Planning Board did not discuss them, so remove that section.
- Line 205 – remove "OSHA"
- Robinson said line 270: "it does not include the base area." Change to "does not include both parcels."

**Motion to approve minutes from May 9, 2018 as amended.**

**Motion:** Robinson

**Second:** Noseworthy

**All in favor:** 3-0

**Motion carries.**

- III. CONTINUING AND OTHER BUSINESS** (Staff and Planning Board Member/ Alternates):

**A. Review of proposed amendments to Planning Board Rules of Procedure.**

Robinson said it is the Planning Board Secretary's role to keep minutes and records, but we have a designee who does that. I would suggest leaving it as is with the changes, using words "Board's Agent."

Robinson said we need to change the date on page 6.

**Motion to adopt Rules of Procedure as presented:** Robinson

**Second:** Noseworthy

**All in favor:** 3-0

**Motion carries.**

**B. Appoint Planning Board representative to Capital Improvement Plan (CIP) Committee.**

Robinson said that being a small committee, the CIP Committee can be fairly flexible. Planner Bont, Town Manager Burbank, and Finance Director Jones are all town employees, so they are at the Town Hall five (5) days a week. Chairman of the Board of Selectmen Robinson said he can be fairly flexible as well. He did not know Budget Committee Representative Cindy Lloyd's schedule, but Ms. Lloyd seems to be able to make it mid-day.

Planner Bont said there are four (4) regular members who include: (1) one member from the Board of Selectmen, (2) one Planning Board member, (3) one Budget Committee member, and (4) the Town Manager. There are also two (2) staff people who attend the meetings who are nonvoting: (1) the Planner; and (2) the Finance Director, for a total of six (6) attendees.

**Motion to appoint Mark Ehrman to the CIP Committee:** Robinson

**Second:** Noseworthy

**All in favor:** 3-0

**Motion carries.**

**C. Review of letter from NH DOT re: no additional driveway curb cuts off NH Route 112**

The Town received a copy of the letter from the State of NH Department of Transportation (DOT) shared with the Planning Board at the last meeting. Planner Bont said she did not receive any communication about the extent of NH DOT's concerns about drainage from Town Engineer Ray Korber yet.

Chair Spanos said he believes that the State has not allowed any curb cuts off NH Route 112 for a while.

Planner Bont said the question she wants information about from Town Engineer Ray Korber relates to drainage along NH Route 112 and being unable to put additional water into the drainage system off Route 112. She has alerted both pending hotels with applications about this.

Robinson said this letter is very specific to one driveway at one location, although it refers to this controlled access right of way. The letter says this particular driveway falls within the controlled access but does not explain the limits of that access. The letter does not specifically state there should be no curb cuts.

Noseworthy said all the developer has to do is prove he is not going to put water onto NH Route 112 and the developer are all right?

Robinson said there are two items: (1) the driveway cut, and (2) the developer cannot put additional storm water into the NH Route 112/Main Street storm drain. However, if the developer abides by the Town Storm Water Ordinance, he does not think that is an issue. The property owner cannot increase the water flow off their property. He guesses that if the developer did not increase the water flow off his property but redirected the water flow onto someone else's property, that would be a problem.

**D. ZBA Request:**

Planner Bont said when the ZBA was reviewing their Rules of Procedure, they wanted to know why they were not having a Board of Selectmen (BOS) representative on the ZBA. I said that the State and the NH Municipal Association attorneys have been recommending that municipalities not to have a BOS member on the ZBA because too many conflicts arise. A member of ZBA said that in all their years, that problem had not arisen. Planner Bont gave the ZBA an article from the NH Municipal Association that recommended against it, but the ZBA still believed it would be helpful to have a BOS member sit in on the ZBA meetings as a non-voting member, because a BOS would have more information on relevant subjects like water, water storage, etc. that might impact their decisions.

Robinson recommended getting information from NHMA attorneys.

**IV. NEW BUSINESS:**

**A. New Application:** Planner Bont said she does have a completed application for the Planning Board's next meeting – William Conn wants Site Plan Review approval to turn his residential property into a mixed residential and business and industrial use property.

**B. OEP Conference Highlights**

Robinson said he went to the NH Office of Strategic Initiatives (OIS formerly OEP) Annual Spring Conference and wanted to share a few good lessons he learned.

1. Robinson said the Planning Board has the right to repeal the order of a driveway if it interferes with a Town road. The repeal has to be legitimate, after a noticed public hearing and such.
2. Robinson said in approving an application, the Planning Board should explicitly list all of the conditions that must be met before building, and all of the conditions that must be met after building is completed (relating to maintenance, water collection, etc.). Without those types of specific conditions, the Town cannot go back ten (10) years later and try to enforce conditions the Planning Board did not specifically lay out in its Notice of Decision. The Planning Board can list as conditions a number of tasks to be completed within a twenty-four (24) month-period, and also state how much of the project has to be substantially complete within five (5) years. For instance, at "The Landing Resort", in hindsight, if the Planning Board had created a condition that within twenty-four (24) months of the date of approval the developer shall construct all of the roads with turnarounds and install all of the cisterns as shown on the approved plan, the Town would not be in court right now.
3. Noseworthy asked if the developer could get an approval and do nothing and then say the property is vested?

Planner Bont said to assume that a developer has approval for one hundred (100) lots, and the developer completes one full pod of six lots. Is the whole development of one hundred (100) lots vested? The developer will argue “yes” because the Planning Board did not set any conditions such as: In order to be considered “vested” the developer shall fully develop sixty percent (60%) of the lots by a date certain and shall complete the installation of certain roads (or all roads) as well as all proposed cisterns.

4. Robinson said the other thing the Planning Board can do is state what parts of the infrastructure need to be completed before any of the lots can be built on.
5. Robinson said the Planning Board has the power to set conditions and thresholds. For example, the Planning Board can say the developer cannot start improving lots until certain parts of the infrastructure are complete or the Planning Board sets a condition for X.
6. Robinson said if the Planning Board does deny an application, then the Planning Board must be very careful to state a reason and be careful with its verbiage, ensuring the decision avoids opinion. The Planning Board must base its decision on language in the zoning ordinance.
7. Robinson said the Planning Board should post the decision and post the before/after conditions online.

Robinson said he would like to know what our website traffic is, as he believes most people look for their information online. Some people he considers totally uninvolved in Town Government will suddenly mention information they saw on the Town website.

#### IV. ADJOURNMENT

**Motion to adjourn:** Robinson    **Second:** Noseworthy    **All in favor:** 3-0  
**Motion carries.**

Respectfully submitted,

*Ellyn Franklin*  
Recorder

Date Approved:

  
James Spanos, Chairman