

TOWN OF CHESTERFIELD, NH  
PLANNING BOARD  
MINUTES

MONDAY, FEBRUARY 4, 2008

Present: Bob Del Sesto (Chairman), Valerie Starbuck (Vice-Chair), Stephen Pro (Secretary), Jon McKeon (Selectmen's Representative), Tom North, Elaine Blake, Susan Lawson-Kelleher and Padi Blum (Recorder/Secretary).

**Call to Order**

*Del Sesto called the meeting to order at 7:34 p.m.*

**Review of the Minutes**

- January 7, 2008 – Regular Meeting of the Planning Board  
*Pro moved to approve the minutes of January 7, 2008 as amended. North seconded, and the motion carried unanimously (Del Sesto, Starbuck, Pro, McKeon, North and Blake).*
- January 21, 2008 – Special Meeting on the Master Plan  
*Pro moved to approve the minutes of January 7, 2008. McKeon seconded, and the motion carried unanimously (Del Sesto, Starbuck, Pro, McKeon, Lawson-Kelleher and Blake).*

APPOINTMENTS:

**Public Hearings on Amending the Town of Chesterfield Building and Zoning Ordinances (proposed by the Chesterfield Planning Board):**

- **Chesterfield Building Ordinance Section 13.03 Height of New Buildings: Proposal to repeal and replace in its entirety.**

*Del Sesto opened the public hearing.*

Del Sesto gave a brief overview on how the matter had come before the Board. Jim Larkin from the ZBA had presented the matter to the Planning Board due to concerns on the Building Height section of the ordinance being out of date due to modern construction standards, and how this has led to many requests to the ZBA for variances to the height restriction. Larkin also drafted a cross-section drawing he felt would make the ordinance easier to understand.

David Smith inquired why specific exceptions (i.e. chimney, satellite dishes, antennae, weathervanes, cupolas, etc.) were listed and how the Board arrived at the limit of height extension. Del Sesto explained that the current ordinance specified only chimneys to be allowed an extension of 4 feet. The Board wanted to include other items commonly incorporated into the roof that did not increase livable space. The limitation of an additional 4 feet was retained relative to cupolas as well; this was intentional and serves to prohibit cupolas that could in fact increase habitable area.

*Starbuck moved to close the public hearing. Blake seconded, and the motion carried unanimously.*

*Pro moved to approve and recommend the amendment to the Chesterfield Building Ordinance, to repeal and replace in its entirety Section 13.03-Height of New Buildings. North seconded and the motion carried by unanimous decision (Pro – yes, Lawson-Kelleher – yes, Blake – yes, McKeon – yes, North – yes, Starbuck – yes, Del Sesto – yes). The proposal will be signed this evening and forwarded to the Town Clerk on February 5, 2008 for inclusion on the ballot at Town Meeting on March 11, 2008.*

- **Chesterfield Zoning Ordinance, Appendix A, Definitions: Proposal to amend the definition of “Building Height”.**

*Del Sesto opened the public hearing.*

Del Sesto explained that the Board felt it was necessary to update the definition to keep conformity with the proposed amendment to Section 13.03 of the Building Ordinance that the Board just voted to recommend. There was no comment from the public on this matter.

*McKeon moved to close the public hearing. Pro seconded, and the motion carried unanimously.*

There was no public comment on this matter. The Board felt it was best to make a minor modification to keep the words, “of the roof” in the definition for clarity.

*Pro moved to approve and recommend the amendment to the Chesterfield Zoning Ordinance, Appendix A, Definitions: Building Height with the minor modification of keeping the phrase “of the roof” in the definition. North seconded the motion. Board discussion followed and North called the question. A vote was taken and the motion carried by unanimous decision (Pro – yes, Lawson-Kelleher – yes, Blake – yes, McKeon – yes, North – yes, Starbuck – yes, Del Sesto – yes). The proposal will be signed this evening and forwarded to the Town Clerk on February 5, 2008 for inclusion on the ballot at Town Meeting on March 11, 2008.*

- **Chesterfield Zoning Ordinance: Proposal to adopt Section 411 Seasonal Use Dwellings.**

*Del Sesto opened the public hearing.*

Del Sesto explained that the proposal had been initiated by way of a request from the Code Enforcement Officer. Greenwood explained that there was currently no specific Seasonal Dwelling Ordinance on the books and it was needed for enforcement according to case law. Greenwood drafted the proposed ordinance criteria based directly on the State’s criteria.

Barbara Girs asked why the proposed ordinance required homeowners to have permanent A/C electric power. This generated some discussion and the Board felt

that it may be an unnecessary restriction. Alternate forms of energy could be effectively utilized. The Board deemed this a minor modification and that line could be stricken from the proposed amendment.

*Pro moved to close the public hearing. Starbuck seconded, and the motion carried unanimously.*

*Pro moved to approve and recommend the modified amendment to the Chesterfield Zoning Ordinance, to include Section 411 – Seasonal Use Dwellings with the line requiring permanent A/C electric power to be stricken. Lawson-Kelleher seconded and the motion carried by unanimous decision (Pro – yes, Lawson-Kelleher – yes, Blake – yes, McKeon – yes, North – yes, Starbuck – yes, Del Sesto – yes). The proposal will be signed this evening and forwarded to the Town Clerk on February 5, 2008 for inclusion on the ballot at Town Meeting on March 11, 2008.*

- **Chesterfield Zoning Ordinance Section 410 Junkyards: Proposal to repeal and replace in its entirety, inclusive of Sections 410.1 Definitions, and 410.2 Requirements and Restrictions.**

*Del Sesto opened the public hearing.*

Del Sesto explained that this matter was also brought to the Planning Board by Code Enforcement. Last year a very basic ordinance was adopted. Greenwood wanted to see the wording changed to allow for enforcement, as the current wording allowed residents to register inoperable vehicles and keep them on their property in any condition and in the view of the public. Pro had drafted a proposed amendment with the goal of balancing the rights of a landowner and the need to protect the environment and property values.

Dave Smith was in attendance and commented that he thought that although the Board would never be able to draft the perfect ordinance that would cover every situation exactly; this was a much better attempt than last year's ordinance. He noted that recreational vehicles (ATVs, snowmobiles, doodlebugs, etc.) are not currently addressed.

Smith also felt that the Board should investigate ways to ensure the public would not dispose of refuse on privately owned land due to increased costs at the Transfer Station, possibly looking into ways to decrease costs at the Transfer Station. Del Sesto stated that this is not a matter for the Planning Board to take on. Illegal dumping would be a matter of law enforcement; and Transfer Station alternatives would be beyond the jurisdiction of the Planning Board.

The Board recognized that updating and amending any ordinance would be an ongoing issue and they expect that there will be a learning curve when drafting any new ordinance; but the general consensus was that this was a much better ordinance than what was currently in place.

Starbuck noted that “affect” should be corrected to read “effect”. This is a minor modification and will be amended. Starbuck also wanted to see the wording more

consistent throughout the ordinance. This would also be a minor modification, as the content would remain the same; the ordinance would just use consistent verbiage throughout the document.

*Starbuck moved to close the public hearing. Blake seconded, and the motion carried unanimously.*

*Starbuck moved to approve and recommend the modified amendment to the Chesterfield Zoning Ordinance Section 410 Junkyards: Proposal to repeal and replace in its entirety, inclusive of Sections 410.1 Definitions, and 410.2 Requirements and Restrictions. Blake seconded, and the motion carried by majority decision (Pro – yes, Lawson-Kelleher – no, Blake – yes, McKeon – no, North – yes, Starbuck – yes, Del Sesto – yes). The proposal will be signed this evening and forwarded to the Town Clerk on February 5, 2008 for inclusion on the ballot at Town Meeting on March 11, 2008.*

### **Public Hearings on Amending the Official Zoning Map of the Town of Chesterfield:**

- Petition to amend the official zoning map of the Town of Chesterfield. The parcel (Map 12, Lot A1.1) is owned by United Natural Foods, Inc. and is located on Stow Drive. This lot is currently zoned Rural/Agricultural. Petitioners are requesting that the entire lot be rezoned to Commercial/Industrial, consistent with adjacent properties, to accommodate office space and associated parking (*continued from January 7, 2008*).

*Del Sesto re-opened the public hearing.*

Del Sesto explained that at the last regular meeting of the Planning Board, there had been 6 voting members present and they had been at a deadlock, unable to vote to either recommend or not recommend the petition. They are hoping that with more discussion and a full Board presence the tie would be broken.

Rob Hitchcock of SVE Associates felt that the Board should recognize that the area is surrounded by commercial property and would not affect residential abutters. A curb cut would not be approved onto Route 9 from the property and so traffic safety at Route 9 would not be a concern. Mark Bushway, Project Manager for the Eastern Region of United Natural Foods, Inc. stated that UNFI had requested an initial ZBA variance that would allow for the addition 20,000 square feet of office space (10,000 square feet per floor). They had then come before the ZBA with a second proposal with a greater footprint and more parking. The parking is in excess of the amount allowed in the R/A zone without a variance, and it is necessary for both the convenience and safety of the employees.

Bushway stated that rezoning would eliminate the need for a ZBA variance and allow for the growth they foresee being necessary, which is greater than the current ZBA decision would allow for. He stated that UNFI tries to be a benefit to the community and provides employment and revenue. Expansion means greater revenue and increased employment opportunity. This would be beneficial to all parties.

Del Sesto stated that he is not against the office building. He felt that UNFI is a credit to the community and believes that they try to do what they say. Del Sesto favors the ZBA ruling as it requires a significant buffer; however a minimal 50' buffer if zoned C/I could be seen through easily.

Starbuck stated that the survey for the new Master Plan to be adopted clearly shows that residents are no longer in favor of more commercial activity. She also had concerns about the buffer providing sufficient screening from Route 9 if the property was rezoned. Lawson-Kelleher stated that although the setback requirement is less in commercial; there were steps the Board could take to require a greater buffer if the landowner comes before the Planning Board for site development.

Lawson-Kelleher inquired about the terrain and soil type. She examined documents provided by Hitchcock; there was no comment on the soil and terrain.

Pro felt that it was reasonable to look at what proposals exist for commercial/industrial in the area, as it does increase revenue and offer employment opportunity.

Barbara Girs stated that she is an abutter. She has nothing against the company as such, but she feels the statement that residential abutters would not be affected is completely untrue. She feels that the sky glow and the noise pollution, especially from the continually running refrigeration units, have greatly affected her quality of life and that of her neighbors as well. Girs stated that the lights from UNFI are brighter than those from the Town of Brattleboro and the noise is greater than that generated from a train passing through Brattleboro. She foresees that anything that allows for greater growth will allow for more noise and possibly more lighting and that will further deteriorate her quality of life to the point that it will be unbearable. She already cannot leave windows open or enjoy the yard in the summer. Her windows literally shake and she can no longer see the Aurora Borealis.

Del Sesto noted that if UNFI meets the conditions imposed by the ZBA, their decision will allow for expansion regardless of tonight's outcome.

It was also noted that rezoning affects the land; the land may not always be owned by UNFI. Another owner and/or any use allowed in the Commercial/Industrial zone could come into place down the road.

Bushway stated that he would like to meet with Girs and investigate the affects on her property and the neighborhood. He has been unable to identify any negative impacts in the past. There have been noise complaints and he would like the opportunity to investigate and to see if there is anything that can be done if there is a problem.

*Pro moved to close the public hearing. Blake seconded, and the motion carried unanimously.*

*Blake moved to recommend the petition to "amend the official zoning map of the Town of Chesterfield. The parcel (Map 12, Lot A1.1) is owned by United Natural*

*Foods, Inc. and is located on Stow Drive. This lot is currently zoned Rural/Agricultural. Petitioners are requesting that the entire lot be rezoned to Commercial/Industrial, consistent with adjacent properties, to accommodate office space and associated parking.” Lawson-Kelleher seconded, and the motion carried by majority decision (Pro – yes, Lawson-Kelleher – yes, Blake – yes, McKeon – yes, North – yes, Starbuck – yes, Del Sesto – no). The recommendation will be signed this evening and forwarded to the Town Clerk on February 5, 2008 for inclusion on the ballot at Town Meeting on March 11, 2008.*

**Public Hearing: Lyle & Sandra Hoag/Celco Partnership d/b/a Verizon Wireless –**

This is a second continuation of the public hearing opened on December 17, 2007 to hear an application for Conditional Use Permit and Major Site Plan Review to allow construction of a new personal wireless communications facility, including a 130-foot monopole tower, 12’ x 30’ equipment shelter with cable tray, and 12 panel antennas on land owned by Lyle and Sandra Hoag located off Streeter Hill Road (Map 1, Lot C16), in the Rural/Agricultural zone in West Chesterfield, NH.

*Del Sesto re-opened the public hearing.*

A letter was presented from Aaron Rozenek of McLane, Graf, Raulerson & Middleton requesting that, as the applicant’s representative, they be allowed to withdraw the application without prejudice. The Planning Board Secretary stated that she had conversed with Lyle Hoag, and he was aware of the fact that Verizon would not be pursuing the application at this time.

*Pro moved to close the public hearing. Starbuck seconded, and the motion carried unanimously.*

*Pro moved to allow McLane, Graf, Raulerson & Middleton to withdraw the application without prejudice on behalf of their client. Blake seconded, and the motion carried unanimously.*

**Items for Discussion**

- Special Meeting of the Planning Board to discuss finalization of the Master Plan held January 21, 2008 continued to February 18, 2008.
- Board Membership – Alternates. The Select Board will advertise the vacancies.
- List of ordinances to be reviewed for possible amendments – this is an ongoing item for review at each regular meeting of the Planning Board.

**Items for Information**

- ZBA Unanimous Decision – Alex Kwader Property, Poocham Road and Pinnacle Springs Ext: Request for variance from Article 204.4 Section B, Lot Frontage, to permit a residential lot with 55 ft. of frontage where 400 ft. is required was denied “on the basis that there was bad faith in the presentation to the [ZBA] in terms of lack of disclosure that is very material information. It would have had a bearing procedurally on how this case would have been administered. It is incumbent on the applicant to go back to square one and reevaluate what they need to do to resolve the issues and what they need to do with the Planning Board before they come back to the

ZBA if they choose to for a variance.” Note that the representative for Kwader, David Bergeron has requested a conceptual consultation regarding removing a notation prohibiting further subdivision of this property from the existing approved subdivision plan. He has been scheduled for a brief conceptual consultation on March 3, 2008.

- Kwader Appeal to ZBA – A copy of the request and argument copied to PB. David Bergeron of Brickstone Masons informed the Board that the appeal was filed as a necessity to keep the option available. Since they could not discuss the matter with the Planning Board before the end of the appeal period, they were forced to file or risk losing the ability to do so. Brad Chesley asked if there would be a representative of the PB at the hearing. Del Sesto stated that members may attend, but not as representatives of the Planning Board with official input (unless the ZBA requested such). Del Sesto did reiterate to Board members that the matter was expected to come before the Planning Board, and that being the case members may want to attend in an unofficial capacity to gain perspective on the matter.
- Kwader/Code Enforcement – Email response from Dawn Buker, DES Wetlands Compliance Investigator to Brad Chesley. The email was copied to Greenwood and a hard copy was left for the Planning Board. Chesley was in attendance and stated that it was an old email; but he believes this is an ongoing matter.
- Code Enforcement/Verizon – Hard copy of email conversation regarding final height of the monopole tower erected in Spofford and CO. Greenwood copied PB to acknowledge that the structure’s height was reported to be within the specs approved by the Planning Board.
- OEP Spring Planning & Zoning Conference, Saturday, April 26, 2008 in Manchester
- LGC Calendar/Workshops
- LGC Town and City – January 2008 edition
- PSNH – Letter Re: Transmission Line Easements

### **Other Business**

- **Mortis & Tenon Corp/William Penney/Steve Pro Land Development Services, LLC** – A review of final submissions and determination of whether plans may be signed granting final approval. Pro and the Board members worked on a compromise on acceptable trees that would provide an acceptable buffer, provide aesthetics, reach an acceptable size and survive without compromising retail visibility. Pro will remove the 2 large Ash trees in front and sketched placement of 2 clumps of three trees to be either Balsam or Frasier Fir. The trees will be 6-8 ft. in height at planting (minimum). The Board agreed that pruning may take place.
- **Very Mill/Osterman Propane** – Review Status of Independent Fire Safety Review and possible conditions of final approval. The initial report from DeBlois has just been received, following a meeting with Greenwood and Bevis. Copies were distributed to Board members and a copy was provided to David Bergeron at his request. Copies will be distributed to Greenwood and Bevis for their review and comment.
- **Code Enforcement** – Note from Greenwood regarding Building Ordinance 13.05 and Zoning Ordinance 411 (*addressed in public hearing above*). Additional language that would be considered more than a minor modification can not take place this evening. Amendments would need to be addressed next year for the 2009 Town Meeting.

