

Planning Board meeting, August 15th, 2013

Present: Diane Poland (Chair), Joe Strzegowski (Vice- chair), David Chichester, and David Barten. Absent: Mike Kurkulonis. Also present: Don Fish, WMECO Field Technician.

The meeting began as posted at 7:00 pm. there were seven items on the agenda:

(1) Pole Hearing-- This Hearing was in response to a petition from Don Fish for a hearing which dated to the fall of 2012. Due to the confusion surrounding the hiring and resignations of two Town Administrators within the ensuing nine months, the original petition never reached the Planning Board because it had fallen between cracks.

Don Fish mailed a second petition to the Town on May 16, 2013, and when there was still no response, hand delivered a new petition to Ginny Knowlton, Town Clerk, on June 25th, 2013. Ginny made certain the petition reached the Planning Board, and the wheels were set in motion at the July 18th meeting of the Board to hold the Hearing as the first item on the agenda at the August 15th meeting. . A Legal Notice was printed in the Recorder on Wednesday, July 31st, two weeks and a day before the Hearing was to occur.

Diane called the Hearing to order at 7:10 pm. A Pole Hearing constitutes its own meeting, and Diane asked Joe to preside. Don Fish was presenter. WMECO had invited abutters to hear plans and discuss the projected placement of, in this case, a single pole, with Don and the members of the Planning Board. No abutters were present, and so the discussion that followed was between Don and the members of the Board.

It was noted first that the abutters were different from the Suzanne Forman of 507 Williamsburg Road who was listed in the original petition. Forman's property had been sold in the Spring of 2013 to Jonathan Barkan and Margaret Ryding of 395 Plass Avenue, Arlington, Mass. 02474. Jonathan had expressed his wish to be at the Hearing, but was unable to make the 7:00 start, and so declined to attend.

Don presented maps showing that the pole WMECO wanted to set would serve to anchor a transmission line to a single building lot on the easterly side of 543 Williamsburg Road in Conway. The lot is owned by Peter Lafogg and had been purchased from Suzanne Forman.

It was clear from the maps and Don's presentation that there were no reasons for the PB to counter WMECO's intended plans, and so it was unanimously voted by the Board to okay them. The four copies of WMECO's intentions were signed by all members present, and three of the four copies will be sent to Ginny Knowlton, Town Clerk, as required by law.

The Hearing ended at 7:30 pm;

(2) Minutes—the draft minutes for the meeting of July 18th were unanimously accepted;

(3) Marijuana dispensary—Diane proposed that a special meeting of the Planning Board be called at which parties having a vested future connection to dispensaries and their fields/green houses be brought together to discuss placement of such facilities and attending problems. This meeting would be open to the public and in anticipation of interest in the subject should be held in the Town Hall.

After discussion it was decided that the meeting should be held on October 8, 2013 at 7:00 pm. Those parties who will be invited to join in the discussion are the Board of Health, Police Department, Ambulance Department, Council on Aging, and the Selectmen. Diane will extend invitations.

In response to Dave Chichester's concern that the PB have done preparation before holding this meeting, it was decided that the Board at its September 19th meeting would make the subject a focus of attention.

(4) Safety complex—Diane had spoken to Rick Bean, Selectman, about the Select Board seeking funds for a feasibility study focused on placement of a Safety complex on the Rose property. There is need for such a study in order for the PB to make a recommendation to the Selectmen about which project, Complex or Senior housing, is the best suited for the property given the several natural conditions that pose limits on its use.

Rick seemed to misunderstand Diane's thrust and said that there was no need for such a study, because the safety complex would be on hold for a least five years, given the Select board's need to raise funds to build the new Town garage.

In the discussion that followed, Diane indicated that the Housing Committee was proceeding with its intention of placing a senior complex on the Rose property and did not need funding from the Town in order to do it. So, should Rick's position prevail, the matter of which project was best suited for the property would never be answered, the Senior complex already moving towards design stage.

The question was posed whether the real need for a feasibility study wasn't for that of a Safety complex located on the existing garage site in Burkeville. Here the Town has property on which a complex could be grandfathered in despite the restrictions attending building a new complex so close to the South River. The members agreed that the site in Burkeville needs study, before any study is made of a complex on the Rose property. Diane will make an appointment to talk to the Selectmen about raising money for this study. Dave Chichester volunteered to join her.

(5) Rose property—though this had been a separate item on the agenda, it was agreed that all that needed saying about it for the moment had just taken place.

(6) Old business--

a. The last discussion in the Hearing had been focused on the point of confusion about which Board, Select or Planning, had legal responsibility for holding a Pole Hearing. Joe cited Mass General Law where it specifically says that the Selectmen or Aldermen were to hold such hearings. Don said that in fact Planning Boards in numerous towns around the region hold such hearings.

In this discussion on old business, the subject of confusion was taken up. Here, it was unanimously agreed by the members that Diane should place the matter before the Selectmen, asking them to fulfill the responsibility of holding Pole Hearings. Should they want the PB to do it, then, of course, the PB will continue to hold such hearings when necessary. Don Fish and Roxanne Cunningham at WMECO will be notified about who to contact in the future, when WMECO wants a hearing.

b. Again, note was taken of Mike's absence, and how the Board is weakened by his non-attendance. While it is possible to operate with four members present, as had been the case in the Pole Hearing, there may come a request for a Special Permit, where a super majority of the Board would be required to pass it. The process for granting a SP necessitates two public hearings, at which members have to be present. A member who has missed one or two of these hearings cannot, according to the law, vote when it comes time to decide on whether to grant the permit or not. Diane said she would talk to Mike about his attendance.

(7) New business—Diane brought up the matter of fracking as the process potentially relates to Conway and surrounding towns. She thinks that while Planning Board is intending in the revised Protective Bylaws (to be completed for Town Meeting in May 2014) to prevent fracking within Town boundaries, the State could override any such bylaw on the grounds of it being in "the public interest".

The discussion that followed took note of Lee, MA where a no-fracking bylaw had been passed and upheld in a court challenge. The reason was that the bylaw cited public health as being jeopardized because of the likely possibility that public/private water supplies would be contaminated and/or disrupted. The leader in the struggle against fracking in Lee had been the Board of Health, not the Planning Board.

Dave Chichester, as former Chair of Conway's BOH, said that these boards have considerable authority and power—recognized by the State and the courts. With the focus on the BOH, the question was put to Dave Chichester whether Conway's BOH, would lead the charge against fracking in the way Lee's Board had done. Dave did not know, but would write a memo to his former colleagues about the matter.

There being no further business, the meeting ended by a unanimous vote, at 8:05 pm. The next regular meeting of the Board will be on September 5th, 7:00 pm, when it resumes its usual schedule of meeting on the first and third Thursday's of each month.

Respectfully submitted,

David Barten, clerk

August 19, 2013

To: Conway Board of Health

From: Conway Planning Board

Re: Hydraulic Fracking for Shale Gas

As you may be aware there is increasing publicity throughout the country and in the Commonwealth about the subject of hydraulic fracking for shale gas exploration and extraction. Hydraulic fracking is a controversial technology that involves injecting pressurized water mixed with chemicals and sand deep into the earth to free large reserves of natural gas trapped in rock. At present there is substantial drilling activity and gas extraction occurring in parts of New York, Ohio, West Virginia and Pennsylvania known as the Marcellus shale formation. There have been many reports of detrimental effects on the environment, water resources and public health in general in these areas.

Geologists have observed that part of Massachusetts is in a geological formation known as the Hartford Basin which lies under the Connecticut Valley from roughly the Vermont border to the Connecticut shoreline. It is very prevalent in the Springfield area. It is debatable whether this particular area could possess enough potential to warrant exploration; however, with enhanced technology and knowledge, industry might decide to explore further in this area...even to a limited extent.

In view of this possibility, no matter how remote, Conway's Planning Board has decided that we should take a proactive position and has been discussing what, if anything might be done to educate, prepare and protect the town from such potentially harmful consequences. Specifically, as part of our current project of extensively updating Conway's Zoning Regulations (which will hopefully be ratified at next May's annual meeting), we would not allow "mining or extraction of natural gas" in any part of the town.

The purpose of this memo is to express our concern about this subject in general and to ask Conway's Board of Health to partner with us in strengthening our response to this possible public health threat and to help pre-empt any such activity through appropriate regulations. By adopting a Board of Health Regulation, you would be able to add great weight to our proposed zoning restriction. We ask that you please give this subject some thought to see if there is any action you would be willing to consider in order to ensure that our town is sufficiently protected from any adverse affects from hydraulic fracking.

Thank you.

Conway Planning Board