

**Harrisville Planning Board
Minutes
November 9, 2011**

Members Present: Sherry Sims, Ned Hulbert, Bob Sturgis, Noel Greiner, Anne Havill (alternate), Heri Tryba (alternate), Jay Jacobs (Selectman), Charles Michal (Selectman alternate)

Members Absent:

Members of the Public Present: Winston Sims
Mr. Hulbert called to the meeting to order at 7:02 p.m.

Attendance and Voting Members:

Mr. Hulbert introduced the Board and said that the voting members are himself, Mr. Sturgis, Mr. Greiner, Mrs. Sims and Mr. Jacobs

Agenda:

The agenda was approved with the addition of two items: a review of the process of the combined ZBA/Planning Board meeting on October 12, suggested by Mr. Tryba; a question of the need for an ordinance covering outside wood boilers, suggested by Mr. Greiner.

Minutes of previous meeting:

The Board unanimously approved the minutes of the October 12, 2011 meeting as distributed.

Old Business:

Quarterly meeting of land use board chairs:

This group will meet again on November 14 and the Planning Board co-chairs solicited ideas from the entire Board about agenda items. There was also some discussion about whether Angela Hendrickson could/should attend; the selectmen present felt concern about the pressures of her life outside work and prefer that she not have an evening demand placed on her. They can gain input from her on topics discussed in a day meeting. Suggested agenda items:

- Who needs to know various aspects of applications and approvals by land use boards
- What criteria exist or should exist for site visits by the Planning Board and the ZBA
- What steps are necessary for an applicant to take for any/all permits issued by the town
- What is the range of time for these permits
- Review the process standards from the August 2010 meeting of land use heads

Report from subcommittee re: state RSA's/preemption/shoreland:

The core question is whether state preemption can/will override our Shoreland Overlay ordinance under the new state Shoreland Water Quality Protection Act (SWQPA), and if

preemption does exist, should we change our existing ordinance? This especially concerns our 75-foot setback, which is now greater than the state's 50 feet. The subcommittee of Mr. Sturgis, Mrs. Havill and Mr. Michal had not been able to meet but they will report at the December 14 meeting. Mrs. Sims did report on a conversation she had with attorney Christine Fillmore at the legal section of Local Government Center. Her response was not direct advice but some information concerning varying interpretations of the state's preemption rights. She said that Ben Frost, the attorney who had written the booklet about 2011 Land Use Law Update felt that preemption did override town ordinances but other LGC attorneys had an opposite interpretation. Chris Fillmore said Ben Frost is changing his opinion. She also said that the intent of the legislator who phrased the new ordinance was purely a language cleanup, removing the perhaps confusing "at least" from the setback of "at least 50 feet". It was not meant to be the absolute setback minimum. Mrs. Sims had also asked advice about whether we should modify an ordinance now or wait to see if the legislature corrected some confusion in the next session. Attorney Fillmore said that was up to us in consultation with our town attorney. One final topic they discussed concerned the necessary process of changing an ordinance. Is this a clerical correction or one of substance requiring the full process of notification, public hearings, etc? Atty. Fillmore said that in any change to zoning ordinances, if a number changes, that is a substantive change and the entire process is needed for the town vote to be correct and binding. In discussion among Planning Board members, Mr. Michal said that he thought having two processes/ordinances with parallel language, i.e. state RSA and town zoning ordinance, but different standards is confusing to the public and is bad public policy. Mr. Sims, who is chair of the Conservation Commission, volunteered that he had spoken with Jason Aube of DES at a recent conference and Mr. Aube stated clearly that there is no state preemption relative to Shoreland/Water Protection ordinances. There will be more discussion of this topic at the December 14, 2011 Planning Board meeting.

Review of process at October 12 Planning Board/ZBA meeting:

Mr. Tryba questioned why both boards needed to get involved in a boundary line adjustment. Mr. Greiner agreed with this question. Mr. Jacobs said it was necessary to follow legal procedure. Mr. Tryba wondered if we should make non-conforming lots conforming. Should the Planning Board look at the number of non-conforming lots in all districts to see if the number is too large. Mr. Michal added to this question with a suggestion that the Planning Board consider adding more districts with varying permitted uses and requirements. Mr. Tryba wondered if this all might be part of a larger zoning revamp process.

These questions led Mr. Hulbert to suggest that the Planning Board have a work/to do list of topics to take up when we are not acting on applications. The initial list and people suggesting them:

- Mr. Jacobs – add a Commercial District in a meaningful way
- Mr. Tryba – inventory non-conforming lots; have fewer perhaps
- Mr. Michal – create a village district along the lines of Smart Growth guidelines, discuss Smart Growth principles
- Mrs. Sims – status of roads in town

New Business:

Road Status: Mrs. Sims shared information about the work Rick Church and Dave Birchenough of Nelson have been doing for the past five years to determine the legal status of the Nelson roads. They have much fascinating information and because half of Harrisville used to be part of Nelson, much of their work can help Harrisville define its road status. Dave and Rick are very willing to share their results. Mr. Jacobs said that he has been interested in working on clarifying the status of Harrisville's roads for a long time, for this impacts actions the Planning Board, ZBA and Selectmen may make. He said he has some old DOT maps that Silas Little gave him. He also said that surveyor Ed Goodrich has all the old maps from Bill House, as well as an encyclopedic knowledge of Harrisville. There seemed to be consensus among those present that the Planning Board and Selectmen should keep going in this endeavor. Mrs. Sims volunteered to see what Dublin has done on their road clarification, for that would cover the other half of Harrisville. It would be great to find qualified, likely suspects to be Harrisville's version of Rick and Dave.

Outside Wood Boiler Ordinance:

Mr. Greiner had seen reference to this in a recent issue of the Department of Agriculture's *Weekly Market Bulletin*. He wondered if Harrisville should consider having such an ordinance. A question arose about current state regulations, since Harrisville has adopted the State Building Code in RSA 155-A. Mr. Greiner volunteered to look at the state's web site to see what they have.

Correspondence:

The Southwestern Regional Planning Conference's fall dinner is coming up on Tuesday, November 15. Mr. Michal and Mrs. Sims will attend and bring back words of wisdom.

Next regularly scheduled meeting is Wednesday, December 14, 2011 at 7:00 p.m.
The meeting adjourned at 8:55 p.m.

Approved: _____ Date: _____
Co-Chairman