

Call to order at 7:00 p.m. 6:33 p.m.

Present: Lyndon Avery, Tim Kinnon, Angela Bystrack, Tim Morgan, Marcella Perry-Chairman.

Others Present: Kathy Menici – Town Planner

Appointment of Alternates

Statement of the Appeal Process

The Chairman read a brief statement of the Appeal process. The purpose of this hearing is to allow anyone concerned with an Appeal to the Board of Adjustment to present evidence for or against the Appeal. This evidence may be in the form of an opinion rather than an established fact, however, it should support the grounds, which the Board must consider when making a determination. The purpose of the hearing is not to gage the sentiment of the public or to hear personal reasons why individuals are for or against an appeal but all facts and opinions based on reasonable assumptions will be considered. In the case an appeal for a variance, the Board must determine facts bearing upon the five criteria as set forth in the State's Statutes. For a special exception the Board must ascertain whether each of the standards set forth in the Zoning Ordinance has been or will be met.

M. Perry – In this meeting, what the board is considering is who will represent the Town as an Engineer for Case #Z05-33, Z05-34, Z05-31, & Z05-32. The Engineers for these cases, we heard presentation on the first Engineer and that was Mark Hutchins. I think the applicant has received his professional background and breakdown of cost and also the other Engineer that was contacted is David Maxam and if everyone has a copy the board will look at these.

K. Menici – For the record, the Case #'s are Z05-31 Map 19 Lot 8-2, Use Variance for Robert's Knoll Campground, LLC, 1439 Wolfeboro Highway, NH 28 North. Z05-32 Map 19 Lot 8-2 Area Variance for Robert's Knoll Campground, LLC, 1439 Wolfeboro Highway, NH 28North. Z05-33 Map 14 Lot 21 Use Variance, New England Nominee Trust, David J. Fenton, Jr., Trustee, 486 East Side Drive, NH 28A. Z05-34 Map 14 Lot 21, Area Variance. New England Nominee Trust, David J. Fenton, trustee, 486 East Side Drive, NH 28A.

M. Perry – On the Engineers that had sent in their applications, do you have anything to say regarding either of them?

K. Menici –The only thing I would like to make the board away of, we had gone to the Town's Review Engineer, which is CMA Engineers out of Portsmouth and they came to us in preparation for the January ZBA meeting and presented an estimate for the cost of services from Mark Hutchins and Mr. Hutchins works exclusively doing reviews of these types of applications for municipalities. He doesn't do any private work what so ever. That is one of the reasons CMA contacted him, based on references from other clients they have CMA Engineers provides engineering reviews for municipalities only and they too don't provide private work. In addition, Attorney Sessler, has had dealings with Mr. Hutchins at another community that Attorney Sessler represents and that is the Town of Bow. Between the recommendation from CMA Engineers and from Town Counsel, we brought his estimate before the board at the last regular meeting. Mr. Kinnon suggested that another estimate and preferably two would be preferable. The problem that we have is that this is a highly specialized field and there is a very limited pool of people who provide these types of engineering services. When you get into such a small pool you need to be concerned about conflicts of interest. The applicant's e-mailed me a list of review engineers that they would like the board to consider and Mr. Hutchins was one of the three. The second estimate from Mr. Maxim is also on the list that was provided by the applicant's attorney. There was a third engineer on that list but there was a conflict of interest. Given the specialized nature of these

applications and the very limited number of people who provide these kind of services, it is not unusual to run into conflict of interest situations, but with both of these engineers to the best determination of the Town's Review Engineer, there is no conflict.

T. Kinnon – It sounds like the Town Planner has done a fairly thorough search and considering that both of the estimates we have in front of us, these folks were also named on a list that was given to the Town Planner by the applicant's, I think we could probably make a decision of these two.

M. Perry – I think the concern at first expressed by the applicant was the cost but if you look at the cost of both they are comparable. I think that we would be doing them a service as well as ourselves to look at the first engineering firm.

L. Avery – They both have extensive work with many different towns. I wouldn't be opposed to using the first one.

M. Perry – Any other comments from the board?

K. Menici – Just so that the board is aware, these estimates include having the review engineer come to the ZBA meeting and explain the process that he undertakes to complete the study and to answer any questions that they board may have related to that study. You are not going to get a report and have to figure it out on your own.

M. Perry – both engineers were given the same criteria to make their application to the board for this position.

K. Menici – They will attend the one meeting to explain the results of his study.

M. Perry – There were several questions that we had asked the applicant's to bring forth their information, which they have, and we really haven't had any questions for them at that time because we were going through this process. The Engineer will not be at that meeting?

K. Menici – No, not at the next ZBA meeting. He is going to take all of the information that the board received in those binders and he is going to review all of that and he is going to go to the same locations that they ran their tests from and he is going to do the same type of test to verify the results and then he is also going to look at the four existing overlay districts.

M. Perry – Are we going to have his information before we meet again?

K. Menici – You will not have it for the February meeting. It will take them about 2-3 weeks to complete.

T. Morgan – Are both of the engineers available for the March meeting?

K. Menici – Yes, once the board decides on the outside consultant, working on behalf of the town, once the board makes their decision I will notify Eric Reitter with CMA and he will contact the Engineer chosen and they will put it into their schedule. In both cases it will be 2-3 weeks for them to complete their study and their review of their information that has been submitted to the town.

T. Morgan – Their information might be available well prior to the March meeting.

K. Menici – Yes

T. Kinnon – I wonder if we should have a meeting in the middle of February if the study will be available, it might make it easier where they are fairly lengthy cases. I think having a meeting other than the regularly scheduled meeting would be a good idea.

L. Avery – Will we have the information back by then?

K. Menici – I think it will be hard for the board to set a meeting date tonight. Since we are coming up on the regular February meeting, rather than schedule another date tonight, let me get a time certain from Eric Reitter from CMA when it will be completed and at the February meeting if the board decides that they want to do a separate meeting to hear the balance of the presentation from the applicant, we could set a date at the February meeting recognizing that I only have to notice the meeting 6 days prior to the meeting.

M. Perry – The benefit of doing that would be because of time and we would have just one case to spend that night on.

T. Kinnon – We should wait until the next regularly scheduled meeting.

L. Avery – What about continuing it until the March meeting and that way we can have the engineer hear to answer any question we as a board or the applicant may have.

M. Perry - Meet at the regular meeting the 1st of February and decide at that time whether we are going to hear the case or whether we are going to set another date for this particular case. We still need their presentation. We either hear their presentation on the 5th or set up another meeting in the middle of February to hear that presentation and then a;; of that information will be sent to the engineers and they will comment on the first meetings information and the information from the February meeting.

T. Kinnon- If I remember correctly all of their information has been submitted and additionally more information was submitted and put on the record.

M. Perry – There was no discussion on it.

K. Menici – What the review engineer will do is take the materials that have been submitted and review the information submitted.

Motion made by L. Avery to appoint Mark Hutchins as the Engineer for the above mentioned cases, seconded by T. Kinnon. Motion passed with all in favor.

K. Menici – The next thing that you need to do tonight is to vote on whether or not you want to schedule a meeting later in the month of February, time certain to be determined at the regular February 2nd meeting. If you decide tonight it will save the applicant from coming up here just to get the date.

Motion made by T. Kinnon to continue the case # Z05-31 to set a date in February, seconded by T. Morgan. Motion passed with all in favor.

Motion made by T. Kinnon to continue the case # Z05-32 to set a date in February, seconded by T. Morgan. Motion passed with all in favor.

Motion made by T. Kinnon to continue the case # Z05-33 to set a date in February, seconded by T. Morgan. Motion passed with all in favor.

Motion made by T. Kinnon to continue the case # Z05-34 to set a date in February, seconded by T. Morgan. Motion passed with all in favor.

T. Kinnon – At the previous meeting the applicant asked if we had any other material that we would like to see that we request it at this meeting. I would like to request additional information. I was looking at the FAA report and I noticed the report didn't speak to the fact that Alton Bay is a seaplane base during the summer and that it is a FAA approved runway in the winter. I saw no mention in the FAA report and I would like to see mention of that.

Other Business:

K. Menici – I have a draft of the 2006 meeting schedule. The schedule has been drafted in accordance of the By-laws. I would like for the board to look at it.

Motion made by M. Perry to approve the schedule for the year 2006 meeting dates as presented, seconded by A. Bystrack. Motion passed with all in favor.

K. Menici – In your packets there was a letter from Shirley M. Curvey, 130 Piper's Point Lane, Alton, NH with regard to the Bahre applications – FYI
The OEP has announced their spring conference. It will be Saturday, April 1, 2006 and they will have the agenda published on their website on February 1, 2006. I will download all of the information and have it for the board on February 2nd. At the end of that meeting I would like to get some preliminary selections. I want to register you early so that you get the choices you want. I will make recommendations out the meeting on the 2nd.

K. Menici – You also have a motion for another re-hearing on the Bahre cases. There was an article in the Boston Globe.

T. Kinnon – I am a little uncomfortable receiving this in this manner.

K. Menici – receiving what?

T. Kinnon – This article, because it is mentioned in this motion for re-hearing and we are now discussing it without the applicant being here.

K. Menici – The newspaper article is a matter of public record and anyone has access to it, so giving a copy to the board is ok as long as there is no discussion.

L. Avery – What was the print date?

K. Menici – January 2, 2006 paper.

M. Perry – The reporter called me and I didn't respond.

T. Kinnon – Just to clear the air on that I feel comfortable having this passed to me because it is in the application for re-hearing and this is something that we could retrieve at our own leisure. I would like to discuss the issue of videotaping.

K. Menici – I haven't asked Russ yet but I will have an answer for you at the next meeting.

T. Kinnon – This is for T. Morgan because he wasn't at the last Bahre Hearing. At the last meeting the ZBA was videotaped without our knowledge and it was aired on Public Access on January 1, 2006. We weren't aware until someone came up to me and said they saw me on TV. We are trying to find an explanation as to why we were videotaped. My understanding is that the ZBA discussed it sometime ago and that the ZBA did not want to videotaped and there has been no further discussion on that.

K. Menici – I don't know if it was an oversight. I don't think we were videotaped intentionally and I think the student left the camera on and forgot about it because the regular person that does the taping wasn't here that night.

M. Perry – Are there any other issues?

Motion made by M. Perry to adjourn, seconded by T. Morgan. Motion passed with all in favor.

Minutes transcribed by Jennifer Fortin on 10/20/06