

APPROVED AS AMENDED

Town of Fitzwilliam Planning Board Meeting Minutes May 1, 2018

Member's Present: Terry Silverman; Suzanne Gray; Ross Tourigny, Chairman; Robin Peard Blais, Secretary; Paul Haynes, Vice Chair; Matt Buonomano; Charley Kenison, Selectman's Rep

Member's Absent: Carlotta Pini, Alternate; Robert Young, Alternate

CTO: 7:02 PM

Scenic Road Update. 7:02 PM.

Tourigny announced that the Fitzwilliam Road Agent, Gene Cuomo, would not be attending the discussion and had to cancel last minute. The Board then moved forward to discuss the updates on the Scenic Road ordinance.

Gray discussed that she had reached out to the Fitzwilliam Highway Department. Gray explained that she spoke with someone who worked with Cuomo and they discussed that the Highway Department was now understanding the intent and purpose of *the* concept of Scenic Roads much better than before, adding that the Highway Department had previously misunderstood its intent.

Gray then pointed out on Page 3 of *the draft of the Scenic Road Ordinance*, that she felt the Highway Department should not need approval by the Planning Board for the trimming of trees. Haynes agreed, adding that the Highway Department doesn't usually cut trees but is mostly trimming branches and brush as needed.

Blais asked if Gray felt the concept of Scenic Roads was better received than it was previously. Gray responded that she felt it was, however she strongly felt that the Board needed to sit with Gene Cuomo for his input.

Gray then discussed RSA 241-145 which discusses the certain instances that town Road Agents are allowed to remove or trim vegetation. Tourigny asked, for instance, if Cuomo finds a tree to be a hazard and the homeowner says they don't want it to be cut then what would happen. Silverman responded that the homeowner can deny cutting because they own the frontage. Gray and the Board discussed that they would like to discuss such a scenario with Cuomo to confirm his process.

Buonomano asked about how the “3 feet works” in terms of the Road Agents right of way. Tourigny discussed that the right of way is typically from the edge of the road. Haynes read the language, which read “from the edge of the main traveled portion of the road.” The Board agreed that the language was a bit subjective.

Silverman discussed that his concern was that no one in the Town came forward with a proposal for Scenic Roads or to designate a road, and because of that it may be a problematic project going forward. Tourigny and Gray discussed they were reviewing it because it was listed as something to review by the 2012 Master Plan. Silverman responded that he was concerned because of the regulatory temperament in Town in terms of implementing an ordinance that doesn't accomplish an immediate need.

Gray discussed that she felt the Board still needed to review the concept because the idea of Scenic Roads had been brought up in the Town survey and Master Plan development process, ending up in the final 2012 Master Plan which guides the Planning Board's goals. Gray added that she was in favor of reviewing it now rather than later in a possible reactionary scenario. Silverman responded that the Board hasn't been reactionary, *but it may be wise to stay away from activism.*

Blais discussed that she felt if there was something the Board were to bring before the Town at Town Meeting, she felt it should be something of great importance such as the Prime Wetlands, rather than the Scenic Roads which had been voted down in the past.

Tourigny asked the Board if they would like to invite Gene Cuomo to the next meeting to speak with the Board and based on what Cuomo says, they could decide if they would like to move forward with it. The Board agreed to wait for Cuomo's input.

Solar Conditional Use Permit. 7:21 PM.

The Board reviewed the Solar Conditional Use Permit. Silverman asked Kenison if the Selectman approved of the permit. Kenison responded that the Selectmen had approved of it.

Blais moved to accept the permit, Gray seconded, and the Board agreed unanimously.

The Board then discussed the current project proposal by NextEra called the Chinook Solar Energy Center. Tourigny discussed that he would like to see the community involved in the SEC process so that they may give input. Blais asked the LUA if there was anything going into the newsletter about the SEC process and/or the overall project proposal. The LUA responded that in future newsletters there can be, but the deadline for the May edition had passed.

Silverman discussed that he would like to write a letter to NextEra from the Board regarding several things such as that the Board was concerned about the form of the first meeting; that the Board felt there needed to be a thorough and accurate presentation of any and all expansions in town; whether or not *this is an* end project or a seed project; if there is potential to be linked in to the previously proposed pipeline; and do they plan to comply with town zoning, particularly

the wetland setback requirements. Gray added that she wanted to know the total acreage to be impacted, including where the solar panels would be as well as any additional acreage for roads, storage, expansion, etc.

Silverman added that he wanted to know if there is going to be a presentation of the finalized plans, adding that he imagined there being changes to the plans once they see the site.

Silverman also added that the Town should have access to expert review of the proposal at the applicant's expense. Silverman then discussed with the Board that NextEra should put together a transcript of the meeting and the Board agreed to ask for a transcript rather a summary.

Silverman motioned to accept the letter to be sent to NextEra with a copy sent to Pam Monroe of the SEC, Buonomano seconded, the Board agreed unanimously.

Blais noted that she would like to remind the Conservation Commission to attend the informational session in May.

Gray added that if they aren't going to be able to use the Upper Meeting Hall for their abutter meeting, then they may be able to use the meeting/conference space at Flip Side Grille in town.

Tourigny asked the Board if there was anything else that the Board felt needed to be added to the letter. Blais and Gray discussed if NH Division of Parks and Recreation would be attending the meeting to speak on behalf of the viewsheds from Gap Mountain and Mt. Monadnock. Blais responded that she is working on making sure someone attends from that agency. Gray asked if they could know who the council for the public would be as they are supposed to be attending the informational session in May. The LUA noted that she would reach out to the SEC to confirm who was assigned as the council.

Tourigny asked if there was anything else, there was none.

Innovative Land Use Controls. 7:43 PM.

Buonomano requested that Carol Ogilvie come in and talk to the Board about the types of Innovative Land Use controls in RSA 674:21.

Silverman reviewed the packet and discussed that he felt none of the topics and research applied to the Town either because there are either similar initiative already in place or because they are more applicable for urbanized areas. Silverman added that the concept of Innovative Land Use Controls is geared more towards allowing people to get around zoning laws. Silverman discussed how some of the controls had been implemented in nearby towns and had not been successful; adding that Flexible and Discretionary Zoning is a slippery slope legally.

Silverman reiterated that he felt that the current zoning ordinances allow landowners to use their land as they wish and that the Board would be hard pressed to find someone in Town who is hurting to use their land in a way that is not permitted.

Buonomano explained that he felt the concepts in 674:21 could be applied to the Town, and that he had been considering looking *into it as a* response to issues over the past 10 years.

Buonomano added that the Zoning Board of Adjustment's primary objective is only for relief and not to follow the Master Plan; adding that he feels development in Fitzwilliam is lot-by-lot development and has therefore created disconnected development.

Silverman responded that he felt a lot of the concepts did not fit the goals of the Town and Buonomano agreed. Silverman responded that it was not the Planning Board's job to decide where development happens. Silverman explained that the Planning Board's job is protection of the Town and the Town's resources and that the Master Plan is made to protect the Town's land use ordinances. Silverman explained that current zoning follows the pattern of the community and economic development over time, it does not follow what the Planning Board feels future development should look like. Silverman explained that he felt that 674:21 allows the Planning Board to impose their ideas of development on the Town.

Buonomano discussed current zoning and how there are areas in town of higher and lower densities. Buonomano added that he did not like that they were called "controls" because he did not see them as a controls, but rather as options. Gray and Silverman noted that there are similar initiatives already in place in the Town, but not using the authority of 674:21. Silverman reiterated that he felt it was a slippery slope and against the essence of what the Town of Fitzwilliam wanted. Blais discussed a past case as an example with the Board and how 674:21 related. Buonomano discussed that the State produced 674:21 and felt it gave municipalities options to improve zoning. Silverman responded that he felt it was not an effective ordinance to rely on.

Buonomano noted that he did not feel the Board should totally close the door on 674:21 and should consider some of the concepts. Kenison asked if this could be resolved by sitting with Carol Ogilvie to ask her questions and receive feedback.

Buonomano apologized for raising his voice to the Board and Silverman said it was fine because they were just having a productive discussion. Buonomano discussed residents who did not have Wi-Fi, phone service, paved roads, and want those resources, and that perhaps 674:21 may provide a route to give them such resources.

Buonomano discussed that his concern is that the current zoning makes parts of town more valuable and other parts less valuable. Buonomano then explained that he feels the State gives some of these concepts within 674:21 as a sort of relief or type of option for land use to evolve. Silverman discussed that he doesn't want to rely on 674:21 as the vehicle for some of the land use controls.

Gray noted to the Board that she would still like to talk through some of the ideas. Buonomano discussed that the main objective of reviewing 674:21 was to explore any new ideas or concepts that they may want to explore implementing.

The Board discussed their interest in inviting Carol Ogilvie to sit with the Board to discuss some of the topics.

Silverman reiterated that he felt that what's in the Master Plan isn't a to-do list, but a general overview of topics that may be applicable to the town. Tourigny asked what the point of having a Master Plan was. Silverman and Blais responded that it's an RSA and it provides a bench mark of support. Silverman responded that he felt the Master Plan should not be taken literally. Gray read from a section of the 2012 Master Plan on Page 26 which referred to the intent and mission behind producing a Master Plan. Silverman responded that some of the projects the Board has accomplished has been in the spirit of the Master Plan. Gray discussed that she would like to see the community and the Boards take advantage of the master plans that they put together and not see it as a waste of time and money, nor be a book that collects dust on a shelf.

The Board shifted the discussion to how they can enforce conditions on approvals. The Board discussed asking for bondage with the conditions attached to approvals to ensure they are met. Silverman discussed how conditions are enforced with Kenison.

The Board then discussed how they want the Conservation Commission involved with the SEC process for Chinook Solar, not necessarily as interveners but to at least review the project proposal. Tourigny discussed concerns about wetland, viewshed, wildlife impacts. Blais explained that she will be attending the next Conservation Commission meeting. Blais asked if there could be a member at large on the Prime Wetlands Committee and Kenison asked she submit it in writing to the Selectmen.

Minutes from April 17, 2018. 8:44 PM.

Gray noted Line 24 where Silverman asked about the right-of-way to the property and asked who "he" was referring to. Kenison responded that it was Brian Damon. Gray asked if the Board could insert the name to clarify and the Board agreed.

Tourigny looked at Line 44 and asked it be removed because it was confusing.

Gray asked about Line 61 and asked if the Board was looking to provide information on the informational hearings or for the overall SEC process. Gray discussed that for the pipeline hearings, the Board made handouts for those participating, adding that the pamphlets were put on a table by the door.

Blais moved to accept the minutes as amended, Tourigny seconded, and the Board agreed unanimously.

Gray motioned to adjourn the meeting, Silverman seconded, and the board agreed unanimously at 8:50 pm.