

**TOWN OF HENNIKER  
ZONING BOARD OF ADJUSTMENT**

Approved Minutes  
October 15, 2008

**Members Present:** Doreen Connor, Chairwoman; Joan Oliveira, Vice-Chairwoman; Bob Stamps; Kris Blomback; Jeff Connor; Rick Patenaude, Alternate; Gigi Laberge, Alternate

**Others Present:** Laura Scott, Planning Consultant; Jennifer Astholz, Recording Secretary; Dawn French; Richard A. French, Jr.; Amy Augustine; Jan Hale; Leon Parker; Susan Lanphear; Dennis Lanphear; Dennis Stearns; Jeanne Davis; Stephany Lavallee; Joan O'Connor; Peter Flynn, Town Administrator; Michael Lambert; John McCormack, Esq.; Mark Mitch

Chairwoman Connor called the meeting to order at 7:07 pm.

**Continued Public Hearing**

**Case 2008-104:** A request has been made for a Use Variance under §133-29. The applicant, Michael Bartoszek of Laidlaw Energy Group, on behalf of Granite State Forest Products, is proposing to construct a 20 MW renewable energy plant (clean biomass woodchips). A Use Variance is request to allow a renewable energy plant to operate. The property is located at 1192 Old Concord Road (Map 1 Lot 549 F2) in the Heavy Commercial (CH) District. This application is being noticed as a Development of Regional Impact, per NH RSA 36:54- 36:57.

Ms. Connor stated that the applicant has requested that their case be continued for three months.

Atty. John McCormack stated that the Board has asked many good questions, which require additional time for the applicant to gather pertinent information. He stated that usually the detailed information is presented during the design phase. Atty. McCormack stated that gathering information from other agencies such as the Army Corps of Engineers, utility companies and landowners can take a considerable amount of time just to answer the questions about where power lines will be located. The Board has questions about the proposed building design. He stated that each series of questions is related to the next issue. For example, the question about how many tons of waste will be produced is directly related to the design criteria. Mr. McCormack stated that to give a full and fair presentation takes time. Granting the request for an extension allows the applicant to get a more accurate timeline, and no one will be harmed by waiting for three months; however, if the request is denied, Laidlaw would be harmed greatly. He then thanked the Board for their consideration.

Kris Blomback, Board member, asked why they felt that they would be harmed if the request for continuance was denied. Mr. McCormack stated that the applicant is not able

to answer the Board's questions or those raised by the Conservation Commission at this time.

Ms. Laberge, Alternate Board member, questioned the applicant as to how confident they would be in answering these questions after three more months. She stated that the applicant has known what the five basic criteria for granting a variance are and have not been able to supply the necessary information for the last six months. She asked if it was a sufficient time frame to gather the information. Ms. Laberge then asked if they had considered withdrawing their application and applying again at a later date.

Atty. McCormack stated that they have discussed withdrawing the application; however, they feel that it is important to keep the continuity that has been generated over these months of discussion. He stated that money and time has been invested in this application, and they prefer to continue, if possible, rather than starting over. He stated that if the Board denies their extension request then they will withdraw the application and resubmit at the later time.

Ms. Oliveira asked if they would have the information collected at the end of the three-month extension.

Atty. McCormack stated that they may have some of the answers, but probably not all of the requested information.

Chairwoman Connor stated that the five full Board members will vote on the request for extension after all questions have been answered.

Ms. Laberge stated that a lot of people from Henniker and surrounding communities have put a lot of time and thought into this issue. She stated that the applicant did not put the \$5,000 in escrow as requested for the ZBA to hire an appraiser. She stated that they may be serious about the application, but they haven't shown that they are serious about getting the necessary things done. The people in our community have strongly indicated that they do not want this project in their community. The applicant has the option to withdraw and can propose this project again when they are ready as it has been a better part of a year since they first came before the Board.

Atty. McCormack asked to speak to the point of the \$5,000 escrow. Chairwoman Connor stated that the Board understood that the applicant had decided to request the continuance, thereby making it a moot point.

Joan Oliveira **MOVED** to grant the formal request that Laidlaw has made to table the hearing until the January 2009 meeting. Kris Blomback **SECONDED** the motion. Mr. Stamps, Ms. Oliveira, Ms. Connor, Mr. Blomback and Mr. Connor voted **IN FAVOR** of the motion. (5-0)

## **Public Hearing**

**Case 2008-105:** A request has been made for an Area Variance under §133-28 A. The applicant, Michael Bartoszek of Laidlaw Energy Group, on behalf of Granite State Forest Products, is proposing to construct a 20 MW renewable energy plant (clean biomass woodchips). An Area Variance is request to allow an 80-foot tall building to be constructed where “no buildings shall be constructed more than three stories above grade level”. The property is located at 1192 Old Concord Road (Map 1 Lot 549 F2) in the Heavy Commercial (CH) District. This application is being noticed as a Development of Regional Impact, per NH RSA 36:54- 36:57.

Joan Oliveira **MOVED** to continue this hearing for an Area Variance to the January 2009 meeting. Mr. Connor **SECONDED** the motion. The motion **PASSED UNANIMOUSLY**.

Chairwoman Connor stated as a point of clarification that there will not be a new notice sent to abutters about the continuance. The Board will simply take up the matter on the agenda at the January 2009 meeting.

Mr. Lanphear, Henniker resident, asked if the public will have the opportunity to speak at the January 2009 meeting. Ms. Connor stated that the public will have a chance to speak during the hearing process, although it may not be at the next meeting.

## **Review and Approve 9/17/08 Meeting Minutes**

The minutes of the September 17, 2008 meeting were reviewed and corrected. Kris Blomback **MOVED** to approve the amended minutes. Mr. Stamps **SECONDED** the motion. Motion **PASSED, 5-0**. (Ms. Oliveira, Mr. Blomback, Mr. Stamps, Mr. Connor and Ms. Laberge voted as they attended that meeting.)

## **2009 Budget Development**

The 2008 budget was reviewed to prepare the 2009 Zoning budget. Laura Scott suggested that a line item be added for legal fees. She stated that she did \$1,000 worth of work on junkyard issues at the request of the Selectmen.

Chairwoman Connor is to represent the Zoning Board at the Town Budget hearing meeting on Saturday, November 1, 2008. Ms. Scott stated that advertising and postage expenses are usually offset by applicant fees. She noted that the budget sheet does not show any income received.

Mr. Blomback stated that an organization typically looks at expenses during the past five years, and there have been no legal expenses during that time. He stated that he would like to keep costs down and would rather see money taken from other line items to fund the new line item for legal fees. Ms. Laberge stated that with some of the hearings that have come up recently, the Board should anticipate needing legal fees in the coming year.

Leon Parker, Selectman, stated that the Consultant's fee and legal fee was handled differently in the past. Listing a line item for this expense clarifies that the consultant works for both the Planning Board and the ZBA.

The Board discussed the idea of applicants creating an escrow account at the time of submitting their application. Types of applications and the need for "expert opinions" were discussed. Ms. Oliveira suggested that a statement could be included on the application that an escrow account may be necessary. Ms. Scott stated that the Board already has that right per State law.

After much discussion on the issue, it was the Board's consensus that a statement be added to the application noting that the Zoning Board has the right to request an escrow account be established to cover costs of outside sources such as traffic studies, legal review, etc. Ms. Scott will create actual verbiage to be used on the application.

Ms. Scott reminded the Board that the Planning Consultant can make the recommendation to establish an escrow account; however, Board members cannot discuss the matter via telephone, e-mail, etc. as it would be considered a public meeting under the Right to Know Law.

The Board revised the 2009 Proposed Zoning Budget with a total budget of \$8,055. Ms. Oliveira **MOVED** to approve the 2009 budget as revised. Mr. Stamps **SECONDED** the motion. Ms. Scott stated that she will create a clean copy of the budget to be presented at the budget hearing and give it to Doreen. Motion to approve the budget **PASSED, 4-1**. Mr. Blomback voted against the motion on the principle of being against an increase.

### **Member Binder Update**

The following updates were made to the members' binders:

- ❖ Budget Update (Tab 3)
- ❖ Junkyard Licensing Application (Tab #5)
- ❖ Court Updates (Tab #14)

### **Adjourn**

Ms. Connor **MOVED** to adjourn at 8:25 pm. Mr. Blomback **SECONDED** the motion. Motion **PASSED UNANIMOUSLY**.

Respectfully submitted,  
Jennifer Astholz