

Town of Newington, NH
PLANNING BOARD

Meeting Minutes, Monday, January 8, 2024

- Call to Order:** Chair Denis Hebert called the January 8, 2024, meeting at 6:00 p.m., followed by the pledge of allegiance.
- Present:** Chair Denis Hebert; Vice-Chair Christopher Cross; Board Members: Russ Cooke; Ben Johnson; Jim Weiner and Peter Welch; Alternate Board member, Jill Semprini; Board of Selectmen’s Representative, Bob Blonigan; Town Planner, John Krebs and Jane Kendall, Recorder
- Absent:** Alternate Board members, Rick Stern
- Public Guests:** Meiliege Black; Susan Hargrove; Barbara and Russ Coit; John Chamberlain; John Bartomolous, architect; Eric Brasier, Representative of the Mall at Fox Run

Chair Hebert announced procedures for the public meeting.

1) Public Hearings:

A) Requesting approval of Home Occupation by Susan Hargrove of 62 Little Bay Road, Tax Map 9, Lot 5-B to operate a hair salon in accordance with Article XIII, Section 1 and 2

Chair Hebert announced that Alternate Board member, Jill Semprini would be filling in for Board member, Ben Johnson, who was representing the applicant.

Ben Johnson, Executive Vice President with North and South Construction presented stated that they had updated the proposed home hair salon to allow four parking spaces.

Mr. Johnson said they had difficulty getting a response from the New Hampshire Department of Environmental Services (DES), but the State recommended adding a separate septic tank for the hair salon that would feed straight from the salon in the garage, then feed into the septic system. Mr. Johnson said they would then file a new septic permit, so that the additional septic would be in place when the main septic failed.

Board member, Peter Welch asked if all the hair salon chemicals were evaluated. Mr. Johnson replied that all the products met specifications, and DES had no issue.

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Board member, Jim Weiner asked what Mr. Johnson meant when he said the new septic would be in place “when the main septic failed” Mr. Johnson said every septic had a life span, and in this case they would have an approved system in place.

Mr. Weiner asked if there would be alarms to alert the owner when the tank was full. Town Planner, John Krebs responded that alarms were only used on pumps, but this was a gravity fed tank.

Board member, Russ Cooke asked if there were any immediate special septic requirements to accommodate salon use. Mr. Johnson replied that they would add the additional tank right away, and would need the new permit approval for the new system.

Mr. Cooke asked what the pumping requirements were for a small tank. Mr. Johnson said it was the same as any other tank, but there would only be liquids through a hair trap in the salon washing station, so there would be no reason to pump.

Mr. Weiner asked if emptying the tank would be advisable to prevent the salon chemicals from causing failure of the leach field. Mr. Johnson responded that pumping the tank would be up to the homeowner, but tanks were usually emptied every two years.

Chair Hebert asked if there would be a bathroom in the garage. Mr. Johnson said they planned on sending the ADA accessibility bathroom waste to the existing tank.

Chair Hebert asked if they had a fiberglass lining in the tank, or if toxicity of the salon chemicals would be corrosive for pipes and concrete septic tanks. Mr. Johnson said he couldn't say for certain because they didn't have the final design from the State, but they submitted all Material Safety Data (MSD) sheets, and DES would advise.

Ms. Semprini asked what they would do about any new chemicals used that had not been presented to DES. The applicant, Meiliege Black replied that products had to follow the Board of Cosmetology, and she was required to update her MSD sheets to the State once a year, and renewed her license every two years.

Mr. Weiner asked if there would be any other employees, and Ms. Black said she would be the only employee.

Mr. Weiner asked if she would have one sink and two chairs. Ms. Black replied that there was so she could do a haircut during the 35–40-minute wait between coloring procedures.

Mr. Weiner commented that he had read that a salon used less water than he did for his lawn.

Chair Hebert asked Ms. Black if she intended to put up a business sign. Ms. Black said she wanted to put something up to identify her business. Chair Hebert said she would need to meet the Town's sign regulations, and could follow-up with the Town Planner.

Chair Hebert stated that the applicant would need to meet all the conditions of a home occupation as listed in the Zoning Ordinance.

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Chris Cross moved to approve the request for Home Occupation by Susan Hargrove of 62 Little Bay Road, Tax Map 9, Lot 5-B to operate a hair salon in accordance with Article XIII, Section 1 and 2 with the following conditions:

That they receive NHDES septic design and approval prior to opening the business;

That the signage meets all Town of Newington sign regulations;

That there will only be one employee;

And that they return to the Planning Board for reapproval for any changes, or if the home occupation becomes a home business with more than one employee.

Peter Welch seconded, and all were in favor.

B) Amendment of the Newington Zoning Ordinance to eliminate Nursing Homes as a Permitted Use in the Commercial Zone "C" under Section 3.B, and deletion Nursing Home in Section 2, List of Definitions as follows:

Section 3.B – Commercial District

Uses Permitted: Retail, offices, research and development facilities, light manufacturing, restaurants, motels, hotels, theaters, storage facilities, barber and beauty shops, laundries, repair shops, places for public worship, indoor recreational facilities such as bowling alleys, skating rinks, conference centers, and facilities to treat the developmentally disabled.

Section 2 – List of Definitions

~~**Nursing Home:** Any dwelling place licensed by the State of New Hampshire in which three or more aged, disabled, or ill persons who were dependent or not capable of properly caring for themselves were housed and furnished with meals, whether served in a central dining room or otherwise, and nursing care for compensation. This includes "convalescent facilities" and "rest homes" or "elderly congregate care residential facilities" limited to persons fifty-five (55) years of age or older with a present or anticipated future need for on-site nursing care.~~

Mr. Krebs stated that he was recommending the removal of nursing homes from the Commercial Zone after the Board's previous discussion, and the recent proposal for an overlay district to allow a nursing home between Nimble Hill Road and Shattuck Way. Mr. Krebs added that allowing nursing homes in the Commercial Zone did not seem fair to the nursing home residents, or the commercial property owners.

Mr. Krebs went on to say that zoning should do as many things as possible in a town, and eliminating nursing homes altogether was not very nice, however, so he recommended that the Board make a commitment to look at the town map and determine where a good location for nursing homes would be.

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Mr. Weiner noted the established division of zones between the Spaulding Turnpike, and the radius of concern for evacuation from the Industrial and Industrial Waterfront Zones should an accident occur, but wondered where a safe place for nursing homes would be.

Mr. Krebs said New Hampshire law allowed for towns to decide whether to list permitted uses, or allow anything, and Newington had both at once at one point, but the Board had since cleaned up their list of permitted uses, and reviewed it with Town counsel.

Mr. Weiner said uses had to be specifically stated as permitted to be allowed, but he thought a good attorney could get around ambiguities, so this was a good opportunity for an amendment.

Chair Hebert responded that the Zoning Ordinance already specified that uses were not allowed unless they were specifically listed in General Provisions, Section 1 on Z18, so they were covered, but the date had passed to post a public hearing notice for any other changes for 2024.

Chair Hebert announced that Ms. Semprini would not be voting on this item.

Peter Welch moved to place the proposed amendment of the Newington Zoning Ordinance on the 2024 Town Meeting ballot to eliminate Nursing Homes as a Permitted Use in the Commercial Zone "C" under Section 3.B, and delete Nursing Homes in Section 2, List of Definitions. Jim Weiner seconded, and the motion passed 6– 1 with Russ Cooke opposing.

C) Driveway Permit for Aeolus Limited, aka, John Chamberlain to construct a second driveway access at 29 Dumppling Cove Road, Tax Map 15, Lot 13

John Bartomolous, architect presented a proposal for a curb cut for a circular drive on the front lawn of the applicant John Chamberlain's front lawn.

Mr. Chamberlin stated that he had a large number of contractors, and guests, and the proposal was to alleviate vehicles stacking up in the driveway and street.

Mr. Chamberlin said the house was on the crest of a hill, the walk to the front door was not visible from the street, so people were crossing the lawn, where there was a deep drainage ditch that filled with water, ice, and snow.

Mr. Chamberlin said his was the only property off the cul-de-sac, so it would not be visible. Mr. Chamberlin added that there was a drainage swale between his property and the abutting property, and the new curb cut would be 200 feet from the Blatt's driveway

Vice-Chair Cross asked if the location of the monument for drainage and utility easement would be accessible, adding that digging in the easement for an underground utility could cause settlement of the monument. Mr. Chamberlin said he didn't think it

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likely, noting that there was 25 foot offset for drainage with stonework for the foundation outfall there already, so it was unlikely that the transformer would be dug up.

Chair Hebert noted that the easement had been established during the development years ago for utilities to go through if necessary.

Mr. Johnson commented that the Board had approved for safety in the past, but he was concerned with approving a request on the basis of aesthetics.

Mr. Weiner the home was at the end of a cul-de-sac, so the additional curb cut would not create a safety issue, and it would be good to keep vehicles from parking on the street.

Mr. Johnson responded that anyone having a party in Newington would park vehicles on the side of the road, so he was concerned that this would open up requests from others for the same reasoning.

Mr. Krebs said the concern for setting precedents was valid, but this was a unique property because Mr. Chamberlain owned both houses on the cul-de-sac, so the extra curb cut wouldn't affect anyone else, and they could say there was not safety or traffic concerns in the approval. Chair Hebert said there was a safety concern with tractor trailer deliveries parking on a cul-de-sac, however, so there would be an improvement.

Ms. Semprini noted that storm water seemed to flow to Dumpling Cove, and asked if a culvert would be installed. Mr. Bartomolous replied that they would install a culvert. Chair Hebert added that the installation of a culvert would be a condition of approval.

Ms. Semprini asked if there was a concern with water draining to the public street. Mr. Chamberlin responded that the clay soil shed water, but there was a deep drainage ditch in front of the property, which flowed along the easement.

Chris Cross moved to approve a driveway permit to allow Aeolus Limited, aka, John Chamberlain to construct a second driveway access at 29 Dumpling Cove Road, Tax Map 15, Lot 13 with the condition that a culvert be added, and that drainage is not changed, that they would submit an as built engineering drawing, and the homeowner would be responsible for any costs from changes affecting the utility easement on the west side. Peter Welch seconded, and all were in favor.

Vice-Chair Cross commented that the driveway regulation for one driveway per lot was an opportunity for the Board to check for safety before a second driveway was added. Chair Hebert said the intent was also to avoid parking lots.

II) Town Planner Report

Mr. Krebs informed the Board that the State of New Hampshire hired a marketing company to find the highest and best use before selling the historic building

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lot on Bloody Point. Mr. Krebs said it was the Town counsel's opinion that the highway created a subdivision, but the State considered the lot on the other side to be part of the parcel.

Mr. Krebs said the Board of Selectmen have expressed a lack of interest in purchasing the property.

Mr. Krebs informed the Board that a representative for the Fox Run Mall would come to the Planning Board in March 2024 to unveil their redevelopment plans.

Mr. Krebs informed the Board that Wilcox Industries was to appear before the Zoning Board of Adjustment on Thursday, January 11, 2024, to request a variance from setbacks for their garage proposal, and would return to the Planning Board on Monday, January 22, 2024.

Mr. Krebs said representatives for Sprague would also be coming before the Board to discuss a facility that would convert compostables to renewable natural gas. Mr. Krebs said he would forward the email to Board members.

Mr. Krebs said he met with the owner of the property on the corner of Piscataqua Drive and Woodbury Avenue in the Office Zone who is frustrated with limitations to permitted uses because there is no market for offices.

Chair Hebert commented that the entire Office District used to be zoned for industrial use, and now he was wondering if they should change it back to light industrial.

Board of Selectmen's representative, Bob Blonigan asked if there were any updates on the Shattuck Way parcel that had previously been approved for the Stoneface Brewing expansion before they backed out. Mr. Krebs said John Ricci was the sole owner now, and he may be considering another medical office building.

Mr. Blonigan said the Town went to bat for Stoneface Brewing, but one of the co-owners claimed that the Town had sabotaged their project, and even their employees blame the Town because of false rumors.

Mr. Krebs responded that they had worked with DES, the ZBA had granted ten variances, and despite months of revisions and delays by the applicant, the Planning Board had approved the plans quickly despite the complexity.

Mr. Krebs said he knew interest and construction rates went up, but the Town can't be held responsible for what happens in the world.

Mr. Weiner said he had recused himself as a supporter of Stoneface, but he was concerned with the lack of parking, and compliance with signs restricting parking on Shattuck Way in their current location.

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Mr. Krebs said they had a plan to build temporary parking on Rockingham Electric's property across the street, but Rockingham Electric has been sold, and it was not a good solution for patrons to walk across Shattuck Way to Stoneface.

III) Other Business and Discussions:

Mr. Weiner asked Mr. Krebs if there had been any exparte communication between members of the Board, and Mr. Krebs said he was not aware of any. Chair Hebert asked Mr. Weiner why he asked the question, and Mr. Weiner replied that he had the right to ask the question, and would continue to do so at every meeting. Chair Hebert stated that he had not had any exparte communications, and said it was not necessary to question the integrity of the Chair or the Board at every meeting.

Minutes: Approval of Minutes was deferred to the next meeting due to an early adjournment.

Adjournment: *Bob Blonigan moved to adjourn the meeting. Peter Welch seconded the motion and the meeting adjourned at 7:26 p.m.*

Next Meeting: Monday, January 20, 2024

**Respectfully
Submitted by:** Jane K. Kendall, Recording Secretary

These Minutes were approved and adopted at the January 22, 2024 Planning Board Meeting.