

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, December 11, 2023,

- Call to Order:** Chair Denis Hebert called the meeting to order at 6:10 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 (remotely)
- Absent:** Alternate Board member, Rick Stern
- Public Guests:** Attorney Christopher Mulligan with Bosen and Associates; John Stebbins, and Joe Geoheghan, Partners with Tidemark; Sheryl Bagley; Sharon Brown; Bob Byrnes; Pam Clarkin; Laura Coleman; Craig Daigle; Michael Donovan; Anne Hebert; Jack and Luanne O'Reilly; Mike Pattenau; Emily Savinelli; Bob Siede, Alan Thompson; Chris and Meghann Wayss; Guy Young; Jon Wendell; Town counsel, Attorney John Ratigan

I) Informational Public Meeting: Regarding proposed zoning amendment and development on Shattuck Way and the southwest side of the Spaulding Turnpike.

Chair Hebert stated that the purpose of the meeting was for the applicant to make a presentation, and allow members of the public to ask questions about their proposal. Chair Hebert reviewed procedures for the presentation and public discussion.

Attorney Chris Mulligan with Bosen and Associates John Stebbins, and Joe Geoheghan, Partners with Tidemark appeared before the Board and the public to present their proposal and answer questions.

Attorney Mulligan stated that Tidemark had made a couple of changes to the original proposal in response to previous meetings, including changes to the contours of the proposed overlay district that was now limited to four lots between Shattuck Way and the Spaulding Turnpike.

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, December 11, 2023,

Attorney Mulligan stated that the overlay district would allow a nursing home, and retail sales buildings under 5,000 square feet, and restaurants of limited size.

Attorney Mulligan said that proposing changes to the zoning would allow additional uses, but the overlay district proposal was not for a specific development proposal. Attorney Mulligan said the zoning change would still need a Town Meeting vote, and if changed, they would come before the Planning Board for site review and final approval of a development proposal sometime next year.

Attorney Mulligan stated that right now the Office Zone allowed light industrial and manufacturing uses, but there was little increase in the demand for office development since the 2020 pandemic, and little demand for manufacturing.

Attorney Mulligan went on to say that his client had purchased ten acres that had been undeveloped for many years, and they hoped to establish a nursing home facility on the site.

Attorney Mulligan said there was a great demand for nursing homes throughout the state, and nursing homes were permitted elsewhere in the Commercial Zone on the other side of the Spaulding Turnpike, so they were not introducing a use that was not permitted elsewhere.

Attorney Mulligan stated that the proposed nursing home facility would be assessed for \$20,000,000 in taxes annually, so it would be in the Town's interest to consider.

Attorney Mulligan stated that market research showed the average age of residents to be 75-84 years with age restrictions, so no demand on schools, negligible crime, and demand on police if at all, and either staffed with skilled nursing care, and on-call private ambulance services, so minimal demand on first responders and local fire.

Attorney Mulligan stated that they would be spending tens of millions of dollars on construction that would be tied in to permitting fees, and would also generate significantly to municipal sewer

Chair Hebert opened the discussion to the public.

Mike Pattenade of Nimble Hill Road asked if the facility was assisted living, or nursing home care. John Stebbins, Partner with Tidemark replied that the current model for nursing homes was to provide different tiers of care as individuals aged.

Mr. Pattenade asked about traffic studies, and Mr. Stebbins said they had not done traffic studies yet.

Mr. Pattenade asked if they had assessed sewer costs, and Mr. Stebbins said they hadn't gotten that far. Chair Hebert pointed out that the public meeting was for consideration of a new overlay district that could include a nursing home, but the Board had not received an application for site review for the use that was currently not allowed in the existing Office District.

Mr. Pattenade asked about their thoughts for other uses.

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, December 11, 2023,

Mr. Stebbins passed out their conceptual plan, showing a 150-175 bed nursing home on one parcel, and retail limited to 150 square feet, or light restaurant limited to 100 seats.

Chris Wayss of Fox Point Road asked if other residential uses would be allowed in addition to a nursing facility. Stebbins said only a nursing home would be allowed.

Mr. Wayss asked for an explanation of the nursing care tiers. Mr. Stebbins said in addition to assisted living, and a memory care facility, they would also include what is called independent, which still provided a level of care with meals and medical care on site as needed for those who did not feel comfortable living on their own any longer.

Mr. Wayss noted that he was only aware of a private ambulance service in Somersworth, and said that would be an important consideration.

Craig Daigle of Nimble Hill Road said he was concerned with development near the Residential Zone. Mr. Daigle asked why they had purchased this site when nursing homes were not allowed in this zone, and hadn't considered development by the malls.

Ann Hebert commented that Newington's Residential Zone had been heavily impacted with the development, and she believed she was part of a majority that was concerned with wanted to follow the Master Plan, and protect the balance between tax revenue and a pronounced expansion to the Residential Zone that could increase the population of 800 residents by 22% by opening mixed use. Ms. Hebert provided her comments in writing, and asked the Planning Board to hold on to the existing Ordinance.

Sheryl Bagley of 30 Hannah Lane asked whether there would be an opportunity for Newington seniors to have precedence. Mr. Stebbins said he talked to their partners, and would give preference to Newington residents.

Maggie Cooke of Hannah Lane said Newington noted that Newington had carefully planned its zoning for years, and said they should have considered zoning when they bought the property.

Allan Thompson of Carters Lane said he had no problem with a nursing home in Newington, but he thought placing a nursing home near the highway near wasn't a good idea, especially when there were other locations in the town for nursing homes. Mr. Thompson said he didn't understand purchasing the lot where nursing homes weren't allowed, and then asking the town to change the zoning.

Mr. Thompson said he also questioned any increase in revenue from sewage with a 24-hour demand for operation and water.

Mr. Thompson also said he understood that it might increase tax revenues, but he didn't see many nurses and certified nursing assistants in Newington, so didn't see that it would bring many jobs for residents, but rather providing jobs for administrators and other medical personnel from elsewhere.

Sharon Brown of Little Bay Road asked if nursing home facilities were allowed in the Commercial Zone, and Town Planner, John Krebs said it was allowed in the

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, December 11, 2023,

Commercial Zone, but not in the Office Zone where the site in question was located, so they were proposing an overlay district to allow nursing homes, and other limited uses.

Ms. Brown asked why they were asking for a new overlay district, instead of changing it to a Commercial Zone. Attorney Mulligan responded that additional uses were allowed in the Commercial Zone that they were not asking for.

Chair Hebert commented that there was also a question regarding the independent living tier being the same as residential use, and his concern with changing the demographic of voters.

Board member, Peter Welch said current def of nursing doesn't incl independent living. Ms. Brown responded that the applicant was using the word independent living as a marketing term attached to nursing home use, but it sounded as if the Planning Board was not agreeing. Mr. Krebs replied that the issue was that independent living was not part of the current definition listed for nursing homes.

Chair Hebert said the Board was wrestling with the definition listed of old style assisted care, convalescent, nursing, or rest homes as a dwelling licensed by the State with three or more aged people over 55 years old, disabled, or ill and incapable of caring for themselves.

Mr. Stebbins said their intent for independent living was to allow couples to reside at the same facility where one individual needed more intense nursing care, or were themselves close to needing full nursing care.

Jon Wendell of Little Bay Road said he didn't see the necessity of creating an overlay district when it would not give the town anything new that was needed, and it was already allowed on the other side in the Commercial Zone.

Michael Donahue of Little Bay Road commended the Board for their process that included public input.

Mr. Donahue noted that the property had formerly been the site of a popular restaurant, and bank, but had been a wasting asset for many years that had been limited to restrictive zoning uses for current uses that had been created as a buffer between the Waterfront-Industrial, Industrial, and Commercial Zones; and the Board had posted for consideration of rezoning during the Covid shutdown, so he recommended that it could be used more creatively as a hospitality gateway to Newington to provide.

Mr. Donahue went on to say that the property was not generating any tax revenue, and the Town was losing revenue from the power plant, so the Town needed to consider that the applicants knew how to build good properties.

Mr. Donahue said he had been on the Economic Development Committee, but was not speaking for them.

Mr. Donahue added that the Town also needed to work on updating impact fees to be in a better position to negotiate increased services for new development in the Commercial Zone.

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, December 11, 2023,

Mr. Donahue said if the Shackford lot had been zoned for a continued care retirement community like River Woods in Durham, it could be valued at \$100,000,000.

Mr. Donahue said he knew that board members worked hard, and everyone cared for the town, but he thought it was time to expand considerations that would benefit everyone.

Bob Byrnes of Nimble Hill Road said he thought it was asking a lot to consider rezoning without fully knowing what would be built there. Mr. Byrnes said he thought it would be better to open the uses first, however.

Mr. Byrnes said his mother lived at Kittery Estates for years, and the residents had the right to vote where they lived.

Pam Clarkin of Little Bay Road said the facility in the renderings appeared to be of excellent quality, but she thought the site was not a good location for it, because the town was too small, and she had moved to the town because she loved the rural character.

Luanne O'Reilly of Fox Point Road said she was concerned with the potential for future problems, and she was more concerned with developing the mall.

Emily Savinelli of Fabyan Point Road said she was not in favor of allowing an overlay district that would allow a nursing home facility on the proposed site because nursing home facilities were already allowed in the Commercial Zone.

Ms. Savinelli said she also thought saying independent living was needed for nursing care later was a tactical way of presenting their proposal, and she was concerned that the allowed uses couldn't be undone once done, and there was nothing to say plans wouldn't change after a new overlay was created.

Mr. Stebbins clarified that they had purchased the property as a good investment. Mr. Stebbins said they did a use analysis for the best use, and they were being transparent.

Bob Siede of Nimble Hill Road said he agreed that the Board needed to decide whether they should recommend changing the zoning to accommodate a nursing home when a majority of residents present had expressed concern that others might one day ask that the town change to accommodate their uses as well.

C. Daigle agreed that he was wrestling with the idea of independent living opening up larger uses later.

A. Thompson added that it appeared that they were shoehorning a three- or four-story building into the narrowest part of the property, which could give them the possibility to put in another section in that would double the number of residents.

Board member, Jim Weiner asked if straw votes were legal. Town counsel, Attorney John Ratigan said there was nothing illegal with straw votes if the applicant wanted to get a sense of where they might stand.

C. Wayss agreed that he would be concerned with creating an overlay for the intention of a nursing care facility that could be changed to something else years from

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, December 11, 2023,

now after they sell to someone else. Mr. Wayss cautioned against straw votes for something that should be done in a public hearing, or on a ballot.

E. Savinelli asked about the legality of giving preference to residence. Chair Hebert said the Board can't require them to give preference, so it was only their own verbal agreement, but that could change.

Ms. Cooke said their office headquarters would be more welcome in the existing Office Zone. Mr. Stebbins said would have to relocate from Manchester that would be unhappy with relocating.

Jack O'Reilly of Fox Point Road commented that every \$100,000 gained on taxable property only brought in \$10, so this would only be a \$5 a month saving on residential property taxes that wouldn't be worth it to him.

Meghann Wayss asked if the site could be opened to workforce housing in the overlay district if the business was abandoned. Mr. Krebs said anything that was permitted in the underlying zone such as office, manufacturing, or another nursing, but not anything that was not allowed.

Chair Hebert said senior housing could be allowed if workforce housing was allowed, but they were not sure if workforce housing would be allowed if senior independent living was allowed.

Mr. Krebs announced that they had received a letter from Patti Borkland of Little Bay Road saying that she and her husband were opposed to the overlay proposal, as well as a letter from Jill Boynton of Old Post Road because it was not consistent with the Master Plan.

Mr. Krebs said he also received a letter from Mark Phillips of Hodgdon Farm Lane saying that office use had diminished, citing the example of the Liberty Mutual building in Dover not selling because so many were working from home. Mr. Phillips said the aging population was a fast-growing segment, and the site had limited uses if not rezoned.

Mr. Krebs said they also received a letter from Sharon Brown of Little Bay Road asking the same questions that she had asked earlier.

Chris Wayss asked if letters be read into the record.

Chair Hebert said the intent of the meeting was to get feedback for the Board's consideration at the next meeting.

Mr. Krebs noted that zoning can be changed by a warrant article put forth by the Board, or by a petition of 25 residents, and presented to the Board.

Mr. Krebs said the statute required that the Board ask voters before scheduling a public hearing no later than January 22, 2024, so the Board wanted to hear from the public to determine if there was support before they schedule a public hearing or not.

Vice-Chair Cross said the Board would decide on what was best for Newington based on the Master Plan principles.

Chair Hebert announced that the next meeting be held on Monday, December 18, 2023, at 7 p.m. so Board of Selectmen's representative, Bob Blonigan could be

Town of Newington, NH
PLANNING BOARD

Meeting Minutes, Monday, December 11, 2023,

present because two members would recuse themselves as abutters, and Alternate member, Jill Semprini would vote

Adjournment: Chair Hebert called for an end of the public meeting at 7:27 p.m.

Next Meeting: Monday, December 18, 2023, at 7 p.m.

Respectfully
Submitted by: Jane K. Kendall, Recording Secretary

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