

Town of Newington, NH
PLANNING BOARD

Meeting Minutes, Monday, February 12, 2024

- Call to Order:** Chair Denis Hebert called the February 12, 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; Jim Weiner and Peter Welch; Alternate Board members, Jill Semprini and Rick Stern; Town Planner, John Krebs and Jane Kendall, Recorder
- Absent:** Board Member Ben Johnson; Board of Selectmen's Representative, Bob Blonigen
- Public Guests:** Sean Tobey, Project Manager with Hoyle & Tanner Associates; Mike Mates with Pease Development Authority; Ryan Fowler with James Verra and Associates; Norman Walker; John Wendell

I) Public Hearings:

A) **Site Plan Review for 15 Arboretum LLC, an affiliate of Two International Group** (PDA jurisdiction), to modify an existing approval by adding 15,000 s.f. of office space, increasing the total building to 220,200 s.f., and adding two new egress doors and associated sidewalk.

Sean Tobey, Project Manager with Robert Tanner and Associates appeared before the Board to present changes to their site plan that had been previously presented to the Board on January 23, 2023, and had been amended with Pease Development Authority (PDA), and all permits had been approved.

Town Planner, John Krebs said approval was under the PDA's jurisdiction, but they still wanted Newington's Planning Board recommendation.

Mr. Tobey stated that they were changing the single-story office at the front to two stories. Mr. Tobey said their previous plan for 225 parking spaces was still over the 178 spaces required.

Mr. Tobey said they also adjusted the pump station at the front to accommodate the additional sewer flow from the increased office space.

Mr. Tobey added that they planned on elevating the canopy at the back to 54 feet high to accommodate equipment, but they were staying within the existing footprint so there was no increase to impervious surfaces.

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Vice-Chair Cross asked if the 54-foot-high dormer needed the addition of a flashing light for flight clearance, and Mr. Tobey said it did not.

Vice-Chair Cross asked if the area surrounding the building would be clear of materials for emergency vehicle access, and Mr. Tobey said it would be.

Vice-Chair Cross asked about the signage shown placed in the public-right-of-way along the north, which was not customary. Mr. Tobey responded that they would work with the PDA regarding signs and locations.

Vice-Chair Cross asked about the historic Pickering cellar foundation on the site. Mr. Tobey said they followed the State's guidelines for maintaining buffers for historic sites. Mr. Krebs said he believed the sidewalk was put in at the Planning Board's request.

Chair Hebert noted an archeological dig is typically done on historic sites, and stones removed unless the Historic District Commission has recommendations. Mr. Tobey said they followed the State's requirements.

Vice-Chair Cross said it appeared that there wouldn't be access to the sidewalk unless someone parked along Arboretum Drive, so he wondered if they might consider a parking spot near entrance to prevent people from parking on the side of the road.

Mr. Tobey said they initially brought the sidewalk up to the foundation, but then reconfigured it to allow viewing of the historic site.

Vice-Chair Cross asked where the three-foot water main was located. Mr. Tobey said it ran along the foundation outside of the guard station.

Chair Hebert asked Mike Mates with the PDA about height restrictions. Mr. Mates said he expected there would be multiple height studies filed with the Federal Aviation Association (FAA) before a determination would be made on whether to flag it, or add a light.

Chair Hebert announced that Alternates Jill Semprini and Rick Stern would be voting.

Board member, Jim Weiner asked what value the Planning Board brings to PDA site reviews if they don't have jurisdiction. Mr. Krebs responded that the Planning Board presentations are a courtesy, and applicants might not do anything differently if the Planning Board does not give a recommendation, but occasionally input from the Town's engineering consultant is considered.

Vice-Chair Cross added that the Planning Board reviewed their site plans following PDA regulations, and any potential impact to Newington.

Chris Cross recommended approval of the Site Plan for 15 Arboretum LLC, an affiliate of Two International Group under PDA jurisdiction, to modify an existing approval by adding 15,000 s.f. of office space, increasing the total building to 220,200 s.f., and adding two new egress doors and associated sidewalk as presented. Rick Stern seconded the motion, and all were in favor.

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B) **Subdivision** of one lot into two lots of 60,414 and 60,414 s.f. respectively owned by **Norman and Cara Walker**, located at **315 Newington Road, Tax Map 53, Lot 6-1**. A variance was granted by the Newington Zoning Board of Adjustment on June 29, 2023, to allow two 60,000 s.f. lots where 80,000 s.f. was required.

Ryan Fowler, Surveying Manager with James Verra and Associates presented the subdivision application plans to create an additional building lot. Mr. Fowler said the currently there was a homestead and existing barn on the lot, and it had not been determined whether they would sell the new lot with the existing building, or build a new home, but they intended to stay in the area.

Mr. Fowler stated that the lot line would run through the driveway between both lots so they would relocate the driveway, and both lots would have 200 feet of frontage. Mr. Fowler said that Newington Road was owned by the State, so they were working with the New Hampshire Department of Transportation (DoT).

Mr. Fowler said their septic application was pending with the State.

Mr. Krebs said he had become aware that there was a drainage issue on Newington Road, so suggested the Planning Board write a letter to DOT to prevent any additional issues.

Mr. Krebs pointed out that the plan needed to include the form factor, frontage, setbacks, and zoning table. Mr. Krebs added that the title block on the plan needed to be updated to reflect the ownership on the deed, and it also needed the signature of the surveyor, and the wetlands scientist.

Mr. Krebs suggested that they use granite markers for permanence, and include them in the legend, along with certification from a licensed bounds surveyor.

Mr. Krebs went on to say that the driveway and shed should be removed before the subdivision was approved for simplicity rather than post a bond.

Lastly, Mr. Krebs noted that the utility needed to be captured in the easement.

Vice-Chair Cross commented that Subdivision Regulations, Section 8:1 indicated that all utilities were to be placed in the right-of-way, and suggested that they place the utility pole between the two lot lines, and run conforming utilities underground to avoid public utilities crossing property lines.

Chair Hebert noted that there was a large pool of water to the right of the existing driveway, as well as water going under the road nearby that was causing cracks where someone had placed an ice caution side on the road, so he would want Town engineering consultant, Altus Engineering to review the issue, and include a condition of approval that they work with DOT to resolve the issue prior to start of construction.

Mr. Weiner asked if the subdivision had been through a technical review. Mr. Krebs responded that a technical review was not required for a two lot subdivision that did not involve the construction of a new road, but he had talked with Eric Weinrieb, Principal P.E. with Altus Engineering who said he was not comfortable weighing in on

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DOT's review since there was just a driveway, and no infrastructure involved. Mr. Krebs said Mr. Weinrieb could do a stormwater management review if that was what the Board wanted, however.

Vice-Chair Cross noted that the Board could only address the Subdivision Regulations, and did not have any jurisdiction to study the right-of-way on Newington Road that was owned by the State, but they could ask Mr. Weinrieb to review the necessity of a culvert on the two new driveways.

Alternate Board member, Jill Semprini asked if the Board could consult DOT. Mr. Krebs said DOT would review the permit request, and wouldn't have time for a discussion, but the Board could write a letter of concern about concerns with water flow and ice on the road, and leave the solution up to them.

Mr. Fowler agreed that it would be up to DOT to review the site distances, and determine whether the owner would need a swale, culvert, or catch basins and drainage area.

The applicant, Norman Walker agreed, and said that DOT had already indicated that they would prefer a swale. Mr. Walker went on to say that the cracks in the road were further down the road to the south, and he didn't want to be responsible for someone else's problem. Chair Hebert said he understood, but also wanted to make sure that the subdivision development didn't make the area any worse.

Ms. Semprini asked who the vegetative easement was for. Mr. Fowler said the idea was to have a vegetative buffer to prevent construction that would restrict the view of the Nature Conservancy's easement behind the property.

Mr. Fowler went on to say that the Zoning Board of Adjustment (ZBA) had granted a variance that would allow a minimum of 60,000 square feet on either lot, with 414 square feet of flexibility per lot. Vice-Chair Cross said he understood wanting to maintain the view for the existing house, but there were no regulations in the Ordinance that allowed an applicant to impose vegetative views, or restrictions, and he was concerned with putting a restriction on the other lot that could create difficulties between neighbors, which the Planning Board could not enforce, so he thought they should put a vegetative buffer on both.

Board member, Russ Cooke agreed that there were no regulations regarding vegetative easements, but he still thought they should be able to include it on the deed.

Chair Hebert said they had already received a legal opinion that anyone could request a view easement on their property, but reiterated that the Planning Board could not endorse or enforce such an easement on a deed because it was not in the Ordinance.

Mr. Weiner said putting a restriction on the property might be viewed as an advantage or disadvantage, but it would be up to the buyer, so he didn't understand why the Planning Board would say they couldn't put an easement on their deed.

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Mr. Krebs said the Planning Board agreed that they could put a restriction on the deed, but was clarifying that anyone doing due diligence research would see that the easement would not be part of the approved plan on record at Town Hall.

Alternate Board member, Rick Stern agreed that there were no laws to enforce a vegetation or view easement, but it was up to the applicant if they wanted to add it to the deed later.

Mr. Weiner asked that it be left on.

Vice-Chair Cross noted that there was a buffer setback that would prevent cutting already, so that would help address their concerns.

Chair Hebert said he would have Mr. Krebs check with legal counsel to confirm the protocol and legality.

Mr. Walker said he would remove the easement from the plan rather than get legal counsel involved.

Discussion continued regarding concerns for resolving water and ice on the nearby road.

Chair Hebert said he wanted the wetlands issue reviewed because of the pond to the right of the drive. Mr. Walker said that he would be sure to meet all State requirements, but there was still water on the road even when the pond dried up, so that would be up to DOT to resolve.

Mr. Krebs commented that that he had never seen a drainage analysis on a front subdivision with a driveway and no infrastructure, however, the Planning Board did have the authority to ask the applicant to work with DOT, and prove that they wouldn't increase flow to the surrounding area; but it would be difficult considering they didn't know what buildings would go on the new lot.

Vice-Chair Cross commented that there might be a question whether a new house built on the open land would create additional runoff, but it seemed possible that there was ledge in the area, and problems would be hard to resolve, so it was important for the State to do an analysis to identify the problems in the area.

Mr. Fowler said it sounded as if the Board wanted to be sure that the subdivision was not shedding additional runoff into the right-of-way, but they were not asking them to do an entire drainage analysis. Chair Hebert said that was what he was asking, and the Board agreed.

Peter Welch moved that the Subdivision application of one lot into two lots of 60,414 and 60,414 s.f. respectively owned by Norman and Cara Walker, located at 315 Newington Road, Tax Map 53, Lot 6-1 was substantially complete. Jim Weiner seconded the motion, and all were in favor.

Chair Hebert asked that the applicant share their correspondence from DOT, and return with a drainage plan for the driveways before final approval on a date certain.

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Mr. Fowler said he was not certain when DOT would get back to them, but they could have a drainage plan done by March 25, 2024.

Rick Stern moved to continue the public hearing to a date certain of Monday, March 25, 2024. Peter Welch seconded, and all were in favor.

II) Town Planner Report:

Mr. Krebs informed the Board that the site approval for the Shattuck Way property owned by Ricci Construction, who had partnered with Stoneface Brewing would expire in September 2024, and asked the Board if they wanted to extend the approval.

Mr. Weiner recused himself from the discussion as a relative of Mr. Ricci.

Chair Hebert responded that the approval was still in effect, so there was no need to extend approval at this time, adding that the New Hampshire Legislature was meeting to discuss new laws, so he thought that they should wait until the fall to vote.

Vice-Chair Cross agreed that they should wait, noting that the laws would take effect in June or July 2024, so they would have plenty of time.

Mr. Krebs said he had done a survey on land use application fees in other towns, and determined that Newington was behind since they hadn't updated their fees in a number of years. Mr. Krebs added that abutter notices alone were time consuming to prepare and send out, so they were already losing money on that.

Mr. Krebs added that the year-end report for the building inspection department showed that their building permit costs more than covered staffing and inspection.

Mr. Krebs informed the Board that the owners of the Fox Run Mall would probably attend one of the Planning Board meetings with an update in the next month or two.

Mr. Krebs informed the Board that Wilcox Industries would go before the ZBA to continue with their variance request for a parking lot expansion on Thursday, February 15, 2024, and return to the Board for their site review.

Mr. Krebs said they also hoped to begin the expansion of their existing building.

III) Other Business and Discussions:

Mr. Weiner asked Mr. Krebs if there had been any ex parte communications with potential or existing applicants, and Mr. Krebs said there had not been.

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Minutes: *Peter Welch moved to approve the Minutes for the January 22, 2024, meeting with corrections as noted. Rick Stern seconded, and all were in favor. Russ Cooke abstained.*

Adjournment: *Rick Stern moved to adjourn the meeting. Peter Welch seconded the motion and the meeting adjourned at 7:43 p.m.*

Next Meeting: Monday, February 26, 2024

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