

Town of Newington, NH
PLANNING BOARD

Meeting Minutes, Monday, May 23, 2016

Call to Order: Chair Denis Hebert called the May 23, 2016 meeting at 6:30 p.m.

Present: Chair Denis Hebert; Vice-Chair Christopher Cross (arrived at 6:50 p.m.); Board Members: Bernie Christopher; Jack Pare; Mark Phillips; Alternate Member, Ken Latchaw; Board of Selectmen's Representative, Cosmas Iocovozzi; Interim Planner, Gerald Coogan and Jane Kendall, Recorder

Absent: Jim Weiner

Public Guests: Attorney Stephen Roberts; Anthony DiLorenzo; Alicia Busconi, Vice President of KeyPoint Partners Property and Asset Management; James Dean, AIA Principal with Dean Associates; Stephen Glowacki, Associate Principal with RJ O'Connell, Civil Engineers

1) Preliminary Consultations:

- A) Proposal by KeyPoint Partners, Property Managers of the Crossings Mall to raze the former Sullivan Tire building, at Tax Map 34, Lot 3 and replace it with a PetSmart.

Chair Hebert asked the applicant if they would mind if the Board heard the second item on the agenda first and the applicant agreed.

- B) Proposal by Anthony DiLorenzo for development on Woodbury Avenue, Tax Map 27, Lot 2.

This item was taken out of order and was heard first.

Attorney Stephen Roberts said the applicant, Anthony DiLorenzo, had a contract with a purchase option for the Great Bay Services property of 7.7 acres and was considering a couple of development proposals.

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Attorney Roberts passed out a conceptual plan to Board members, noting that they had switched Mr. DiLorenzo's Key Auto dealership to the Great Bay Services property and were proposing to place the hotel where Key Auto was currently located. He said they met with Town engineering consultant, Eric Weinrieb with Altus Engineering who suggested the switch because the hotel would be a permitted use, but the auto dealership was not. Attorney Roberts said Mr. Weinrieb also pointed out that placing the hotel in that location would allow traffic to avoid the median on Woodbury Avenue.

Chair Hebert said would need a use variance for the auto dealership. Attorney Roberts said they recognized there would be a need for variance, but they felt it would be a win-win for the applicant and the town to convert the use from non-profit to an auto dealership and a hotel.

Attorney Roberts said he had appeared before the Board previously in October 2015. Chair Hebert informed the applicant that the only change to the Board since October 2015 was the addition of Board of Selectmen's representative, Cosmas locovozzi.

Attorney Roberts said the Board's largest concern in 2015 was the traffic on Woodbury Avenue. He said the traffic generated from a used auto sales and service operation would not increase traffic during rush hour the way permitted office would. Mr. DiLorenzo added that they wanted to rebuild and redevelop his Key Auto dealership in a new location on the corner of Piscataqua and Woodbury Avenue, adding that the business did not have a large influx of traffic that would impact the area.

Mr. DiLorenzo said currently there were three businesses functions at the dealership, but they would be relocating the auto body and reconditioning service to another location in Somersworth and only be running the used auto sales and service in the new development. Chair Hebert responded that the Town was under the impression that there was only one business that was grandfathered from Tracetta Chevrolet. Mr. DiLorenzo replied that it was still just one business that included a service facility for customers per State law.

Board member, Bernie Christopher asked if they would have a car wash and oil changes as previously proposed. Mr. DiLorenzo replied that they would not be including a car wash or oil changing service, just the service facility for customers.

Mr. Phillips asked if they would use PA systems and Mr. DiLorenzo replied that he did not use them at his dealership because he thought they were annoying, but he reserved his right to use them if necessary.

Mr. Phillips asked Mr. DiLorenzo how he would deal with used tires and Mr. DiLorenzo said they would be removed on a regular basis and not stored in stacks.

Chair Hebert asked if the hotel would have a restaurant that was open to the public, which would be non-conforming. Attorney Roberts said they could have a private restaurant that made up 10% of the building. Mr. DiLorenzo added that it would be a limited service restaurant, but because he was waiting to see if the variance and

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proposal would be accepted, he had not paid the fees to determine which brand it would be.

Chair Hebert said the Board had heard one proposal for a hotel ten years ago and another up the road about three years ago that had been approved. He said an exit on Woodbury Avenue from the Great Bay Services lot had been removed and he would prefer access to the lot to come in from Piscataqua Drive. Attorney Roberts replied that was another reason for them to move the hotel further down on Woodbury Avenue, adding that they said would address the egress and ingress further with a formal traffic study. Chair Hebert said he would look up the details on the other hotel proposals.

Chair Hebert said he still saw curb cuts on the plan that needed to be considered. Attorney Roberts said currently there were two driveways planned for the hotel and they would need to look at the existing curb cuts. Chair Hebert said the decisions for the other hotel to remove the curb cut on Woodbury Avenue were based on their traffic study and would apply to this application as well to keep congestion down at the lights. Mr. DiLorenzo said hotel traffic was different than retail traffic because it was a destination with reservations. Mr. Christopher commented that he would like to see the traffic study before determining that they had to get rid of the curb cut.

(Vice-Chair Cross arrived at 6:50 p.m. at this point in the meeting.)

Discussion ensued regarding waivers. Attorney Roberts went on to say the vehicle display for the auto dealership would not to be considered part of the parking allowed and it would be up to the Board to determine if they would need a waiver.

Discussion ensued regarding the display area for the sales vehicles and it was suggested that permanent curbing be installed to avoid parking encroachments that had occurred in the current location in the past.

Attorney Roberts said they were also not sure if planters would fit in with the hotel design and would need further review of the requirement.

Attorney Roberts said their engineer, John Lorden and Mr. Weinrieb discussed the median on Woodbury Avenue, but they wanted to discuss the matter further with the Board. Vice-Chair Cross asked how they would approach the raised median on Woodbury Avenue and Attorney Roberts said it would depend on the traffic study and the ingress and egress.

Chair Hebert commented that the Town did not know they had consulted Mr. Weinrieb. Attorney Roberts replied that former Town Planner, Tom Morgan had suggested that they do so. Chair Hebert stated that money was usually put up front and the Town's engineering consultant fees were usually cost passed on to the developer. Attorney Roberts nodded his head in understanding.

Chair Hebert said the Planning Department had also begun sending applicants before their Technical Review Committee (TRC) to address standard review requirements prior to public hearings to revision costs and time.

Vice-Chair Cross said the Department of Transportation (DOT) was putting in sidewalks at some points along Woodbury Avenue before transferring ownership to the

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Town and asked the applicant if they were considering sidewalks for the hotel guests. Attorney Roberts said they hadn't considered a sidewalk, but it was something they could discuss.

Vice-Chair Cross commented that the curb cuts, the median and the traffic flow on Woodbury Avenue would increase traffic back and forth. Attorney Roberts reiterated that traffic in and out of Key Auto would be limited as it was with most auto dealerships.

Chair Hebert asked if the back way from Piscataqua Drive would be available to use for both businesses and Attorney Roberts said they had no plans to keep the back road.

Vice-Chair Cross asked what would be required to connect the two lots and Attorney Roberts said it could be taken under consideration, but they couldn't demand an easement from TD Bank and the Town. Mr. DiLorenzo added that he only owned 1% of the 2025 Woodbury Lot and the other 99% was owned by a family trust, so it could be complicated.

Chair Hebert commented that the applicant had represented himself as the owner of the former Tracetta Chevrolet lot and Mr. DiLorenzo replied that he had been sole owner, but had since put 99% of the ownership into a family trust.

Chair Hebert said the former hotel proposals had been for three stories and this proposal was for four stories. He said he was concerned that the Fire Department could have difficulty reaching the top floor. Mr. DiLorenzo said approval by the Fire Department was a requirement that would be included in the plan. Attorney Roberts added that he assumed the Fire Department in an industrial community would have a ladder that could reach that high.

Chair Hebert said they would also require notations on the plans to indicate the curb cuts and traffic flow as well as dumpster placement and snow removal storage.

Chair Hebert asked if the Great Bay Services building was on the National Historic Register. Board member, Jack Pare said the building was eligible to be on the National Historic Register due to the age and architecture so they could get tax advantages for rehabbing the existing structure or relocating it rather than razing it.

Chair Hebert said applicants used to go to the Zoning Board of Adjustment (ZBA) before going before the Board, but then discovered that they couldn't get certain over hurdles so the Board recommend these preliminary consultations to avoid issues.

- A) Proposal by KeyPoint Partners, Property Managers of the Crossings Mall to raze the former Sullivan Tire building, Tax Map 34 Lot 3 and replace it with a PetSmart.

This item was heard second by the Board at the request of Chair Hebert and consent of the applicant.

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Alicia Busconi, Vice President of KeyPoint Partners, property managers of the Crossings Mall along with Steve Glowacki with RJ O'Connell Civil Engineering and Jim Dean with Dean Associate Architects appeared before the Board to present their proposal.

Ms. Busconi said they had been looking at opportunities for a strong national brand tenants where Sullivan Tire had been located near Kohl's, and were hoping to put in a PetSmart. She said they used to have a Pet Quarters where Trader Joe's was currently located, but it was their belief that it was the operation that didn't work well, not their use and that a PetSmart would work very well in this location.

Chair Hebert asked PetSmart was at any other location in the area and Ms. Busconi said there was no other PetSmart in the area.

Ms. Busconi said they had been doing some preliminary engineering over the past five months to be sure the building, parking and traffic patterns would work in the location and felt confident that it would.

Mr. Coogan asked if they would be changing the traffic pattern and Ms. Busconi replied that they were not touching the ring road pattern.

Vice-Chair Cross suggested they consider additional connections to the Fox Run Mall. Chair Hebert agreed that it would help keep traffic off Woodbury Avenue, but he didn't know if it would cause more difficulty than it was worth. Ms. Busconi said she would be amendable to looking into the matter further.

Ms. Busconi said she met with the City of Portsmouth traffic engineer regarding the sequence of lights on Woodbury Avenue and there was some discussion regarding ownership of one of the lights so they were also reviewing that.

Mr. Pare expressed concern with the Town's Ordinance that only allowed one principal building per site. He said originally the separate building was an accessory building to the former Bradlees, but this was a change of use.

Discussion ensued regarding the Longhorn restaurant and Regal Theatre that were separate from the strip mall. Chair Hebert recalled that Longhorn was subdivided to meet the frontage requirement, but there would be no frontage available to subdivide this building.

Vice-Chair Cross said Sullivan Tire was allowed by the grace of the Town, but she was now proposing to expand a non-conforming use when it should be razed.

Mr. Phillips asked what the purpose of the Ordinance was and Chair Hebert said the purpose was to limit the number of accessory buildings to a principal use to reduce the likelihood of multiple satellite buildings.

Mr. Phillips commented that the rationale for the restriction didn't apply in the current economy and asked why they didn't simplify things for applicants if their proposal didn't hurt anything, would better the mall and increase tax revenue. Chair Hebert replied that he understood his point, but that was the current ordinance and a town vote would be required to change the ordinance. He added that it would be a mistake to make the Ordinance and zoning unenforceable by not following them. He

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said it wasn't appropriate to challenge articles in front of an applicant, but the Board would continue to review the ordinances over the summer and fall.

Ms. Busconi said they had always been respectful of the Town's Ordinance, and they still had more engineering work to do before they were fully vested in the proposal, but she wanted to do an initial presentation of the opportunity.

Chair Hebert asked the Board if they recalled how the cinema approval was granted. Mr. Pare said it was originally part of the existing building and there was a discussion about connecting with a roof. Mr. Locovozzi agreed that the cinemas were originally connected and then it was cut because the Fire Department had some issues. Mr. Pare added that the issue was with the arcade roof so they over rode the Ordinance for safety reasons, but he was not sure what legal process was used.

Vice-Chair Cross said he recalled a compromise from the pass-through road. Chair Hebert agreed that it created a downtown street feel, but he couldn't remember the mechanism and asked Mr. Coogan to look it up. Ms. Busconi said she found the plan that was recorded in August 2006, but she was not able to find their agreement and the Board's letter of decision

Chair Hebert said another obstacle was the wetland. He said the New Hampshire Department of Environmental Services (DES) had already stopped others from encroachments before, but perhaps some kind of mitigation could be considered.

Stephen Glowacki, Principal with RJ O'Connell Engineers stated their surveyor, Jim Vereer flagged the wetlands and it appeared close, but the proposal was outside the wetlands. Chair Hebert replied that he thought the flags were wrong because the grassy area was wet. He said the wetlands kept getting pushed and create a deeper wet area. He suggested they have the Town wetlands consultant, Mark West make a confirmation if they were willing to cover the costs. Ms. Busconi said she would make arrangements with Lucas environmental.

Ms. Busconi said they had worked with the Conservation Commission in the past and maintained the brook area. She said the only storm water issue was 90 feet of older piping at the intersection that would be replaced in the next week.

Mr. Coogan asked if they were considering any additional landscaping. Ms. Busconi said there were screen walls near Regal Cinema, there was another full landscaping plan near Kohl's and they would do a screen wall by the PetSmart. She said they were landscaping aisle by aisle, but there was no irrigation, which made keeping the plants hydrated in the parking lots a challenge.

Mr. Coogan asked if PetSmart had overnight boarding of animals. Ms. Busconi said Banfield was the outsourced veterinary group, but there would not be full-time veterinarian care at the pet store.

Chair Hebert suggested they place parking against the building to keep the line of sight clear. Mr. Glowacki said new proposal will provide improved visibility on the corner.

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Ms. Busconi added that Eversource had also done some trimming in their easement and had contacted them in regards to their plan to replace the old stations and poles to go over highway with their expansion plan.

Ms. Busconi said Eversource's changes might require them to move the light poles and there was discussion of putting the lines underground. Chair Hebert asked if have right to tell to take light poles down. Ms. Busconi said it was an old easement and they probably did. Chair Hebert questioned who would pay for the light pole re-location. Ms. Busconi added that they might need to return to the Board if the change affected the lighting pattern.

Ms. Busconi said she also attended a meeting with the City of Portsmouth regarding the redevelopment of Gosling Drive with crosswalks, a blinking light, a new COAST bus stop and a bike path proposed on Gosling Road. She said they received a grant and they needed to expend the funds by March of 2017. Chair Hebert said Portsmouth would still need to appear before the Planning Board and then the Board of Selectmen.

Ms. Busconi said she had looked at the ownership of where their land begins and Newington's land ended. She said she believed they were asking for a tri-party maintenance agreement. Chair Hebert said the Selectmen, Town Administrator, Martha Roy and he made it clear that the Town would not assume any liability and their legal counsel would review the agreement. He said there was some discussion about putting the bus stop in the parking lot but Portsmouth was focusing on servicing the residents of Gosling Meadows to avoid jay walking.

Vice-Chair Cross added that part of the purpose of road was to service the mall, but it was also used as trucking access from the industrial zone to the highway. He said he understood that the redevelopment would create a neighborhood ambiance, but he was afraid it would create an attractive, yet uncontrollable nuisance on a busy road. Chair Hebert said it was acknowledged that it was not an ideal solution, but Portsmouth was trying to improve an area where the bus pulled over and create safer crossing for pedestrians with a grant they procured. He said Portsmouth did not have enough money to put a bridge over the road and this was the best solution to use the money that was currently available.

Alternate Board member, Ken Latchaw questioned why another crosswalk was necessary considering there was a crosswalk at the corner and the bus stop was only 100 yards down the street. Mr. Pare replied that it was apparent that pedestrians wanted to cut straight across to the mall by the rutted path to ToysRUs through the snows in winter. Mr. Pare said Portsmouth should make future plans for a covered tunnel.

Chair Hebert asked Ms. Busconi what happened to their plans for another electric sign. Ms. Busconi replied that they wanted to be sure all tenants were in place before putting up the wayfinding sign.

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2) **Installation of utility poles:** by Eversource.

Chair Hebert said the applicant had not appeared for the second time. Interim Planner, Gerald Coogan said told them to call so would know when they were ready.

3) **Report** by Interim Planner, Gerald Coogan

Mr. Coogan said he was putting a handbook together on Board procedures that he would pass out in a couple of weeks.

Mr. Coogan said he was working on maps and changing sea levels with Julia LaBranch at Rockingham Planning Commission (RPC). He said Vice-Chair Cross was Newington's representative, but anyone was welcome to talk about GIS mapping.

Vice-Chair Cross asked if Ms. LaBranch had discussed designated culverts to give a better of idea where the pinch points for water flow were. Mr. Coogan said it was a work in progress and they would have more information when she met with them.

Chair Hebert commented that the Town already knew where the culverts and pinch points were. He said Mr. Coogan was only in the office two days a week and working fifteen hours a week as an interim planners and was occupied with applicants and other things and had to make judgement calls to work more efficiently. He said he could not be everything to everyone who got a grant for their work.

Mr. Coogan said he wanted to build a good relationship with RPC to use their services. He said they had a mini-grant program and he would talk with them more about that.

Mr. Coogan stated that Jarrad Savinelli had a sales agreement with Johnson Builders for his Fabyan Point subdivision. He said they consulted Town counsel, Attorney John Ratigan and was advised that the Planning Board could revoke the approval if the Town didn't receive the security by June 3, 2016.

Mr. Coogan said they could relocate the pole closer to the subdivision after they finished digging the road. Vice-Chair Cross replied that the Board agreed to consider relaxing the requirement for single lots, but they had always required connections to existing poles.

Chair Hebert asked if another property owner had complained about conduits and Mr. Coogan said a neighbor had sent an email expressing concern.

Vice-Chair Cross commented that these complaints would be more common because Eversource was requiring external pipes so they could change out poles. Mr. locovozzi said it was also a good idea in case of power outages.

Chair Hebert said he would like details and suggested they come in.

Mr. Coogan said he was also working with Newington Building Inspector, John Stowell regarding a tattoo parlor proposal at the Fox Run Mall, Superior Towing and uses at ShoGun restaurant.

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Mr. Coogan said Stoneface Brewing would go before the TRC in three days on Thursday, May 26, 2016 at 2 p.m.

Mr. Coogan said he was continuing to work on updating the zoning ordinances. Mr. Pare suggested the Board consider a modification through overlay or change of district for the highway interchange area, which would allow uses without exception, including allowing restaurants on the northeast side of Shattuck Way to consider the changing economy and tax changes. Chair Hebert said the Board couldn't take any action early in the year, but they could discuss it. Mr. Pare said if applications could be submitted based on discussions that were included in the Minutes, which could be shared with the ZBA.

Mr. Coogan said restaurants were allowed up to 2006, but then zoning change. He said he talked with Attorney Ratigan about maintaining the previous rights of the former Asia restaurant. Chair Hebert said he thought that would be a better solution than the granting of a variance, which would continue forever.

Vice-Chair Cross said it would make sense to allow gas stations and restaurants in a transportation and utility corridor district near an intersection. Chair Hebert said he thought it only made sense for one side of Shattuck Way. Mr. Pare said planning would take conflicts into account.

Chair Hebert said the Selectmen could request an ordinance change and then go to Town meeting. Mr. Coogan said the Board of Selectmen didn't have authority for land use. He said the Planning Board could post an ordinance change in anticipation of Town Meeting that would affect any application submitted on the assumption it would be passed.

Mr. Coogan said he would also like to look at the ordinances on accessory dwellings, subdivisions, wetland overlay, prime conservation lands and Capital Improvements Program. Chair Hebert replied that his first priority was to finish the subdivision regulations that was started last year.

Vice-Chair Cross said RPC had asked for an update on accessory dwellings. He said there appeared to be legislation to push back from the City of Portsmouth and Exeter because they felt it would cause circumventing of the ordinance on undersized lots. Vice-Chair Cross said he told RPC that accessory dwellings would only be allowed on conforming lots, but it was the opinion of other town representatives that it would not be controllable because anyone would have the right to add an accessory dwelling. Chair Hebert replied that Portsmouth had a sewer treatment plant for many homes that Newington did not.

Vice-Chair Cross said he told RPC that Mr. Coogan and the Board would come up with plan to present to them. He said he thought residents would think it effective and be supportive.

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4) Additional Discussions:

Mr. Locovazzi said someone had complained that the Board was not pledging the Allegiance before the meeting. The Board members said they had no problem with putting it on the agenda.

Minutes:

Chair Hebert informed the Board that Recording Secretary, Jane Kendall had requested more information be including in the agenda for clarification on applications and motions, but he didn't think a requirement.

Chris Cross moved to approve the Minutes for the May 9, 2016 meeting with corrections. Bernie Christopher seconded, and all were in favor.

Adjournment: *Cosmas Locovazzi moved to adjourn. Mark Phillips seconded the motion and the meeting adjourned at 8:34 p.m.*

Next Meeting: Monday, June 13, 2016 at 6:30 p.m.

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

These Minutes were approved and adopted at the June 13, 2016 Meeting.