

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, November 10, 2014

- Call to Order:** Chair Denis Hebert called the November 10, 2014 meeting at 6:30 PM.
- Present:** Vice Chair, Mike Marconi; Chris Cross; Jack Pare; Justin Richardson; Alternate Member, Peggy Lamson; Board of Selectmen Rep, Rick Stern; Jane Kendall, Recorder; and Thomas Morgan, Town Planner
- Absent:** Bernie Christopher
- Public Guests:** Attorney John Ratigan; Eric Weinrieb from Altus Engineering; Michelle Lozuaway; Josh Lanahan; Linda Kahlsa; Kathleen Fitzgerald; Attorney Chris Mulligan; Robert Stowell and Doug LaRosa from TriTech Engineering; Attorney Bernie Pelech; Joe Calderola; Jim Teetzle with Wilcox Industries; Bill Gregsak with Gregsak Engineering; John Bernier of Bernier Corporation Edna Mosher; Keith Frizzell; Steve Haight with Haight Engineering Ann Beebe; Norman LeClare; Paul Reardon; Bill and Sandy Sweeney; Dan and Pam Jenison; Derek Ducette; David Choate; Cindy Lyons

**1) Curb-Cut Permit Application: Michelle Lozuaway for property at the corner of Fox Point Road and Old Post Road, Tax Map 11, Lot 18.**

Chair Hebert said an issue was raised the last time the application was brought before the Board regarding the possibility of a slave **burial** on the lot near proposed curb cut. Ms. Linda Girabai Kahlsa of Old Post Road said she did some research twelve years before and wrote an article that was published in the Newington Neighbor and the "Boston Globe". She said there never was a stone grave marker, but was instead a living marker of lily of the valley. Ms. Kahlsa said she had contacted someone from the Portsmouth Black Heritage trail and there were scientific ways of validating the grave using ground penetrating radar (GPR). Chair Hebert asked who would pay for the costs and Ms. Kahlsa said she didn't know. She passed out a petition.

Alternate Board member, Peggy Lamson said in 1989, pursuant to RSA 289:4, the NH Legislature mandated that all towns identify and inventory all their nineteenth century graves and Ms. Barbara Hill with the NH Historical Society and Ms. Dorothy Watson the former library director found ten sites that were provided to the Board of Selectmen and the Planning Board Chair, of which there was no mention of this slave burial. Ms. Lamson said she went to the lot and alleged burial site, but could not find any lily of valley. She said there might be some lily of the valley on the lot, but she

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thought it would be closer to the corner of Fox Point Road rather than near the Kahlsa property on Post Road.

Board member, Justin Richardson said he was not in attendance at the last meeting and although he was not a direct abutter, he lived two houses down on Old Post Road and asked if he should recuse himself. Chair Hebert said unless there was some other reason, he did not see that as a problem.

The applicant, Michelle Lozuaway said she purchased the house nine ago and had invested a lot into renovating the neglected structure. She said Ms. Kahlsa had informed her of the former slave burial and walked the property it was first purchased. Ms. Kahlsa said that was not true. Ms. Lozuaway said there were signs of former gardens, including the lily-of-the-valley plants that have spread where the former slave named Nina was purported to be buried. She said she called Strawberry Banke when she moved to the house to see if they wanted to mark the site and they said they did not. She said another unnamed neighbor said the slave burial was not so, but was a made up story by Ms. Kahlsa and her mother, but she realized it was still only heresy. Ms. Lozuaway said if there were slaves buried by the proposed curb cut, then Ms. Kahlsa would also have parked on them as they park their cars right up to the lot line.

Ms. Kahlsa said the lily-of-the-valley grew on the Old Post Road side of the lot and she couldn't park over the graves because there had been a large pine taken down where she parks. Ms. Kahlsa provided photos and the article from the "Boston Globe". Chair Hebert read the article that said the slave named Nina was buried in the garden behind the home with lily-of-the-valley to mark the site. Chair Hebert asked who wrote the article and Ms. Kahlsa said she did based on what her mother told her.

Town counsel, Attorney John Ratigan said unless there was documented evidence, confirmation of the burial wouldn't come up unless there was excavation and then the State archeologist would come to the scene and the remains would be moved to an appropriate burial ground. He said he was not aware of any requirement that obliged the property owner to verify heresy without evidence.

Ms. Lozuaway showed the location of the fence between the two properties, the tree that had been removed and where the lily-of-the-valley grew. Ms. Kahlsa showed a slightly different place where she thought they grew in a wide area. Chair Hebert said someone could have been buried years before the tree grew, but there was no way to be certain without evidence as advised by Town counsel.

Discussion ensued regarding the main curb cut in the front of the house and the second curb cut to enter the field from Fox Point Road that was grand fathered. Chair Hebert said the applicant was asking to close off the grand fathered curb cut in exchange for the new curb cut proposal on Old Post Road. Mr. Richardson said a change of use request had to comply with current regulations that only allowed a single curb cut unless a good reason was given for a waiver. Ms. Lozuaway said a single-story, father-in-law studio had been created off the workshop at the back of the garage after her father-in-law had been in an accident and they weren't sure he would be able to walk again. She said they had since moved out and were renting the house and needed the tenant to access the in-law studio and park from the separate Old Post Road side so he wouldn't have to go through their private garage and workshop storage

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area or walk around Old Post Road to get to a vehicle parked on Fox Point Road. She said they were also renting the main house to three other people that used the front, unpaved drive on Fox Point Road for their vehicles. The apartment tenant attested that it would also be safer to back out his contracting truck from the curb cut on Old Post Road than from Fox Point Road.

Vice-Chair Marconi said there were two existing curb cuts on the lot where only one was permitted and the convenience of the tenants was not the Town's concern. Chair Hebert said one of the existing curb cuts was grand fathered and they were proposing to remove that from the busier road and place it on Old Post Road that would have less traffic.

Ms. Kahlsa submitted a photo showing a pile of wood in one of the front parking spaces and said there was no good cause for more parking and that they could enlarge the existing parking area that had access to the back apartment through the barn. Mr. Richardson said it was not just a matter of front parking, but direct access to the back apartment.. He added that the second curb cut would do away with the secondary loop that came out on Fox Point Road. Mr. Cross agreed that the applicant had a reasonable use for the new curb cut to access a different living area of the structure and that it should be granted so long as the curb cut was outside the 15' buffer from the neighbor. He said they could reconsider if any conflicting evidence on a burial site came forward.

Discussion ensued regarding the applicant submitting plans. Mr. Morgan said the original plan submitted with the application said the curb cut would be 15' from fence.

Mr. Richardson said his wife recently attended a gathering at the home that was hosted by the tenants and he wondered if the building inspector had approved the in-law apartment. He said he then spoke with the building inspector who said he had no knowledge of the apartment. Ms. Lozuaway said they sought a building permit when they built the apartment when her father-in-law broke both ankles a couple of years ago and needed handicapped living quarters. Mr. Richardson said he didn't know if people could create duplexes without approval. Mr. Morgan said it had been Town practice for some time, but they were wandering from the agenda and where people parked was also not germane to the application for a curb cut.

Mr. Cross agreed that they were addressing a curb cut for driveways in a residential areas and they didn't need to differentiate between driveways and parking areas. He said it was not the Town's business if a landowner wanted to covert their lot into parking so long as they were within the 15' setback of boundary lines.

Ms. Kahlsa said she thought the regulations should apply to everyone just as the Vicaro/Parsons had to re-engineer their the two driveways for their mother-in-law apartment. Mr. Cross agreed that the preference was for minimal driveways, but Mr. Vicaro voluntarily merged his two driveways. He added that any abutter could claim impact by neighboring driveway noise, but homeowner's were still within their rights so long as they complied with setbacks.

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*Justin Richardson moved to **grant a waiver** of rule #8 of the driveway regulations for the Curb-Cut Permit Application by Michelle Lozuaway for property at the corner of Fox Point Road and Old Post Road, Tax Map 11, Lot 18 for the second curb cut on Old Post Road. Chris Cross seconded the motion.*

Mr. Stern asked if tenants backed their cars out and one of the tenants said they did. Mr. Stern asked how the old curb cut would be blocked off and Ms. Lozuaway said it was already fenced off with a gate, but they could lock the gate. Mr. Cross noted that people had been parking there and Chair Hebert said they should make a condition that it be blocked off.

Chairman Hebert called for the vote and Vice-Chair Marconi abstained, saying he didn't want to set a precedent. *The motion **passed** with everyone else in favor.*

Discussion ensued regarding concerns that residents were parking too close to the road. Chair Hebert said he hadn't observed any parking restrictions posted on the roads that prevented residents from parking along the sides of roads when they were temporarily entertaining guests, but overnight parking was only allowed within the property setbacks.

*Vice-Chair Marconi moved to approve the Curb-Cut Permit Application by Michelle Lozuaway for property at the corner of Fox Point Road and Old Post Road, Tax Map 11, Lot 18 from Old Post Road with the stipulation that the other two curb cuts from Fox Point Road be closed and blocked. Jack Pare seconded the motion.*

Mr. Richardson said they should specify that a sketch be shown with the dimensions and the location of the two remaining driveways. Chair Hebert said they already had the sketch. Vice-Chair Marconi said his motion was only to approve the new curb cut and to block the other two driveways. Upon realization of the motion, Jack Pare withdrew his second, and Chris Cross seconded Mr. Pare's withdrawal.

Mr. Cross said he didn't believe they should take both driveways away. Ms. Lozuaway's husband, Mr. Josh Lanahan said they would withdraw their application if that was the Board's decision.

Vice-Chair Marconi said he didn't believe the applicant had shown a hardship simply because there was a garage workshop blocking access to the studio apartment, which he thought to be grand fathered. Mr. Richardson said they had already waived the rule so they would be moving backward without reason. Mr. Cross withdrew his second with the understanding that Mr. Marconi's motion could not stand after they had already approved the waiver.

*Chris Cross moved to **approve** the Curb-Cut Permit Application requested by Michelle Lozuaway for property at the corner of Fox Point Road and Old Post Road, Tax Map 11, Lot 18 from Old Post Road as depicted on the sketch provided within the required 15' setbacks and that the secondary, grand fathered driveway be blocked. Peggy Lamson seconded the motion and **all were in favor.***

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### 2) Public Hearings:

A) Proposal by **Bruce C. Belanger** for a 3-lot subdivision at the corner of **Nimble Hill Road and Fox Point Road, Tax Map 17, Lot 11-2.**

This item was postponed to December 8, 2014.

B) Proposal by the **Estate of Paul J. Beane** for a 3-lot subdivision at **233 Nimble Hill Road, Tax Map 17, Lot 4.**

The developer, Mr. Joe Calderola said he had submitted a request for an extension and the septic designs to the State with approvals, and the subdivision application to the State had been granted. He said the drainage design was completed on Friday and they were waiting for Altus Engineering's review.

Mr. Calderola said the driveway design had been modified to better allow the passing of cars as requested by the Fire Chief.

Discussion ensued regarding trees and their roots that were up against the driveways. Mr. Calderola said they would install fencing in front of the buffer and then cut the trees that grew up to the buffer and their roots, but not stump them. Chair Hebert commented that damage to some trees would be done for safety because a tree of any size could survive with its root system disturbed, but it would eventually come down in a stiff wind. Mr. Richardson asked Town engineering consultant, Mr. Eric Weinrieb of Altus Engineering if he agreed. And Mr. Weinrieb agreed.

Mr. Richardson asked if the roots of trees close to the 25' buffer 25' at the edge of one of the driveways would grow back under the road bed and Mr. Weinrieb agreed that they could and that frost could also do damage. Mr. Weinrieb said they could build a retaining wall on both sides to mitigate, or install textile underneath. Mr. Richardson asked if that was a reasonable expectation for residents and Doug LaRosa of TriTech Engineering said they could also install root guards for a barrier.

Mr. Calderola said the only point of disagreement was the Board's concern with an easement for utilities and water for Lot 4-2 lot because PSNH told him it would be their easement for primary that they would maintain. Chair Hebert said the Board made it clear that they didn't want easements crossing from one property to another. Mr. Calderola said he didn't recall the discussion and Mr. Richardson said he did and it was probably in the minutes. Mr. Calderola said PSNH's engineer of transformers, Rick St. Cyr requested a single primary easement to the transformers over 200'. Chair Hebert suggested they could use a larger conduit. Mr. Cross suggested that it would be up to the developer to provide an additional transformer on the cul-de-sac for Lot 4 and 4-1 and the other would be acceptable to the Town. Mr. Cross said the same would apply for the water utility to each dwelling so they could be turned off independently.

Mr. Weinrieb said it appeared there were improvements in the bioretention system design, but he hadn't reviewed thoroughly to know if the computations were okay.

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Chair Hebert asked about the stone drainage design along the drives and the cul-de-sac. Mr. Weinrieb it was there for drainage and he had questions last time. Mr. Weinrieb said the subdivision regulations had standards for proper inspection for digging down to suitable subgrade to be stable. Chair Hebert said he was concerned because one access to one of the last subdivisions in town was failing where the conduit system brought in was now collapsing so the Town changed the regulations for crushed gravel and a type of concrete at road crossings to avoid failure. Mr. Weinrieb said he didn't disagree.

Mr. Richardson asked about the reserved areas for septic and Mr. LaRosa said each duplex had a backup, but they would need a pump if going up hill. Mr. Richardson said DES regulations required setbacks for septic systems 15' from any wetland and waterline and it appeared that they would need to cross a ditch to get to the reserved area and it would hit the setback. Mr. LaRosa showed that they would not crossing any setbacks and that they would have to be approved by DES. Chair Hebert said they could also dig up the failed leach field and remove it completely. Mr. Richardson said that would work if money was no object, but it was not very practical. Chair Hebert agreed it would require quite a pump. Mr. Pare said there were off-shelf systems pumps that could pump for several miles with a grinder pump.

Chair Hebert reminded the applicant that the Town required storm water easements so abutters couldn't block culverts that would flood neighbors. Attorney Pelech said he would write that up as he had for a previous development in town.

Mr. Richardson said the homeowners' association should have powers to inherit the easement if it became a Town road. Attorney Pelech said the condominium documents required the homeowners' association to maintain, but they would also want public works, the police or fire department to be able unplug them in an emergency flood. He said he had already submitted the agreement, but he could prepare a blanket easement for all. Chair Hebert said Attorney Ratigan suggested waiting until everything was resolved.

Mr. Richardson said the applicant came before the ZBA the week before and they struggled with the conditions to maintain the architectural integrity of the development, specifically the historic home along Nimble Hill Road so they suggested submitting the condominium instruments to the Planning Board for their approval. Attorney Ratigan said they didn't want to review twice if something in the plan changed. Chair Hebert asked if it would be in the Board's purview and Mr. Morgan said he thought a preservation easement for the features of the farmhouse would be important to save and suggested working with the Newington Historical Society. He said he and Attorney Ratigan could work an agreement up for the next meeting.

Mr. Pare asked about the possibility of access crossing Town land and Chair Hebert said he had been discussing the matter with Attorney Ratigan and the Board of Selectmen to determine if there was any way to create a cooperative with the Town so they wouldn't have to disturb the stonewall. Mr. Richardson said he was concerned the arrangement would complicate project. Chair Hebert said the elevations would be optimal and Mr. Cross said it would be safer and would preserves the old tree and wall.

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Ms. Lamson said this had been suggested before and Mr. Cross said the previous discussion was regarding the possibility of a land swap.

Mr. Calderola said he wanted to move forward as quickly as possible so they could begin the road construction. Chair Hebert expressed concern for the integrity and expense of a road built through the winter months and Mr. Weinrieb said it could be done so long as it was done slowly.

Mr. Cross said the applicant had done a lot of work on the plans, but he was concerned that the lower backyard of the center lot was only 15' from the property boundary and it appeared they would affectively be in their abutter's backyard. He wondered if they might compensate by moving the road slightly to make it more livable. Mr. LaRosa said the roadway was a structure and they had to keep the right of way outside of the wetland setbacks. Chair Hebert said the problem was that all the lots were squeezed in tight. Mr. Calderola said he didn't want to encourage a wetlands area as a backyard so he was proposing the side as their yard. Chair Hebert said that was a good point and Mr. Weinrieb concurred. Mr. Richardson agreed, but said they were on the edge of manufacturing conditions to fit.

Chair Hebert continued the hearing to December 8, 2014.

(Mr. Pare left the meeting at 9 p.m.)

C) Proposal by **Wilcox Industries** to expand their facility at **25 Piscataqua Drive, Tax Map 27, Lot 22**, and to extend Shattuck Way in a southerly direction.

Mr. Bill Gregsak of Gregsak Engineering said they received comments from Altus Engineering to which they would respond. He said they didn't feel there was any need to provide a bond because the work was being done on private property that would not be open to the public. He said the construction on Shattuck Way extension would be built to Town specifications and overseen by Altus Engineering. Chair Hebert said the construction on Shattuck Way had not been done properly before and the bond was to protect the Town. Mr. Jim Teetzle with Wilcox Engineering said they had assumed the \$275,000 promise from PSNH to design Shattuck Way extension and construct a driveway to the wastewater treatment plant for the Town so they didn't think they should have to pay the bond too. Chair Hebert said the bond was a standard requirement to protect the Town in case the business didn't follow through with building the road. Mr. Teetzle said PSNH's agreement was good for ten years and they were already at the eighth year and it might not be built in two years so they were extending the project already. Mr. Teetzle said Wilcox also turned over a triangle of land to the Town. Chair Hebert agreed that there was value in the land and if the plan failed the Town would still have the land for free. Mr. Morgan said he was comfortable with Altus Engineering overseeing the road construction. Chair Hebert said Altus couldn't have an inspector there 24/7 and it would be hard to know what went under the road once it was covered. Mr. Teetzle said they should define the inspection process and Chair Hebert agreed. Mr. Weinrieb concurred, but said it was a requirement, and the Board would need to

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grant a waiver if decided it was not necessary. Mr. Teetzle said there was no thought of expanding the facility when the land was donated so he agreed they should have inspection points as part of the plan. Chair Hebert said the Town would be the beneficiary of the road once Altus signed off on it and they could make a condition that the contractor would not be paid if the work was not done properly. Mr. Teetzle said each step would have to be approved before they went on to the next step.

*Rick Stern moved to **waive** the bond required for the construction of the extension of Shattuck Way in a southerly direction as proposal by Wilcox Industries at 25 Piscataqua Drive, Tax Map 27, Lot 22. Vice-Chair Marconi seconded the motion and all were in favor.*

Chair Hebert asked Mr. Stern to inform the Selectmen of the proposal.

Mr. Gregsak said the deed would be written around the description of the site plan. Mr. Weinrieb said there would be no issue with the waiver, but suggesting tying in the points on the plan, Mr. Morgan recommended the purpose of the regulation was to facilitate GIS, but was no longer needed so recommended a waiver.

*Rick Stern moved to **waive** the GIS requirement for the proposal by **Wilcox Industries** to expand their facility at **25 Piscataqua Drive, Tax Map 27, Lot 22**, and to extend Shattuck Way in a southerly direction. Vice-Chair Marconi seconded the motion and all were in favor.*

Mr. Gregsak said they eliminated two parking spaces so there would be no parking beyond the property line. Mr. Teetzle said they couldn't move the guard shack back, however. Mr. Morgan said they could do a lot line adjustment and would not need to move the guard shack back if they transferred the wedge of land at Town Meeting. Attorney Ratigan said the statute said the Town could authorize the Selectmen to deed property, but the Town hadn't adopted the statute yet.

Mr. Gregsak said they would relocate the water main on the new section of Shattuck Road extension, but they were not proposing to continue the water main all the way down and it had not been suggested by the City of Portsmouth.

Mr. Teetzle said he wanted to discuss the location of the guard shack tied into the underground structure. Mr. Weinrieb they would have a zoning issue if they kept it where they were proposing, or they could come back after the lot line correction. Mr. Teetzle said he didn't want to mislead anyone. Mr. Morgan said they could make a conditional approval contingent on the Town Meeting outcome and otherwise they would need to go to the ZBA.

Chair Hebert continued the hearing to November 24, 2014.



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D) Proposal by **Edna Mosher** for a 2-lot subdivision at **97 Nimble Hill Road, Tax Map 12, Lot 10** (to be postponed to Dec 8).

This item was postponed to December 15, 2014. Mr. Morgan said they would need a letter that would be fine so long as Ms. Mosher granted a waiver to extend beyond 30 days.

3) New Business: Proposal by **Keith Frizzell** to construct an industrial building at **34-46 Patterson Lane, Tax Map 19, Lot 6 and Map 13, Lot 11.**

Attorney Steve Roberts said he had discussed the merger of the two lots in different zones with Town counsel, Attorney Ratigan who confirmed that they could construct a building on the industrial side without a variance so long as there was sufficient lot size, coverage and setbacks. Chair Hebert said he understood that was a possibility, but the Board still had some say. He said the residential property could not be used as it had been and Attorney Roberts agreed that the principal building would be the industrial structure and they would need a variance to replace the residential structure. Mr. Richardson asked if the non-conforming residential area would be precluded from subdivision. Mr. Haight said they would need to request a variance, then go back to the Planning Board for approval of a site plan.

Mr. Steve Haight with Haight Engineering asked if they could use the entire lot size to meet requirements for industrial use if they eliminated the lot line and combined the two lots. Chair Hebert said the land was zoned residential and would be locked, acting as a buffer between the industrial use. Chair Hebert suggested putting it into conservation. Mr. Stern agreed that conservation was harder to get out of than getting a variance.

Mr. Richardson asked if the fire chief was comfortable in not being able to go around the building and Mr. Haight said he didn't know as it was only a conceptual plan waiting for approval before they submitted the fully engineered plan.

Chair Hebert said he had received a petition from Ms. Ann Beebe and other Patterson lane residents. Ms. Beebe read the petition to prevent approval of a warehouse building and a non -conforming lot that was signed by 21 residents.

Chair Hebert said the merger and industrial building with an accessory building on the residential side was a permitted use and although there might be some questions about the fire chief's approval of access around the building, he didn't think the Board could dismiss consideration of the proposal. He asked Ms. Beebe what justification the residents would have for the request. Ms. Beebe expressed concern that the fire department couldn't get around the building, but also said there were already concerns with tractor trailers down street because of the natural gas lines and blocking residents' access on the road. She said there was a sign regarding three axle trucks that had been moved past the business.

Vice-Chair Marconi asked Ms. Beebe if she had notified the police department of the safety issue and Ms. Beebe said she had not. Mr. Morgan asked what trucks were

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doing there and Ms. Beebe said they were dropping pallets off at the business on the corner, but they would go down the street to turn around.

Mr. Paul Reardon of Patterson Lane presented photos showing the natural gas lines and the sign that moved from the end of the street regarding three axle trucks, but said 52' foot trucks with 5-6 axles would enter the lane. He expressed concern for what would happen to the residents on the dead end street if a truck hit the gas line.

Mr. Bill Sweeney of Patterson Lane said the school buses wouldn't go down the road to pick the children up so the trucks shouldn't go down either. Mr. Cross pointed out that the cul-de-sac at the end wasn't adequate for turning large vehicles.

Chair Hebert said by law industrial trucks were allowed in the industrial zone and he wondered if the proposal might be the best solution if they could put conditions on the site and lock up the residential parcel for conservation. He said he was concerned that something else worse could be proposed if they didn't consider this proposal, including 40 units of work force housing on the residential side.

Ms. Beebe asked Attorney Ratigan for clarification on how the industrial setbacks could be approved and Attorney Ratigan explained that the Zoning Ordinance measured setbacks from lot lines, not zoning district lines and the setbacks would go to the new lot lines if they were merged.

Mr. Norman LeClare of Patterson Lane asked about grading on the residential lot for the abutting industrial construction and Attorney Ratigan said he didn't know offhand. Ms. Lamson pointed out that there were wetlands down there. Mr. Richardson said they could slope residential land, but questioned if it would get site plan approval. Chair Hebert asked about the wetlands and Mr. Haight said there were two small pockets that would require a permit.

Ms. Lamson said she was trying to keep an open mind, but it seemed there was too much industrial use close to the residential area and it seemed a travesty to move so close to the former Yeton property and other residents.

Mr. Richardson asked Attorney Roberts about the second building on the residential side and Attorney Roberts said it would be an accessory use as a caretaker house for the industrial building. Chair Hebert said accessory use meant a separate house had to support the primary industrial use. Mr. Richardson said use restrictions on the residential lot would need to be clearly articulated and he wondered how they could build right on the zoning line. Chair Hebert said no part of the foundation footing or roof overhang could go over.

Chair Hebert said it was possibly one of the oldest houses in town and the applicant could tear it down so there would be no access use, which might not be to everyone's benefit. He said they could also put in duplexes with no buffers.

Ms. Sandy Sweeney of Patterson Lane also wondered if the house should or shouldn't be torn down. Mr. Morgan said he had never been inside, but he thought it was one of oldest houses and the town was losing so many of them. Vice-Chair Marconi agreed and pointed out the lost old house on Fabyan Point that was torn down and replaced recently.

Mr. Reardon said there were residents that lived on the street that mattered as much as the house. He said his biggest concern was the safety issue. Vice-Chair

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Marconi said the safety issue could also affect residential property values. Mr. Reardon said he wasn't as concerned with dangers from the industrial building itself compared to the waterfront industrial used, but he was concerned with **increased** truck traffic and didn't think 53' trucks should be entering and blocking traffic. Ms. Sweeney agreed that there were elderly residents and others who had needed ambulance service and she was concerned with trucks blocking access. Mr. Richardson said the Board's goal would be to address those issues. Mr. Frizzell said he rented the building and said he had no control over his tenants who were responsible for the truck size. Chair Hebert said that could be overcome if the road conditions didn't permit and would be a limiting factor to whom he rented. He said safety violations could become Board of Selectmen and police issues.

Discussion ensued regarding the accommodation of trucks turning in and out. Chair Hebert said expert engineers would need to review an actual proposal rather than have the Board or the audience submit conjecture.

Chair Hebert asked the Board what they thought and Mr. Stern said they had a lot of hurdles. Mr. Cross said there were safety issues for the residential area and Ms. Lamson said she was against the proposal.

Chair Hebert agreed that he was concerned with a truck terminal with trucks in and out because the area was small and thought they should consider it a low traffic area.

Chair Hebert continued the discussion to the December 8, 2014 meeting.

4) Preliminary Discussion: Proposal by **NH1 Motorplex LLC** to establish an indoor electric go-kart operation on approximately 55,000 square feet in the old Neslab building at **25 Nimble Hill Road, Tax Map 12, Lot 16**.

Chair Hebert informed the Board that the discussion was for a non-permitted use near the Spaulding Turnpike.

Attorney Chris Mulligan appeared before the Board along with Dan and Pam Jenison and Derek Ducette. Attorney Mulligan said the site was currently dormant at the former Thermo Fisher plant. He said the use for an electric go-kart operation for adults and children of an appropriate age. He said it would not involve any fumes, gas, noise or environmental issues. He said they were also proposing private conference space, but no alcohol on premises. He said there would be no exterior changes to the site except a sign. He said the estimate for the upgrades and equipment would be in excess of half a million dollars. He said they would be going before the ZBA later in the week.

The Board proceeded to ask questions on patronage, traffic, hours of operation and noise. Mr. Derek Ducette said the noise inside would be minimal and there would be no exterior noise at all because of the electric powered karts. He said the hours of operation would be noon to 10 p.m. on Monday through Friday, 11 a.m. to 11 p.m. on Friday and Saturday and 11 a.m. to 8 p.m. on Sundays.

Chair Hebert asked if there would be any other games in the facility and Mr. Ducette said only air hockey and pinball, but no pool tables.

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A direct abutter, Ms. Cindy Lyons of 49 Nimble Hill Road said she was concerned with the property changing use for public activity and amusement with 50 cars in and out, making noise, lights and setting a precedence for other amusements to follow. She said she was also concerned with adding to the increased traffic going up Nimble Hill Road as a result of the Spaulding Turnpike construction. Mr. Stern said he lived on Shattuck Way and the truck traffic was continuous, including fuel trucks at night so he didn't want to see additional traffic either.

Mr. Richardson wondered how management would prevent people from going in intoxicated if they had late hours even if alcohol wasn't served. Mr. Jenison said it wouldn't be possible to follow patrons in and out from their vehicles in any operation.

Chair Hebert said it was not a permitted use so they would be going before the ZBA to decide and he wasn't sure what hardship they had to allow.

**Minutes:** Ms. Lamson said she hadn't attended the October 20, 2014 meeting and Chair Hebert said she could still vote on the minutes.

*Vice-Chair Marconi moved to approve the Minutes for August 11, 2014.  
Rick Stern seconded the motion and all were in favor*

*Vice-Chair Marconi moved to approve the Minutes for October 6, 2014.  
Peggy Lamson seconded and all were in favor.*

*Vice-Chair Marconi moved to approve the Minutes for October 20, 2014.  
Justin Richardson seconded and all were in favor.*

**Adjournment:** *Mike Marconi motioned to adjourn, and Rick Stern seconded. All were in favor and meeting adjourned at 11:10 pm*

**Next Meeting:** Monday, November 17, 2014

**Respectfully**

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