

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, November 18, 2013

- Call to Order:** Chair Denis Hebert called the November 18, 2013 meeting at 6:35 PM.
- Present:** Vice Chair, Mike Marconi; 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:** Paul Bogan, VP Operations, Sea-3; Stephen Haight, P.E., Haight Engineering; Cynthia Scarano, Executive VP & Robert Culliford, Senior VP & General Counsel of Pan Am Railways; Attorney Paul Sanderson; Craig Daigle; Matt Metiber; Michael Mathers; Edna Mosher; Keith Boyle, Boyle Studios; Ken Anderson, Riverside Pickering Marine; Linn Lebel, Appledore marine Engineering; Gregg Mikolaities, Tighe and Bond Engineering; Attorney Richard Uchida; Attorney Lee Witham; Troy Leeburg; Brenda Belonigan; Attorney Bernie Pelech; Joey Cresta; Dorene Stern; Eric Weinreib; Altus Engineering

1) Public Hearings:

A) Proposal by **Sea-3** to reconfigure its terminal at **90 Shattuck Way** (Tax Map 14, Lot 2; and Map 20, Lot 13) in order to accommodate Liquefied Petroleum Gas (LPG) shipments via rail, the export of same via ocean-going ships.

Mr. Paul Bogan, VP of Operations for Sea-3 said they were no longer able to make a profit from importing foreign propane since their costs had gone up after lower cost propane and natural gas had glutted the domestic market. Mr. Bogan said they were proposing to convert the majority of their operation from importing foreign propane to exporting domestic propane, with a small percentage to the local market in New England. The propane would be brought in from Pennsylvania and West Virginia on rail, and processed at their plant for shipping out. An expansion of their facility would be required for the process. Steve Haight, of Haight Engineering said they would be applying for Shoreline Protection and Alteration of Terrain permits in the next week.

Justin Richardson asked if it would be possible to reverse the process to accept imports if the market changed, and Mr. Bogan said it would only be designed to unload by rail, chill and ship out, whereas the facility previously received chilled product by ship.

Alternate Board member, Peggy Lamson asked how many trucks would be coming in and out of the plant, and Mr. Bogan said there would be twelve a week. Craig

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Daigle of Nimble Hill Road asked if there was any possibility that there would be more than twelve trucks, and Mr. Bogan said they didn't expect any more than twelve any time soon, but the maximum they could have would be sixteen trucks. Edna Mosher of Nimble Hill Road asked if the change would increase truck traffic on Shattuck Way and Mr. Bogan said the number of shipments and trucks would be reduced.

Vice-Chair Mike Marconi asked where the railroad cars would be stored, and Cynthia Scarano, Executive VP of Pan Am Railways 12 cars would come in from Rockingham Junction and be unloaded with no cars stored at the facility. Vice-Chair Marconi asked if any would be stored at Patterson Lane, and Ms. Scarano said they would not.

Ms. Lamson said Greenland Town Administrator, Karen Anderson sent a request to Town Planner, Tom Morgan that the SEA-3 proposal be declared a development with regional impact under NH RSA 36:54.

Attorney Paul Sanderson, Greenland Planning Board Chair said the Town of Greenland is concerned over the transportation of propane through their town ten crossings and only two active, not protected at all, and an antiquated trestle. Attorney Sanderson said they were particularly concerned for the residents of Bayside Drive that would have no means of escaping their neighborhood if there was a rail accident at the crossing. He said he understood that town boards have no jurisdiction over the railways, which are under U.S. Federal jurisdiction, but the NH Department of Transportation does, so they may need to work with them.

Matt Metiber, an abutter asked if they'd done a safety assessment, and Mr. Bogan said improvements had to be done under the FDA's National Fire Protection, and the NFPA would work with the local fire chief when the project moved forward.

Chair Denis Hebert said people were concerned with the risks of propane hazards and asked Mr. Bogan to explain what the worst-case scenario would be like. Mr. Bogan said their main concern would be to prevent boiling liquid vapor explosions resulting from a lack of cooling water should the liquid propane become hot and weaken the steel causing an explosion. Mr. Bogan said that was the reason they were proposing a sprinkler system for cooling and prevention. Mr. Bogan said DOT has required rail cars to be insulated and equipped with head shields at the front and ends to prevent explosions as well as safety couplers that cannot come apart.

Chairman Hebert asked where the water would come from, and Mr. Bogan said they would be able to pump 3,500 gallons per minute where they were only required to pump 2,000 per minute from their sprinkler system on the tanks. Chairman Hebert said he would be concerned if they lost pressure. Mr. Morgan asked how the fire suppression system would work if they lost electricity, and Mr. Bogan said they had a diesel water pump that supplied two sprinklers. Mr. Bogan said they could get water from their Sprague's next door has a water storage tank that fire fighters could tap into, and there were two dry fire hydrants available, and firefighters could draught water from the river. Chairman Hebert said fire prevention would be critical in the first few seconds, and the fire department could be more concerned with evacuation in an emergency. Mr. Bogan said he hadn't recalled losing water from the City of Portsmouth in 38 years.

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Mr. Richardson said he was impressed and confident with the safety systems he saw during the site walk, but wondered if they should have a review for their FDA 50 compliance. Mr. Bogan said they were hesitant to expend \$100,000 during the preliminary stages without a better sense that they might receive approval for their proposal. Ms. Scarano said the Class I tracks were used twice a week, the trains were all under 260 tons, and limited to 10 mph. Chairman Hebert asked why they couldn't go faster, and Ms. Scarano said it was not necessary for the trains to go any faster. She said Federal inspectors inspected the tracks, cars, and systems regularly. Chairman Hebert asked if the inspection records were available, and Ms. Scarano said some were and some information was not available to the public because of Homeland Security.

Mr. Richardson said he would like Mr. Morgan to get a professional engineer rather than debating the idea. Mr. Morgan said they would need to follow certain procedures first. He said they would need to notify abutters and publish a legal notice for a public hearing to determine if the plan was substantially complete, then they would need to decide if the proposal made a regional impact, and send notice to the surrounding communities. Mr. Morgan said he had been talking with the former fire chief about working with the fire marshal.

Mike Marconi moved that the proposal by Sea-3 to reconfigure its terminal at 90 Shattuck Way (Tax Map 14, Lot 2; and Map 20, Lot 13) in order to accommodate Liquefied Petroleum Gas (LPG) shipments via rail, the export of same via ocean-going ships was substantially complete. Jack Pare seconded, and all were in favor.

Jack Pare said there would be significant regional impact in providing propane at a lower price for the region.

Mike Marconi moved to request a regional impact notice to be sent out to the surrounding towns of Greenland, Portsmouth, Newfield and Stratham regarding the Sea-3 proposal to reconfigure its terminal at 90 Shattuck Way (Tax Map 14, Lot 2; and Map 20, Lot 13) in order to accommodate Liquefied Petroleum Gas shipments via rail, the export of same via ocean-going ships. Jack Pare seconded, and all were in favor.

Mike Marconi moved to request a regional impact notice to be sent out to the surrounding towns of Greenland, Portsmouth, Newfield and Stratham regarding the Sea-3 proposal to reconfigure its terminal at 90 Shattuck Way (Tax Map 14, Lot 2; and Map 20, Lot 13) in order to accommodate Liquefied Petroleum Gas shipments via rail, the export of same via ocean-going ships. Jack Pare seconded, and all were in favor.

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Justin Richardson moved to authorize the Planning Board Chair in consultation with the Town Planner to hire fire safety and rail safety experts, and to pass the associated costs on to the applicant Sea-3 of 90 Shattuck Way (Tax Map 14, Lot 2; and Map 20, Lot 13). Jack Pare seconded, and all were in favor.

Chairman Hebert continued the hearing to Monday, December 9, 2013.

2) Planning: Bicycle infrastructure improvements

Eric Weinrieb with Altus Engineering said in 2012 the Town of Newington had asked him to do a bike lane or bike path feasibility from the Spaulding Turnpike to the town center. Mr. Weinrieb said environmental consultant Mark West and Dave Hislop from Knight Hill Surveying did a wetlands study and survey of the area. He said a year ago the Board of Selectmen worked with DOT to allow a bike path on the southbound lane of the Spaulding to Arboretum Drive, which would reduce the number of commuters coming through town and up Fox Point to get to Arboretum Drive and Pease, but biking enthusiasts and local bikers would still go through town. Ms. Lamson said there was concern for bikers' safety on the roundabout connecting to Pease. Board of Selectman Chair, Rick Stern said the PDA said they wouldn't allow a bike path on that section of Arboretum Drive because they saw that area as having prime development potential. Ms. Lamson said people tend to take the shortest path from one place to another.

Mr. Weinrieb said they needed to determine what they were trying to accomplish, whether a built up bike path on one side of the road for locals, or a bike lane on both sides of the road for enthusiasts. He said one of the issues was that a bike path probably wouldn't be used with biking enthusiasts, and widening the road for a bike lane would involve more land acquisition and could give the impression that vehicles could travel faster through town. Mr. Weinrieb said they also needed to consider whether they wanted to limit doing something on Nimble Hill Road, or elsewhere in town.

Mr. Morgan said there was a serious concern for safety due to the narrow shoulder and poor visibility for bikers and pedestrians along Nimble Hill Road across from Coleman Drive and near the school. Mr. Richardson said most towns have designated school zones and there could be safety concerns with a bike path going through a school zone.

Chairman Hebert said there was a variety of travel from locals and people going through town to get to Pease or Greenland. He said he saw a need to come up with a plan for the entire town. Mr. Daigle said he thought there was a need to reduce the speed through town, but he didn't want to see the look of the town change. Mr. Richardson said bicyclists and pedestrians blame cars and drivers blame bicyclists and pedestrians, but the issue still needed to be addressed. He said they also needed to be concerned with traffic slowing down traffic speed. He said curb bump outs were shown to slow traffic down as well as signs placed in the center lane. He said a four-way stop at Fox Point Road and Nimble Hill Road has also been suggested.

Ms. Mosher said she the lack of adherence and enforcement of the speed limits was part of the problem, but she said poor visibility and no place to get out of the way

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was also a problem. Brenda Belonigan of Hannah Lane agreed that enforcement of the speed limit was more of a problem than the speed limit. Vice-Chair Marconi said he thought speed was the first problem, and room for bike travel was the second problem.

Chairman Hebert said they should identify the issues further before asking Mr. Weinrieb to make a preliminary recommendation. He set a date for a work session on Disremember 9, 2013.

3) Preliminary Discussions

A) Proposal for a lot line adjustment between **Dorothy Watson's** property at **133 Fox Point Road** and the **Mathes** lot on the corner of Fox Point Road and Nimble Hill Road, Tax Map 17, Lots 11 & 11-12.

Mr. Michael Mathes came before the Board to discuss his lot line adjustment. Mr. Mathes said any trees required to open up the line of site from the curb cut would have to be taken down by the new owner.

Chairman Hebert said he it would be important to understand that the remaining lot couldn't be subdivided further due to wetlands and limited frontage. Mr. Richardson said they could put that on the plan.

Edna Mosher of Nimble Hill Road said she had known the applicant's family for many years, and Mr. Mathes had made many improvements to Dorothy Watson's place, and selling the property would help provide for her household care and healthcare as she goes into her 95th year.

Mike Marconi moved to going into a public hearing on December 9. Justin Richardson seconded, and all were in favor.

B) Proposal by the **Fox Run Mall** to modernize exterior signs throughout its shopping center property at **45 Fox Run Road**, Tax Map 20, Lot 1.

Keith Boyle with Boyle Studios said they submitted a lumens study for their new sign proposal. Chairman Hebert asked if they would be able to dim the lights if it was determined that they were too bright, and Mr. Boyle said they were fixed, but the lumens of the current sign was 30,000 lumens and the new sign would be 11,000 lumens. Mr. Pare asked if they had a diffuser in front of the LED and Mr. Boyle said the LED was behind acrylic lettering. Mr. Richardson said they could approve the sign subject to conditions that the light not be unreasonably bright in comparison. Mr. Pare said the pixels of the LED light would be diminished behind the acrylic.

Mike Marconi moved to go to a public hearing on December 9. Justin Richardson seconded and all were in favor.

C) Proposal by **Pickering Marine** to construct a pier and laydown area near the eastern end of **Shaftmaster Drive**, Tax Map 20, Lot 1.

Ken Anderson with Riverside and Pickering Marine said they were finalizing their plans with minor changes to Phase I of the floating dock system to support their operation. Mr. Anderson said they would extend another pier parallel in the next 3-5

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years. He said they had applied for an Expedited Review Permit, which usually takes 75 days. He said once it was accepted as complete, it would be bumped up as a commercial project that would be beneficial to the economy. Mr. Anderson said they had me with DES, and the EPA National Fisheries Division.

Mr. Pare asked if they were applying for Phase I or Phase II and Mr. Anderson said they were applying for both. Mr. Morgan said site plan regulations say approval would expire in two years so they would need to reapply if they didn't complete the second phase before that time.

Vice-Chair Marconi asked when they anticipated beginning the project, and Mr. Anderson said their lease in Eliot, Maine they planned on starting in 2½-3 months.

Mr. Stern asked if they owned land, and Mr. Anderson said they owned approximately one acre for the gravel laydown area. He said they were hoping to purchase more land, and were also looking for another area for office space. Chairman Hebert said he was concerned with their limited space, and traffic hazards with the narrow access roadway, and said he would propose putting a condition of shut down if safety hazards occurred.

Mr. Anderson said Riverside Marine they started as a small marine contractor in 2007, and then acquired Pickering Marine in 2009. He said they have operated with tugboats, two box vans, and two pickup trucks. He said they would delivery trucks would come into the site, and load construction materials onto the boats.

Peggy Lamson moved to move to a public hearing on December 9. Mike Marconi seconded, and all were in favor.

D) Proposal by **Lam Brothers Partnership** for residential, office, sales or service use at **21 River Road**, Tax Map 19, Lot 4.

Attorney Don Witham came before the Board on behalf of his client who purchased the foreclosed property. He said Mr. Gilman the former owner of Superior Towing came before the Zoning Board of Adjustment for a special exception as to allow him and his family to continue residing in the commercial 30' x 50' building. He said the Board approved the exception with the stipulation that it would revert to commercial use after sale of the property. Attorney Witham said the current owner was having difficulty finding a buyer for the property that was at the back between two office buildings with only thirty feet of frontage. He said they haven't been able to advertise the property as part residential and part commercial to rent it, and asked if the Board would consider lifting the mixed use. Mr. Morgan said they would have to go before the ZBA. Chairman Hebert said he wasn't sure if that would be a good use of the property. Mr. Richardson said they may be able to make a case that there was a hardship, and Chairman Hebert said the history was available for the owners and they still purchased the property.

4) Driveway Permit Application: Request by **Troy Leeberg** for land off of **Hannah Lane**, Tax Map 18, Lot 3A.

Mr. Troy Leeberg said he purchased 20 acres off Hannah Land with just 59 feet of frontage on Hannah Lane and a right of way easement on the deed for access

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through the end lot accessing Fox Point Extension cul-de-sac. Mr. Leeburg came before the Board asking for their determination on road frontage.

Abutter Brenda Belonigan of Hannah Lane said she attended the public hearing for the subdivision in the 90's, and she recalled being assured that the access point would be off Fox Point Road, but she would also accept the driveway off Nimble Hill Road. Mr. Leeburg said there would be four driveways in succession on Nimble Hill Road and his preference was for Hannah Lane. Mr. Morgan said there were six meetings on the subject and it was not as clear from the meeting minutes for those meetings that was approved, but said the ordinance requires 200' of continuous road frontage, and neither Fox Point or Nimble Hill Road would meet that requirement.

Mr. Richardson said the ordinance came about in 2008/2009 after the land was subdivided. Chairman Hebert said the tax card listed the property as buildable, but referred to the Fox Point access. Mr. Morgan said the Fox Point access was listed as a right of way so the Watson family could gain access to their orchards. Mr. Morgan said a corner lot has to be 40' from both corners. He said he would like to look into the matter further with the tax assessor. The Board decided that they would continue the discussion at the December 9 meeting.

5) Site Plan Approval Extension: Request by Doloma Investment of Portsmouth, Inc. for property between Woodbury Avenue and Shattuck Way, Tax Map 20, Lot 4C

Attorney Bernie Pelech said the applicant's original site plan had been approved in 2007 and 2008 before the project was postponed due to a down turn in the economy and nothing had been changed in their plan. Attorney Pelech said they had a potential buyer that was proposing the same hotel plan as the original.

Vice-Chair Marconi suggested making a motion to approve the original proposal. Chairman Hebert asked if State permits would be approved on projects that had been delayed from the 2008 economic down turn, and for how long. Mr. Richardson said the permits would only extend five years after approval if site development had begun, but it had not. Chairman Hebert said he thought they would need to go through site plan review and a public hearing again, but it would probably be quicker since they'd already gone through the process and little had changed.

The Board agreed to continue the site plan review of Doloma Investment of Portsmouth, Inc. for property between Woodbury Avenue and Shattuck Way, Tax Map 20, Lot 4C until the January meeting.

Adjournment: Mike Marconi motioned to adjourn, and Jack Pare seconded. All were in favor and meeting adjourned at 10:15 pm

Next Meeting: Monday, December 9, 2013

Respectfully

Submitted by: Jane K. Kendall, Recording Secretary