

**Town of Newington, NH**  
**Planning Board & Zoning Board of Adjustment**

Meeting Minutes, Monday, July 22, 2013

- Call to Order:** Chair Denis Hebert called the July 22, 2013 meeting at 6:35 PM.
- Present:** Planning Board: Vice Chair, Mike Marconi; Bernie Christopher; Jack Pare; Justin Richardson; Board of Selectmen Rep, Rick Stern; Jane Kendall, Recorder; and Thomas Morgan, Town Planner  
Zoning Board: Chair, Matt Morton, Ted Connors; Ralph Estes; John Frink
- Absent:** Planning Board Alternate, Peggy Lamson; Zoning Board Alternate, Justin Flynn
- Public Guests:** Alicia Busconi, Vice President of Keypoint Partners; Elena Berry with Metro Signs; Benjamin Barr with WatchFire; Barbara Hackett; Seacoast Growers Co-President, George Beland; PR Director, Diana Smith; and Board member, Liz Conrad

**I) Zoning Board of Adjustment Public Hearing:**

A) Request by **Keypoint Partners** to consider the following requests for variances at the **Crossings at Fox Run, 45 Gosling Road, Tax Map 34, Lot 3:**

1. Remove existing pylon sign, and erect a new pylon sign further wet along Gosling Road that would be set back 20 feet where the ordinance requires a 75-foot setback, and would be approximately 500 square feet in area where the ordinance allows a maximum of 100 square feet, and would be 40 feet high where the ordinance permits a minimum height of 35 feet.
2. Erect a 6' by 12' free-standing entrance sign at the shopping center's principal Gosling Road entrance 15 feet from Gosling Road where the ordinance requires a setback of 75 feet and that limits the number of free-standing signs to no more than one per lot.
3. Erect four 6' by 4' wayfinding signs where the ordinance allows such directional signs to be no larger than one per lot.

Alicia Busconi, Vice President of Keypoint Partners, property managers for the Crossings Mall presented their plans to remove their old signs and replace them with new signage in an attempt to improve their name recognition and to be more competitive with other malls.

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A brief discussion ensued regarding the legalities with reviewing a Board of Adjustment proposal in a joint session with the Planning Board. It was clarified that the proposal was going before the BoA for a decision, and Planning Board members could contribute their thoughts during the discussion like any member of the public, but they could not vote on the matter. Planning Board Chair, Denis Hebert said this applicant did not approach them with demands, but offered to work with the Town, to determine if they should go before the BoA to ask for variances, or go before the Planning Board to ask for a change in ordinance. BoA Chair, Matt Morton expressed concern that the applicant wasn't sure what they wanted, and the BoA wouldn't be able to make a decision on a work in progress. Chair Hebert agreed, but said he thought the applicant would nail down what they wanted. BoA members agreed that they could listen to the applicant first and then make their decision.

Ms. Busconi said they spent the last year cleaning up, and bringing in new tenants to the Crossings. Recently they have been focusing on a social media campaign to get themselves known, and are now working on a rebranding campaign. Ms. Busconi said part of the impetus of the campaign is that a new theatre is going to be built in Portsmouth that will compete with the Regal Theatre at the Crossings.

Ms. Busconi said several of their new tenants have no representation on their signs, and they are proposing to add them onto new signage. They also are proposing to put up a new 40 foot sign between McDonalds and the Longhorn restaurant that will be visible from the Spaulding Turnpike. Ms. Busconi brought in a bucket truck earlier in the day that was raised 40 feet near the proposed location to give Board members an idea of the height, and added that the flagpole at McDonald's is also 40 feet height.

John Frink asked Ms. Busconi where they were proposing to install the electronic reader boards, and Ms. Busconi said they were proposing that the top panel of the 40 foot sign near McDonald's would be a reader board for visibility from the highway, and the other sign was Regal Cinema's sign near Bugaboo Creek be a complete electronic reader board. Ms. Busconi said they were also requesting to erect a 6' by 12' solid board sign off the Gosling Road entrance, as well as four 6' by 4' wayfinding signs in the interior of the lot. Board of Selectman, Rick Stern asked if they would be eliminating the sign by Jared's Jewelers, and Ms. Busconi said they would.

Chair Morton asked about the size of the wayfinding signs, and Ms. Busconi said they would keep them the same size as the existing signs. Chair Hebert asked if the signs would be grand fathered, and Town Planner, Tom Morgan said the building inspector gave an interpretation that they would be grand fathered in so long as they were keeping the same sign frame, not removing, or replacing it with a new sign. Chair Hebert said the third request for variance for the wayfaring signs was a lot less complicated than the other two requests.

Mike Marconi asked how big the reader board on the top of the 40-foot sign near McDonald's would be, and Ms. Busconi said it would be 41 inches. Justin Richardson expressed concern that the 40-foot sign with a reader board on top would create a distraction on Gosling Road. Ms. Busconi said most of the traffic would be traveling east so it should not be a distraction. John Frink said the BoA could only be concerned with the placement of the signs in according to the zoning ordinance, but would have no

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jurisdiction in regards to the electronic reader boards. Justin Richardson said his concern was in regard to moving an electronic reader board closer to Gosling Road, and asked Ms. Busconi if they had done a traffic study. Ms. Busconi said they expected the results of the study back in a couple of weeks. Chair Hebert said the bucket truck looked as if it was set far enough back so not to obstruct the line of vision. Tom Morgan said the sign would be back 30', and there would be an 8 foot gap below the sign. Chair Morton said vehicles would be past the sign before turning in so it wouldn't hinder their view. Justin Richardson said he understood that the mall brings a lot of traffic off the highway, and sees the importance of a new entrance sign, but said he struggled with voting in favor of the variances without a traffic study.

Chair Hebert asked why they were increasing the height of the sign, and Ms. Busconi said to improve the visibility from the highway. Chair Hebert said drivers would be past Exit One by the time they saw the sign, and DOT is taking Exit Two away, so wondered how a taller sign would benefit them. Ms. Busconi said the idea was to make drivers aware of their location for future reference in the same way social media like Facebook that attracts attention even though users wouldn't be at the mall entrance when seeing them, but they would seek them out at another time. Jack Pare then asked why they didn't consider putting the taller sign nearer the highway, and Chair Hebert said there could be more problems with distracted drivers having the sign nearer the highway. Tom Morgan agreed that more signs would be adding to driver distractions, pointing out that vehicles travel at 30-35 mph on Gosling Road, but travel at speeds of 65-70 mph on the highway.

Jack Pare asked why they didn't consider lowering the stonework below the sign so they wouldn't need a variance, and Tom Morgan said there would then be a visibility and safety issue.

Chair Morton asked Ms. Busconi what kind of time frame they were looking to get the signs done, and she said they would like to get them done this year. It was determined that the Planning Board would need to have further discussions in regard to reader boards, but that the BoA would go forward with a decision on the wayfinding sign variance.

Chair Hebert closed the public hearing, and turned the discussion over to ZBA Chair Morton. Chair Morton asked Tom Morgan what kind of time frame the applicant had on the first two variance requests, and Mr. Morgan said they could continue the hearing for a date certain and would not need to renotify the abutters.

***Ted Connors made a motion to grant a variance to erect four 6' by 4' wayfinding signs at the Crossings at Fox Run, 45 Gosling Road, Tax Map 34, Lot 3 as shown on Plan 12-8104-14-B. Ralph Estes seconded.***

John Frink read through the five criteria, and found no reason to deny the variance. Justin Richardson added that one of the special conditions is traffic, and the level of use is high so it is important to have wayfinding signs direct vehicles into the correct lanes.

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***All were in favor and the motion carried unanimously.***

Chair Morton set the date for continuation to Tuesday, August 13, 2013.

***B) Justin Richardson moved to continue another hearing on the agenda for EAZ, LLC (Pickering Marine) to establish a laydown area at 19 Nimble Hill Road, Tax Map 7, Lot 20 and Map 12, Lot 15 to Tuesday, August 13, 2013 also. Ralph Estes seconded, and all were in favor.***

**II) Board of Adjustment Minutes for July 17, 2013**

Chair Morton postponed acceptance of the minutes until the next meeting scheduled on Tuesday, August 13, 2013.

**III) Board of Adjustment Adjournment:**

***John Frink motioned to adjourn, and Ted Connors seconded. All were in favor and meeting adjourned at 8:00 p.m.***

Justin Richardson asked if he could be recused from an upcoming appeal to the Board of Adjustment because of his social association with the appellant. Chair Hebert appointed Mike Marconi, and no one opposed.

**IV) Planning Board Old Business: Determination of frontage for a gasoline station proposed for 399 Shattuck Way, Tax Map 7, Lot 16**

***Mike Marconi moved that the frontage for a gasoline station proposed for 399 Shattuck Way, Tax Map 7, Lot 16 would be on Shattuck Way. Bernie Christopher seconded, and all were in favor.***

**V) Public Hearing: Proposal by Keypoint Partners to move and/or upgrade seven free-standing signs at the Crossings at Fox Run, 45 Gosling Road, Tax Map 34, Lot 3**

Benjamin Barr with WatchFire parked his truck with an electronic reader board on Fox Point Extension in front of the Town Hall meeting room for Board members to view.

Jack Pare said the reader board itself was simply a technology that is only as good or as bad as how it is used, and whether it is used responsibly.

Mike Marconi said he has gone back and forth on the subject, but said he thought the sign was impressive, and liked what he saw.

Justin Richardson said he doesn't like some things he read in the handout, and believes it distracts drivers.

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Ms. Busconi said she understands there is a time and place for its use, but would like to use it not only to notify passersby of new tenants, but also to advertise the Crossings website, and perhaps Amber alerts.

Chair Hebert agreed with Justin Richardson and was especially concerned that allowing changing and moving ads, even public service ads would be distracting, and would have no limits as a result of freedom of speech rights in media. Rick Stern asked Justin Richardson if he thought they could wave their right to freedom of speech if they allowed the reader boards, and Justin Richardson said the Planning Board could limit use so long as they didn't discriminate based on gender, race, etc.

Justin Richardson asked if there was a ruling on how often an illuminated advertising sign could change, and Jack Pare said Z45, Article 17, Section 2 limited it to every 30 seconds. Discussion ensued regarding illumination strength.

Mr. Barr said they have an interest in protecting their reputation, and that he could provide traffic safety studies. Chair Hebert asked about angle distortion with LED displays, and how height would affect visibility. Mr. Barr said optimum visibility is at eye level, and believed it would be improved if the Crossings brought the reader board down to five feet near the bottom of the board instead of at the top of the board. Justin Richardson asked what the range of visibility would be, and Mr. Barr said the characters are sized to be visible. He added that putting ten lines of copy on any reader board would be as much of a disaster regardless of whether it was electronic or not.

Bernie Christopher asked what the problem with advertising a Farmers' Market or an author at Barnes' & Noble would be. Chair Hebert said once moving ads are allowed, there would be no way to regulate the content or the frequency of changes which would be more distracting to drivers than they would be with a familiar static sign.

Chair Hebert continued the hearing to Monday, August 12, 2012, and asked Ms. Busconi to come back with dimensions and a traffic safety report. He also asked Board members to consider if they wanted an appropriate ordinance change for Town vote. Tom Morgan said he would like to see the "nit" intensity of illumination be given a standard in the ordinance. Jack Pare said the best way to write an ordinance would be based on performance not technology because technology changes.

**V) Planning Board New Business:**

**A) Proposal by Barbara Hackett for additional parking at 105 Gosling Road, Tax Map 28, Lot 1.**

Ms. Hackett said her sho strip had been built by her late husband 30 or 40 years ago, and the original 30 parking spots was down to 25 spots since she granted Riverside Developers an easement and has lost an additional 11 spots when they developed their center on the corner of Gosling Road and Woodbury Ave. Ms. Hackett said Riverside Developers was threatening to tow her tenants for parking on the easement, and her tenants are complaining. Chair Hebert said that would be a civil issue.

Ms Hackett said she consulted Bourasa Construction, and they suggested sealing and coating her green space, which is hard to maintain, as well as the graveled

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space. Chair Hebert said the ordinance doesn't allow any man-made structures, including pavement, but that wouldn't include a gravel lot. Tom Morgan said there are gas pipes, and waste water access on the gravel lot and it is not a good place to park. Mr. Morgan asked if the employees could park in the back, and Ms. Hackett said Portsmouth Sign uses the back spaces for their trucks.

Chair Hebert said she should talk to an attorney first to see if the issue could be resolved, and then return to the Planning Board, and the ZBA if necessary. He said she would need a plan for any proposals, and she would also need to go before the Board of Adjustment to request a variance.

B) Proposal by **Keypoint Partners** for a farmers market at 45 Gosling Road, Tax Map 34, Lot 3.

Alicia Busconi introduced board members of the Seacoast Growers Association. Justin Richardson said he is a supporter of the farmers' market, but would want to be sure it would work and suggested granting approval for a two year trial period. Jack Pare said the season would be over in eight weeks. Chair Hebert said he didn't want to wait two years in case there was a problem, and suggested they come back at the end of the season so the Town could address any problems that might come up. He said he would also want to see them come back sooner if anything became an issue.

***Mike Marconi moved to take no jurisdiction with the farmers' market at 45 Gosling Road, Tax Map 34, Lot 3 with the stipulation that they will come back for site review by December 2013. Bernie Christopher seconded, and all were in favor***

**VI) Pending Business:**

A) **COAST Bus stop on Gosling Road:** Tom Morgan said negotiations with COAST bus lines, the City of Portsmouth, and the Portsmouth Housing Authority were favorable, but the City of Portsmouth had no interest in maintaining the sidewalk for their Gosling Meadows tenants that comprise the majority of riders on that bus line, and the Newington Board of Selectmen had issues with liability and maintenance issues that the Town might have. Mr. Morgan said they still might get some assistance from Cumberland Farms, the Crossings, or perhaps the Portsmouth Housing Authority.

B) Rick Stern said the Board of Selectmen met with NH DOT regarding their plea to keep Spaulding Turnpike westbound Exit 2 to Fox Run Road open to Wal-Mart and the Mall, but were told it was too late to appeal DOT's decision now that they had invested in engineering plans.

Additional discussion ensued regarding whether or not the Town had to accept Woodbury Avenue from the State after the Spaulding Turnpike project was complete. Justin Richardson said there was a case, Nelson vs. DOT where it was

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determined that a town had to take a road after the State changed Route 9, but this is different, and there may be a case for it.

Rick Stern said DOT also wants to know if the Town wants asphalt or cement sidewalks, and the consensus was for asphalt for low cost maintenance. Justin Richardson asked if the Town had the resources to plow the sidewalks and Rick Stern said they didn't. Chair Hebert said he would rather see a wider road to accommodate a bike path than raised sidewalks for easier plowing, though there had been some concern that wider roads would increase traffic speed.

**Minutes:**     ***Mike Marconi motioned to approve the Minutes for the June 10, 2013 meeting with changes as discussed. Bernie Christopher seconded, and all were in favor.*** Rick Stern said he was not in attendance, and did not vote.

**Adjournment:**     ***Mike Marconi motioned to adjourn, and Bernie Christopher seconded. All were in favor and meeting adjourned at 9:00 p.m.***

**Next Meeting:**     Monday, August 12, 2013

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