

Town of Newington, NH

PLANNING BOARD

Meeting Minutes – September 10, 2012

Call to Order: Chair Denis Hebert called the September 10, 2012 meeting to order at 6:32 PM.

Present: Mike Marconi, Vice Chair; Patty Borkland; Bernie Christopher; Jack Pare; Dick Spinney; Board of Selectman Representative, Rick Stern; Jane Kendall, Recorder; and Thomas Morgan, Town Planner

Absent: Alternate Member, Peggy Lamson

Public Guests: Michael and Jane Mazeau; Alex Ross with Ross Engineering; Attorney Bernie Pelech; David Choate with Grubb & Ellis; Patrick Goff with NE Parts Warehouse; Jeff Wahl and Lyn Grant from Thermo Fisher Scientific; Eric Morris and Jeremiah Richter; John Thompson

1) Public Hearings:

A) Proposal by **Michael & Jane Mazeau** for lot line adjustments and a subdivision that would convert two lots into five lots at 124 Fox Point Road, Tax Map 11, Lots 13 & 14.

Michael Mazeau came before the Board with updates on his subdivision project, noting that the Zoning Board of Adjustment approved several of his requests for exception at their August 14, 2012 meeting, and approved of a change to 50 feet at the rear and 65 feet on either side of their proposed building envelope on Lot 14-7. Mr. Mazeau said he had also updated his maps, and added culvert and utility easements.

Mr. Mazeau said Alex Ross with Ross Engineering had responded to Town engineering consultant, Eric Weintreib, but Town Planner Tom Morgan stopped the review, and he didn't understand why. Board Chair, Denis Hebert said that both he and Tom Morgan had advised at the last meeting that standard procedure is for all information to go through Tom to make it available for the Board members to review, and also post changes before meetings for abutters. Tom Morgan also said it was unusual for a plan to change as much as it had, and it was important to keep track of the changes. Chair Hebert stressed the importance of keeping the Board informed of all the changes so they can know which plan they are to review and decide on. Board member, Jack Pare said it isn't just a question of the number of changes, but also the time required to review them before meetings.

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Attorney Bernie Pelech suggested other applicants didn't have to go the same procedures, and Chair Hebert said they did. Mike Mazeau asked if all applicants received the same bias he had, and wanted to know who asked Tom Morgan to stop the engineering review process. Chair Hebert said he did because the plan changes were going back and forth among the engineers, and not being made available to the Board to review in time before meetings.

Mike Marconi asked if the applicant had been asked to do anything that hadn't been done. Chair Hebert said it was hard to know as there had been so many changes, and again with no time to review. Board member, Patty Borkland agreed that there had been a lot of changes, but it was not entirely clear what they were.

Board member, Bernie Christopher said Tom Morgan's September 6, 2012 letter reviewing the project was informative, but felt it was six months late, and would have liked to have seen the review sooner. Board member, Patty Borkland agreed. Chair Hebert also agreed, but reminded the Board that the new plan was received in June 2012, and so the review process started all over again.

Patty Borkland also said she was still concerned over ramifications of the narrow strip of land running from the back lot to Fox Point for frontage. Mike Mazeau said he had not heard any complaints from abutters, or heard of any coalition being formed with objections to the project. Selectman, Rick Stern said even if no abutters have come forward at this time, it doesn't mean the Board shouldn't do their job reviewing the project.

Chair Hebert said if the house on the front lot near the wetlands had been kept to the back, the project could have been approved without so many variances. Mike Mazeau said putting a house at the back would put it too close to his older, existing septic, requiring a variance, and wouldn't leave any reserve area should the septic fail.

Alex Ross with Ross Engineering offered to go through their responses to Altus Engineering's May 4, 2012 questions. Tom Morgan said there had been changes since then, and they didn't have a copy of this plan. Mike Mazeau said it had been with Altus since July. Mr. Morgan said he would have no way of knowing which plans were with Altus as they had not gone through his office. Chair Hebert told Ross he could go ahead with his responses, but they would still need to continue with replies to questions from Altus and the Board. Mr. Ross then proceeded to read through their responses. Mike Mazeau also asked Mr. Ross to discuss the shared driveway plan. Ross said it would be designed for low impact, sufficient for residential use, and occasional fuel truck traffic and fire trucks if necessary. Board member, Dick Spinney asked if the Fire Chief had seen that plan, and Tom Morgan said he hadn't since March, but an update had been sent to the assistant fire chief.

Chair Hebert inquired on the requirement for pinnings of landmark boundaries, and Tom Morgan said the plan only showed external monuments, but no internal boundary pins were shown.

Rick Stern asked about the easement of the shared drive. Attorney Pelech explained that all landowners would share responsibility up to the point of their property, and then the remainder of property owners would share the rest. Chair Hebert asked how that responsibility would be enforced, and Pelech said the easement deed says it is

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to be shared, and if there is a problem they can take it to the Supreme Court. Rick Stern said he thought the actual landowner should be designated as legally responsible, or a condo association should be established for shared responsibility. Attorney Pelech said shared easement agreements had been done numerous times without issue, and members of a condo association would still need to go to court if there was a problem, but that he would consider an alternative if a better one could be suggested.

Chair Hebert asked about the easement of the narrow strip of frontage near the wetlands, and said he still didn't like the idea of a 10-foot strip, and had never seen anything like it even though it meets ordinance requirements. Mike Mazeau gave an example of the Watson pork chop lot on Nimble Hill Road near Hannah Lane with a 50-foot strip where a boat is often parked, noting that neighbors can do nothing about it. Mazeau said he thought a ten-foot strip would be less problematic as a landowner could do nothing with it to bother abutters. Mazeau agreed that it may be a loophole, but said it was still legal. Chair Hebert said he is still concerned with built in conflict, and Jack Pare, Patty Borkland, and Rick Stern all agreed with the concern. Chair Hebert said laws and regulations don't cover every scenario, and using common sense is important. Hebert asked Attorney Pelech to present the easement plan to Town attorneys. Tom Morgan said there were several draft easements and asked Pelech which one he would like to use and Pelech said any and all. Mr. Morgan said they would need a response at least one week before the next meeting.

Chair Hebert asked Alex Ross about utility easements, and Mr. Ross said there were drainage easements, but no utility easements. Attorney Pelech said they included underground utilities in the easement agreements. Tom Morgan said the subdivision regulations are particular, and they need to know what is being proposed to go in the ground. Chair Hebert said the Town requires that a developer not leave it to future land owners, and work with the utility companies to provide letters from an approving authority showing acceptance and no conflicts among the utility companies. Tom Morgan gave an example of the cable company putting their lines through electric conduits in Hannah Lane and Shattuck Way. Chair Hebert added that the City of Portsmouth Water department would want to inspect and review the plan to be sure the pipes would be sufficient to prevent backflow into their system.

Chair Hebert announced that the public hearing be continued on Monday, October 15, 2012.

B) Proposal by **New England Parts Warehouse** to establish a warehouse at 25 Nimble Hill Road, Tax Map 12, Lot 16.

Patrick Goff with NE Parts Warehouse addressed concerns that their operation would not bring more jobs to the area, noting that the company has grown since it has been in Seabrook, and they intend to expand more once they move to Newington, acknowledging that all of the current 38 employees may not follow them, requiring that they hire replacements from the local job pool. Mr. Goff also noted that the Thermo Fisher Scientific service department will remain in the building and are planning on retaining 60 employees in the Newington facility.

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Chair, Denis Hebert asked how often they would be removing recycling from the trailer, and Operations Manager, Jeff Wahl from Thermo Fisher Scientific said they are currently emptying it once a month.

Chair Hebert also expressed concern with temporary trailers on the property and let them know that trailers have been taxed as part of a building at some facilities, and recommended that they consider installing a brick façade around the trailers.

Mr. Goff said they have contacted Bernie's Landscaping who has done the landscaping for Thermo Fisher Scientific in the past. Vice Chair, Mike Marconi asked who owned the culvert on the lot, and Chair Hebert said it belonged to Pease. Vice Chair, Marconi said the applicant needed to be sure the landscapers didn't dump grass in the culvert as they have in the past.

Chair Hebert informed the applicant that an ordinance was established around five years ago that Walpak lighting would be eliminated from parking lots in ten years, so suggested that new lighting comply with the current ordinance.

Chair Hebert asked about traffic volume, and Mr. Goff said they have about 20 delivery routes, using approximately 36 vehicles a day including 2 box or cargo vans, mini vans and cars.

Tom Morgan said he had made an inquiry with Seabrook code enforcement that said NE Parts Warehouse had been a good citizen without incident.

Mike Marconi moved that the Board approve the proposal by New England Parts Warehouse to establish a warehouse at 25 Nimble Hill Road, Tax Map 12, Lot 16. Patty Borkland seconded, and all were in favor.

C) Proposal by Eric Morris and Jeremiah Richter to establish a **gymnasium at 32 Nimble Hill Road**, Tax Map 12, Lot 17.

Eric Morris came before the Board on behalf of himself and business partner Jeremiah Richter, and reviewed their business proposal for a fitness center with 150-200 members, with classes and training scheduled from 5 a.m. to 10 am, and 5 p.m. to 7 p.m., not to exceed 15 cars in the parking lot at any given time. Patty Borkland asked when they hoped to open, and Morris said he hoped by October 1, 2012. A series of questions regarding cross fitness training and fees was reviewed.

Dick Spinney asked about their signage, and Mr. Morris said he would follow the Town's guidance on the matter.

Jack Pare asked if they had received approval from the Zoning Board of Adjustment, and Mr. Morris said they had.

John Thomson of Little Bay Road said he and his wife know Eric Morris and Jeremiah Richter and wanted to vouch for their character.

Patty Borkland moved to accept the proposal by business partners, Eric Morris and Jeremiah Richter to establish a gymnasium at 32 Nimble Hill Road, Tax Map 12, Lot 17. Mike Marconi seconded, and all were in favor.

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2) Old Business

Request by **Tyco** for extension of a waiver for modular units utilized as employee break rooms.

Tom Morgan presented a copy of the August 10, 2009 Planning Board Minutes regarding Tyco's request for approval of a 24' by 60' trailer to be used as a temporary break room for which the conditional approval has expired. Chair Hebert asked Morgan to have Town Building Inspector, John Stowell look at the facility.

Mike Marconi moved to extend the conditions to Tyco for a three year period for their modular employee break room unit as stated in the original August 10, 2009 Planning Board Minutes, and have the Town building inspector review the building for compliance. Bernie Christopher seconded, and all were in favor.

Correspondence: Chair Hebert said they received a letter from Key Auto saying the signage was grand fathered, so recommended an attorney review

Minutes: Mike Marconi motioned to approve the Planning Board Minutes for August 20, 2012 with changes as discussed. Patty Borkland seconded the motion. Rick Stern was not present at that meeting and recused himself. All members voted in favor.

Adjournment: Mike Marconi motioned to adjourn. Patty Borkland seconded, and all were in favor. The meeting adjourned at 8:30 p.m.

Next Meeting: Monday, September 24, 2012

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