

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, February 11, 2019

- Call to Order:** Chair Denis Hebert called the February 11, 2019 meeting at 6:30 p.m., followed by the pledge of allegiance.
- Present:** Chair Denis Hebert; Vice-Chair Christopher Cross; Board Members: Jim Weiner; and Peter Welch; Planner, Gerald Coogan and Jane Kendall, Recorder
- Absent:** Board member, Erika Mantz and Board of Selectmen's Representative, Ken Latchaw
- Public Guests:** Alicia Busconi, KeyPoint Partners; Steve Glowacki, with RJ O'Connell and Associates; Rachael Cormier, Senior Property Manager of the Crossings; Anthony Guerriero, Fox Run Mall General Manager; Alex Ross, P.E. with Ross Engineering; Bill Marple

I) New Business:

- A) Discussion regarding additional access ways from the **Crossings Mall** to adjacent properties

Alicia Busconi, Vice-President of KeyPoint Partners, property managers for the Crossings Mall stated that Vice-Chair Cross had sent them information on the original accessway concepts from the 1990's, and she had reviewed the history of the former Newington Mall. She said they flew a drone over the malls to access the possibility of additional accessways between the Crossings and the Fox Run Wall, and then they overlay different scenarios over existing conditions. Ms. Busconi said they also looked at it from the engineering perspective to consider topography, property lines, utilities and potential wetland impact.

Ms. Busconi said the first accessway they considered was at the rear of the retail buildings, at the back corner of the Regal Theater and cutting between Birch Tree Daycare and the back of JoAnne Fabrics. The second area was on the right side of the Regal Theatre that would cut near the historic cemetery and wetlands near Party City, and the third area would be at the back of the Moko Steak House.

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Steve Glowacki, with RJ O'Connell and Associates pointed out that in addition to the utilities and wetlands, there was a nine-foot grade differential behind Kohls that would affect that accessway

Mr. Glowacki also discussed geometrical challenges with an accessway on the other side of the Regal Theater that would also cause conflicts with deliveries to the back of JoAnne Fabrics, but an accessway in front of Party City would avoid their loading area. Mr. Glowacki stated that an accessway behind Moko restaurant would create a hammerhead intersection that would negate the purpose of an additional connection and would also involve wetland impacts and create issues with storm water management.

Mr. Weiner asked what the Town's obligation in going near the historic cemetery. Vice-Chair Cross replied that none of the proposals would be within 50 feet, and that he thought a new road would provide better visibility to discourage vandalism and encourage better maintenance.

Town Planner, Gerald Coogan noted that there was an informal accessway by the Regal Cinema. Ms. Busconi agreed that there was an easement agreement for their access to the mall. Mr. Glowacki stated that they had considered widening the accessway, but the accessway leading to the Regal Theatre was very congested between the Kitchen Store and Staples, and they thought it made a better plaza area. Vice-Chair Cross agreed that it made a better walkway.

Vice-Chair Cross suggested that they consider blocking the lane facing the Regal Cinema to alleviate some of the congestion at the four-way stop and widening the existing access road from two lanes to four to improve the flow of traffic around the corner by Kohls. Mr. Glowacki suggested that a turn lane might be a better approach. Ms. Busconi said they liked the four-corner stop with the cinema at the end because she thought it slowed traffic down from using it as a thoroughfare without a stop.

Ms. Busconi commented that studies showed that contemporary shoppers in liked shopping experiences, but shoppers in their type of mall tended to want to park, go to one place, hang out on a bench and then leave. Board member, Jim Weiner asked. asked if the changes would lend itself to that. Ms. Busconi said she leaned toward more signage to assist shoppers with traveling, but they were also planning on more landscaping with benches and perhaps an outside heater that gave the feeling of a firepit. She said they thought they might place them on the corners or turn the wider sidewalk areas into patios for seasonal use. Ms. Busconi said they also wanted outside walking areas and connections for patrons that used Coast and UNH Wildcat public transportation, adding that it would be nice if there was transportation back and forth from Pease.

Vice-Chair Cross commented that he thought that walking connections between the malls were important, but that the expansion of the western most connector could be the lowest cost option and that they could adjust the fil to address the nine-foot

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grade difference and shift Fox Run Mall's salt barn. Mr. Coogan responded that moving the salt barn would require the cooperation of the Fox Run Mall.

Vice-Chair Cross commented that the Route 16, Spaulding Turnpike improvements closed northbound Exit 2 to Fox Run Road and now shoppers had to go to Exit 3 and come through the lights to Woodbury Avenue, or off Exit 1 to Gosling Road and he wondered if there was a way not to encumber the Crossings so that they could get to the Fox Run Mall.

Vice-Chair Cross noted that traffic built up on Gosling Road every day at noon and asked if there might be a way to improve traffic there. Ms. Busconi replied that it would make sense, but the big Eversource stations were in the way.

Chair Hebert commented that the accessways had been proposed in the 1990's when the malls were extremely busy, but he no longer saw the same kind of traffic jams around the holidays, so he would want to see what direction redevelopment would take in the future because he didn't want to build a road with more intersections just to build it.

Chair Hebert asked Fox Run Mall's General Manager, Anthony Guerriero with Spinoso Real Estate Group if they were considering redevelopment of the Sears building now that it had closed and if they might have any input on incorporating this accessway into redevelopment over the next six to eight months. Mr. Guerriero said it was premature to say. Chair Hebert said he understood, but he would like to know if both parties would be willing to discuss an accessway when the time comes.

Chair Hebert said he would like to know what the managers of the malls would like done. Ms. Busconi replied that they envisioned building on convenience with smaller kiosk businesses, fast casual food options, and a bank ATM to provide flexibility between day time population and summer population shifts. She added that the only way they could include residential development would be to build up to four stories with parking garages.

Chair Hebert asked about office space, and Ms. Busconi replied that they considered a mix of medical and office use with retail, but office use would require designated parking space that would need a parking structure, and she wasn't sure that would be possible with the Eversource easement going through the parking lot. Chair Hebert replied that he thought both malls had the space for parking.

Board member, Peter Welch asked if the foundations at the mall could support a second story. Ms. Busconi replied that she thought it could for uses like gyms, yoga studios, medical offices, and other office uses.

Chair Hebert stated that it was his opinion that development should be limited to commercial and office use because once residential use went into an area, the residents would vote against any kind of development that would be in conflict, as already was the case with a neighborhood surrounded by industry in Newington.

Mr. Weiner commented that he thought there was a demand for more office space for new businesses. Mr. Weiner suggested that the malls and the Planning Board

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work with the Economic Development Committee (EDC), so everyone was on the same page. Ms. Busconi responded that she thought the many members of the EDC had never attended a Planning Board meeting and would welcome a joint meeting because they had many questions about what the Town's Master Plan entailed. Mr. Coogan suggested that members might also like a tour of the malls.

B) Preliminary review of pavement replacement and parking lot improvements regarding property located at **117 Gosling Road**, LLC Tax Map #, Lot #.

Alex Ross, P.E. with Ross Engineering and the property owner's son, Bill Marple appeared before the Board to discuss their proposal to expand and improve parking for the building

Mr. Ross stated that the site of the former Sears warehouse was over 30 years old and needed site improvements to make the site more usable for businesses as their abutter had also done. Mr. Ross handed out photos that showed portions of the parking lot and entrance with poor drainage and potholes.

Mr. Ross said they hoped to expand the parking lot, install proper drainage, improve a green area in the front and improve signage, remove paving in the back and replace it with pervious pavement to mitigate small increase in front.

Mr. Marple added that the Newington Fire Department also recommended a designated fire lane next to the building. Mr. Marple said the building also needed remodeling, a new roof and interior paint, but they had no intention of expanding the footprint.

Mr. Ross pointed out that the paved road to left of building that served the Newington Waste Water Treatment had also degraded. He said he talked with plant operator, Denis Messier who said he would be happy with improvements as he had been doing patches over the years. Mr. Ross said the grade was elevated from the parking lot, so they were proposing a small retaining wall to improve parking area drainage.

Vice-Chair Cross asked if the auto dealership had access rights to use the road. Mr. Ross replied that the easement was only for the Waste Water Treatment plant and the sewer line, but the auto dealership also used it. He said the City of Portsmouth also had a sewer line on Woodbury Avenue. Vice-Chair Cross commented that the Waste water Treatment plant was likely to use the Wilcox Way access of the end of Shattuck Way when it was complete and then this use might go away for the car dealership if they didn't have rights, and then there might be some potential to expand a little more except for the sewer line and wetlands restrictions.

Mr. Coogan reminded the Board that a representative of neighboring Anytime Fitness had come in with a request to cut in some of green space to expand their parking. Mr. Ross said curbing there too. Chair Hebert replied that he didn't recall them

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expanding into their green area. Vice-Chair Cross said they raised their landscape area with railroad ties in the 1990's.

Mr. Ross said they reviewed their setup with Newington Building Inspector, Kevin Kelley who told them that they could build out to 15 feet from the road. Vice-Chair Cross replied that the Ordinance required a 75-foot setback of any structure from the front of a public way. Vice-Chair Cross added that the green was also in the public right-of-way where sidewalks might be put in, as well as treatment swales.

Vice-Chair Cross said it appeared that their drainage would go directly into the wetlands as there was no wetlands setback at the time the building was put in. He added that an expansion of a lot that was over built was the issue.

Chair Hebert said they would need to follow the setback from the brook, but he was not a big fan of pervious surfaces that tended to fill in with silt and no longer function. Mr. Ross said Mark Jacobs surveyed and delineated, surveyed the wetland. Chair Hebert said they would also need Town wetland consultant, Mark West to review the wetland too.

Chair Hebert asked what their reason was for the request. Mr. Marple replied that the building was originally built as a Sears warehouse, but there was no need for a warehouse now and they needed more parking for their tenants because it was very constrained. Mr. Marple said they had a baseball training facility, karate lessons and a photographer that stored inventory. Vice-Chair Cross suggested that they consider replace the parallel parking with angled parking.

Chair Hebert recalled that the baseball training operation said they wouldn't have more than five patrons for parking at a time, and they were told that they would be in violation if anyone was parking on the side of the road. Chair Hebert said there was a big difference between a 15-foot setback and a 75-foot setback, and while he understood that the building was built for a warehouse, but those were the existing conditions.

Mr. Marple said he didn't see any difference between their building use and the abutting building. Chair Hebert said the abutting building wasn't asking to expand their parking lot out to a 15-foot setback. Vice-Chair Cross said the neighbor's setback was 35 feet from the main parking area except for one area for handicapped parking. He said they might request less of a setback, but it would be difficult to justify less than the 35 feet than the neighbor had.

Mr. Coogan said they had 15 parking spaces and they wanted 45. He said a parking area was considered a structure that had to meet the 75-foot setback, or it would require a variance.

Mr. Coogan asked if the existing use was leaving and if another use with a larger parking need would come in. Mr. Marple replied that realtors were listing it for industrial/commercial use, and there was a lot of interest, but most tenants said they would have at least ten workers which would require ten parking spaces. Mr. Marple

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said any use would want more parking, including office use. Chair Hebert said it was also difficult not knowing what was going in.

Mr. Marple said his father, Jeff Marple was the original owner for 50 years, and he and his wife had recently relocated to the area. He asked what kind of business the Board would like to see there. Chair Hebert replied that it was not up to the Board to determine what they did with their business so long as it was a permitted use. Mr. Weiner suggested that they check with local businesses needing storage space.

Mr. Ross asked if would need to return to the Planning Board if they requested a variance. Chair Hebert replied that they would if it was for a change of use, but it was unlikely that the Zoning Board of Adjustment (ZBA) would grant a variance for a 15-foot setback.

- C) Engineering review for two-lot subdivision of property owned by John Wendell, located at 188 Little Bay Road, Tax Map #, Lot #.

Chair Hebert recused himself as an abutter, and Vice-Chair Cross assumed the chairmanship for this item, noting that there was no quorum with two members absent so this was an informal discussion.

Mr. Coogan stated that he invited the applicant back to discuss the drainage analysis because of proximity to Great Bay and to show the water line that still needed to be reviewed by Town engineering consultant, Eric Weinrieb with Altus Engineering.

Alex Ross, P.E. with Ross Engineering appeared before the Board in follow up of the proposal to subdivide the 11.84-acre parcel into a 6.5-acre lot with the original house and a 5-acre lot for a new house. said they did test pits, delineated wetlands, reviewed the large wet area and determined it was not a wetland. Mr. Ross said he talked with the City of Portsmouth Water Department and received a letter of confirmation that they would provide water service on an eight-inch line.

Mr. Ross stated the owner, John Wendell wanted to use the front as a shared drive and then split off from it for the second lot to reduce the asphalt and impact to the shoreline. He said Town regulations required separate driveways for each parcel, but the Planning Board could waive the requirement.

Mr. Ross said they would have to create another long drive with increase impervious material by 2,800 square feet if the Board would not grant a waiver for a shared drive, and it would have to be within 250' shoreline protected buffer. He said the criteria for a shoreline permit was to look at all options to minimize impervious surfaces.

Vice-Chair Cross replied that the Board allowed a couple of shared drives since the Ordinance was placed, but economics alone should not be reason for a waiver. He said he understood that a shared drive was an efficient use of pavement, but the question was if the property owners could work out an agreement for the deeds to maintain and plow the pavement. He said at some point lots would pass to another family member or be sold and there would be no way to get out of the agreement,

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except to pay to pave another driveway on either their lot or their abutter's lot which would be a coheresment.

Mr. Ross replied that they were thinking in terms of the shoreline environment, not economics. He said a shared drive was created for the Mazeau's lots off Fox Point and agreements were made that have not been an issue. Chair Hebert commented that the Ordinance changed after that development.

Mr. Coogan commented that he was not advocating shared drives but noted that there was ponding on the left side of the long drive and creating more pavement with another drive could create more runoff and more ponding.

Mr. Ross pointed out that the conduit would going up the long drive and then branch off to the second house, but they would require trenching if they had a separate drive

Mr. Ross said if he would show another plan for a second driveway if the Board was against a shared driveway, but a second driveway would require a shoreline impact permit because it would increase impacts. Mr. Ross pointed out a conduit for two driveways would also require additional trenching.

Mr. Weiner commented that he appreciated less impervious surface, but had been made aware that there were issues with abutters in this town so thought that each property should have their own driveways.

Mr. Ross said he got the sense that the Board wouldn't approve a shared drive so there was no sense in wasting the Board's time or the owner's money in the proposal.

Mr. Ross said Mr. Coogan had said this would be considered a minor subdivision of large lots. He said Mr. Coogan mentioned that drainage studies were sometimes required for sensitive areas, but he thought it was unusual for a small subdivision. He said they needed to show the driveways for connections for the City of Portsmouth, but that was all they had prepared. Denis Hebert of Gundalow Landing added that this was an expensive lot and he wouldn't want a shared drive if he owned either lot.

Mr. Hebert said he was an abutter and didn't agree that the ponded area wasn't a wetland, because it was wet much of the year. He said he knew it wasn't a vernal pool because it was hayed for many years, but it was wet enough for ducks to land there and nest there. He added that he had to pull the former owner, Jack Pare's riding mower out from the wet area, and suggested that it be a condition of approval that the area would never be developed. Mr. Welch pointed out that they couldn't develop more lots unless they put a road in anyhow.

Mr. Coogan asked if the Board wanted a drainage analysis. Vice-Chair Cross replied that the applicant provided information that it was not a wetland, but he still needed verification from Town wetlands consultant, Mark West.

Mr. Welch said grading would have to take surface flow impact into account. Mr. Ross said essentially putting in a couple of catch basins. Vice-Chair Cross suggested a

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common drainage for two catch basins with a drainage easement, and a review by Town consultants.

Vice-Chair Cross added that a DES permit would need to show the impact within the 200-foot setback and utility trench. Mr. Ross said a culvert was not necessary, but was recommended. Mr. Welch said they couldn't trench if there were wetlands unless they put in a perforated under-drain. Chair Hebert said former owner, Jack Pare augured, discovered clay and put crushed stone in the wet area.

Mr. Hebert suggested an extra conduit for a fiber line as well.

II) Planning Work Session:

A) The Malls: General Discussion

This item was already discussed previously during the Crossings discussion above.

B) Building Height in the Office District: General Discussion

Chair Hebert stated that at present the height of structures in the Office District was subject to Planning Board approval.

Mr. Coogan informed the Board that John Lorden with Tighe and Bond Engineering called to say that their proposal for a hotel between Woodbury Avenue and Shattuck Way would be for four stories and within regulations of no higher than 45 feet.

Chair Hebert said they were reviewing height because it was a good idea before issues arose.

Chair Hebert noted that the Board would be hearing other building proposals from Kane, Northeast Credit Union and Wilcox for higher stories in the area and all would have parking issues. He said a parking garage had been suggested, but the question was who would own the garage on which lot, and what would happen to parking requirements if ownership changed.

Mr. Weiner suggested that they could condoize the parking. Chair Hebert said he was concerned if agreements didn't appear on both deeds. Vice-Chair Cross replied that could be corrected.

Mr. Weiner suggested that the taller buildings around the former Family Buffet, the hotel, Wilcox Industries, and Northeast Credit Union could be a good transition blending into the Industrial and Waterfront Zones on Shattuck Way that wouldn't affect the viewscape. Mr. Welch commented that they would blend in with the industrial buildings except for the lower Whole Life Health in the former DeRochemont building and 100 Shattuck Way offices, but no residents would be affected. Mr. Weiner suggested that it would be good to invite them in collectively to see what their vision was for taller buildings.

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Mr. Coogan suggested increased development at that intersection could warrant a pedestrian crossing to the other side of Woodbury commercial area.

Vice-Chair Cross said many Board members had lived in other areas of the country where high-rises were built, and he thought that would eventually happen in Newington. He said the Board's concern was not for just one proposal at a time, but on the impact of multiple taller buildings on the community, such as a higher ladder truck, or clogging an intersection. Mr. Welch commented that the impact of changing building heights or parking requirements would be should when they did the build out on the Master Plan.

Mr. Coogan said new Board members would join this core of members and they might have good ideas for change.

III) Discussions:

Mr. Coogan informed the Board that the proposal to use the mitigation funds from Eversource's Seacoast Reliability transmission expansion project for an easement on John and Meg Ripley's property had fallen through and now they were looking for another proposal. He said they were considering a proposal for Fox Point shoreline restoration, and using an additional \$75,000 from the Fox Point Fund. Mr. Coogan stated that a second project would need to meet the Aquatic Resource Mitigation (A.R.M. funds criteria because the Department of Environmental Services often used funds on other projects.

(Mr. Coogan left at this point in the meeting at 9:29 p.m.)

Mr. Weiner said he was involved with the Economic Development Committee (EDC) in Nashua and he thought they should review taxation rules from top to bottom when reviewing developments and what their municipal costs would be. Chair Hebert added that offsite improvements could be considered for some developments as well.

IV) Other Business: Master Plan Update

It was announced that a Master Plan work session would be held at 3 p.m. on Thursday, February 21, 2019.

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Minutes: *Chris Cross moved to amend the November 19, 2018 Minutes to reflect that a motion had been made to approve the proposed library parking expansion. Jim Weiner seconded the motion, and all were in favor.*

Peter Welch moved to approve the Minutes for the January 28, 2019 meeting with corrections as noted. Chris Cross seconded, and all were in favor.

Adjournment: *Jim Weiner moved to adjourn the meeting. Peter Welch seconded the motion and the meeting adjourned at 9:40 p.m.*

Next Meeting: Chair Hebert informed the Board that Mr. Coogan received a letter from Mark Phillips to request that the continued review of Storage Barn II be extended from Monday, February 25, 2019 to March 11, 2019.

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

These Minutes were approved and adopted at the March 11, 2019 Planning Board Meeting.