

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, March 11, 2019

- Call to Order:** Chair Denis Hebert called the March 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; Peter Welch; and Erika Mantz; Board of Selectmen's Representative, Ken Latchaw; Planner, Gerald Coogan and Jane Kendall, Recorder
- Public Guests:** Mark Phillips with The Storage Barn; Corey Caldwell, with TFMoran Engineering; Jim Gove with Gove Environmental; Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering; Town wetlands consultant, Mark West with West Environmental;

### I) Public Hearings:

- A) Continuation of **Site Review** for self-storage facility by **The Storage Barn II, LLC** regarding property located at **River Road and Shattuck Way**, Tax Map 13, Lot 7A.

Town Planner, Gerald Coogan informed the Board that Town wetlands consultant, Mark West with West Environmental reviewed revised plans with the applicant's soil and wetlands consultant, Jim Gove with Gove Environmental on the previous Friday, March 8, 2019.

Chair Hebert noted that the applicant's engineering representative had previously gone over every item listed by Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering, and asked that they only review items that had not been resolved.

Corey Colwell with TFMoran Engineering stated that they submitted revised plans on January 28, 2019 for review, and they had received a letter from Altus Engineering on the revision except for their revision to mitigate the wetlands impact.

Mr. Colwell passed out a colored drawing to show the wetland buffer revisions, and their plan to plant 59 native plants and shrubs, and 39 trees for mitigation to the wetlands buffer area.

Mr. Colwell stated that they had received a written document from New England Operating Company regarding construction on the gas line easement, requiring that the

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applicant, Mark Phillips, CEO of The Storage Barn sign an approval saying he would comply with those mandates.

*(Mr. West arrived at this point at the meeting at 6:38 p.m.)*

Board member, Peter Welch stated that Mr. Weinrieb had noted that the grade over the gas line easement was too steep requiring a cut, but NE Operating Company's notes stated that that any cuts going closer to their pipeline would require addressing. Mr. Corey replied that their plans had been revised, and that they would blend into the existing contours. Mr. Weinrieb responded that cutting the grade at the pipe area would not provide enough cover by the driveway. Mr. Corey noted that there were strict guidelines regarding soil coverage over their pipelines, so they would make sure they wouldn't exceed the minimum or maximum coverage.

Mr. Colwell stated that the area was primarily a fill site and pointed out where their topsoil stockpiles would be stored and stated that their stockpiles would not be over the gas lines or wetlands buffer areas.

Mr. Phillips asked if they could discuss the wetlands issues while Mr. West and his own wetlands consultant, Jim Gove were present before continuing with the other outstanding issues.

Mr. Colwell stated that impacts to the wetlands and buffers had been made when the applicant clear cut based on an old wetlands delineation, and so the wetlands expanded as a result.

Mr. Colwell said Mr. West had suggested that they restore the vegetative state of the impacted wetlands area. Mr. West stated that he thought the restoration of these wetlands was a good improvement and the lot was good to go.

Chair Hebert said he was concerned where water from the sites would go to be sure they were not flooding a neighbor. Mr. Weinrieb responded that points of analysis were at property line, and the DES would be looking at that because of the AoT permit for the entire building site and the abutting non-development.

Mr. Colwell pointed out that Sheet C1 showed that there was a 12-inch clay pipe at the low point for water going to the middle of the island adjacent to River Road to flow. Mr. West commented that he found an old road and an old culvert that was blocked that didn't go across the lot to the culvert that drained at intersection of River, Patterson and Shattuck Way.

Chair Hebert asked if there was an issue with creating water flow with abutting properties and Mr. Weinrieb said no because of the mitigation, but he thought Mr. West should oversee the wetlands restoration to ensure that the plantings were installed properly as proposed.

Mr. Weinrieb reminded the Board that wetland plaques for wetlands buffers were also a requirement. Mr. Coogan stated that the Conservation Commission had just ordered them for property owners to purchase and place on the buffers.

Mr. Weinrieb went on to note that the guard rail and retaining wall were not identified as permanent impacts and that they should have been. Mr. Weinrieb added

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that they might want to consider moving the retaining wall up the slope, outside the no cut buffer, but that they would then need to do periodic maintenance that would allow access without going into the no cut buffer. Mr. Colwell said the retaining wall would be slightly higher if they moved it. Mr. Weinrieb replied that they could change grade slightly. Mr. Colwell said no issue then.

Vice-Chair Cross suggested that they also use rocks from the property to increase the height of the first 50 feet of the stone wall closest to Shattuck Way to make it more visible and improve the aesthetic impact.

*(This item was temporarily delayed to continue the discussion of the wetlands on the next item.)*

**B) Lot Line Adjustment by The Storage Barn II, LLC regarding property located at River Road and Shattuck Way, Tax Map 13, Lot 7A.**

*(This item was taken out of order to continue a wetlands review discussion.)*

Town wetlands consultant, Mark West with West Environmental stated that the applicant's soil scientist, Jim Gove of Gove Environmental had done soils maps, but he and Mr. Gove had differing opinions on the wetlands. Mr. West said he sent in his thoughts regarding the wetlands on the second parcel as part of the proposal for a lot line adjustment. He said the ground was still frozen when he did his examination on February 5, 2019, but he noted that the clear cutting done in March 2018 had created many long ruts that appeared to have hydrology and vegetation.

Mr. Gove stated that he did two sets of test pits for this lot, as well as for the potential expansion of wetlands. He said they found wetlands soils, but also found upland vegetation. Mr. Gove said they had to do a second test pit across the site to prepare the soil map for the Alteration of Terrain (AoT) permit, and looked at land forms, high points, valleys and ruts. He said they didn't see hydrolic soils despite poor drainage on the site, but he understood that it could develop into wetland soils over time with enough hydrology.

Mr. West responded that the wetlands was not an issue until they began development on the second lot, but the newest version of the State's wetland's manual, stated that it was an indication of wetland hydrology whenever there was wetlands vegetation, and the presence of hydrolic soils was not a requirement. He added that the removal of the large pine trees that drew water, created concave areas where water collects in this disturbed area. He said it might be one thing if they were shallow, but some were three to four feet deep.

Mr. Phillips stated that he wanted to grade the second lot, so he could loam, seed and mow to make the lot for a prospective developer. Planning Board member, Jim Weiner commented that once an area filled with water, it became under the prevue

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of wetlands regulations. Mr. West agreed, and said if Mr. Phillips it would be considered an additional wetlands impact if he graded over cattail areas.

Chair Hebert asked what the quality of these wetlands were, and Mr. West were said they were very new, and of low quality with cattails or sedges, but they would still need a permit if the Department of Environmental Services (DES) when it was determined that there were wetlands. Mr. West added that Dave Price from DES had visited the site on March 27, 2018 before seasonal vegetation began growing, but he had determined that there was an encroachment into the wetlands from the clear cutting.

Chair Hebert asked if the Planning Board could determine whether Mr. Phillips could loam and seed the lot. Mr. West said the Board could decide based on the local ordinance. He noted that a skidder could have back dragged fill at the time of clearing, but they didn't so now they couldn't be filled in. Mr. West stated that there were many isolated wetlands with no buffer setback requirement because they were under a certain size so there was no issue with working beside those areas.

Mr. Gove pointed out that any disturbance over 100,000 square feet needed an Alteration of Terrain permit, so he had no issue with DES taking a second look to determine if there was an issue or not, and suggested that the Board table the question until DES decided on the adjacent property. Chair Hebert replied that they would need to do a side bar and then get back to the Board. Mr. Weinrieb agreed that whatever they did with this parcel could impact the other building development being discussed.

Mr. Colwell stated that they would grade and create a bioretention area as shown on Sheet C4.

Mr. Colwell summed up his comments, stating that they would install granite boundary markers as shown on their lot line adjustment plan to increase the frontage on River Road, to increase the lot make the lot less non-conforming.

- A) Continuation of **Site Review** for self-storage facility by **The Storage Barn II, LLC** regarding property located at **River Road and Shattuck Way**, Tax Map 13, Lot 7A.

*(Discussion on this item was continued after a taking the discussion of the previous item out of order.)*

Mr. Colwell stated that the Board needed to vote on a parking and lighting waiver because the storage facility had no need for the full parking requirement and had no need for as much lighting. Mr. Weinrieb agreed that they didn't need to install additional lights, but suggested that they install a conduit so there would be an opportunity to add lights if needed.

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Mr. Phillips stated that the lights would have be on timers and have motion detection. Chair Hebert suggested the use of a sensor rather than a timer, and Mr. Phillips agreed that a sensor would be more economical.

*Board members approved of the waiver unanimously.*

Mr. Colwell informed the Board that they had revised their landscape plan, including 39 native trees for the wetlands buffer, and 59 native plants and shrubs to restore the wetlands that had been impacted from the clear cutting.

Mr. Weiner, Co-Chair of the Conservation Commission stated that the applicant had presented their proposal at their February 2019 meeting, but that they wanted to wait until they had heard Mr. West's most recent review of the wetlands impact first. Mr. Weiner said there were only two tree species proposed at the time, including white pines that were vulnerable to needle cast die off, so they suggested a different species, along with another species to ensure greater survival should any disease or pests attack a single species. Mr. Colwell replied that they had added another species and noted that Mr. West had approved the revised plan, but recommended that they replace the hybrid "Sparkle" winterberry with a native winterberry, and use a native wetland seed mix and mulch around the wetlands plantings to prevent the soil from moving.

Mr. Colwell said they would present an update on their landscape plan to the Conservation Commission at their upcoming Thursday, March 14, 2019 meeting. Chair Hebert suggested that the Board could make the Conservation Commission's approval of the landscape plan a condition of the Planning Board's approval.

Mr. Colwell stated that he met with Code Enforcer, Kevin Kelly on February 14, 2019 and Mr. Kelly agreed that there was no need for the full parking requirement for a storage facility, that the lighting was safe for night time parking, and that Note 22 on Sheet C2 stated that future parking would not to be constructed unless inspected by the code enforcer. Mr. Weinrieb said he thought the note meant if the building inspector deems, but he suggested tightening the note so that it wouldn't be so flexible. Chair Hebert said they could have the code enforcer require that they return to the Board if an expansion of parking spaces were required by necessity or deemed by the Planning Board for a change of use.

- B) Conditional Use Permit** for wetland buffer improvements for the development of a self-storage facility as proposed by **The Storage Barn II, LLC** regarding property located at **River Road and Shattuck Way**, Tax Map 13, Lot 7A.

Corey Colwell with TFMoran Engineering stated that Jim Gove with Gove Environmental prepared the Conditional Use Permit that would be essential to the completion of the development. Mr. Gove added that they received comments from Town wetlands consultant, Mark West, and that they would provide greater detention to

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mitigate the increase in runoff in the wetlands buffer. Mr. West agreed that they were all set with the permit.

### Approval of Storage Barn II

Chair Hebert informed the applicant that Mr. Coogan put together a motion for approval with the conditions for the Board to consider.

*Jim Weiner moved to approve the Site Review for a self-storage facility by The Storage Barn II, LLC to be located at River Road and Shattuck Way, Tax Map 13, Lot 7A with the conditions as described below.*

*Ken Latchaw moved to approve the Lot Line Adjustment by The Storage Barn II, LLC regarding property located at River Road and Shattuck Way, Tax Map 13, Lot 7A with the conditions as described below.*

*Ken Latchaw moved to approve the Conditional Use Permit for wetland buffer improvements for the development of a self-storage facility as proposed by The Storage Barn II, LLC regarding property located at River Road and Shattuck Way, Tax Map 13, Lot 7A with the conditions as described below.*

1. Resolving specific site issues prior to any construction:
  - a. Correct all technical issues identified by Altus Engineering;
  - b. Complete wetlands mitigation activities in accordance with the TFM wetlands restoration and buffer mitigation plan and review comments by West Environment;
  - c. Obtain all State and local permits such as NH DES (AoT and Wetlands Bureau) and others if needed
  - d. Record Stormwater management maintenance requirements;
2. Regarding administrative activities:
  - a. Provide funds for 3rd Party engineering inspection services;
  - b. Provide a PDF of the FINAL approved plans, which reflect all changes required as part of the approval process, including technical review comments;
  - c. Provide a digital copy of the plan, a copy of the mylar for Town records, and a mylar suitable for recording at the Rockingham County Registry of Deeds (RCRD) with appropriate recording fees (depending on mylar size) with separate fee for Land Conservation Historic Investment Program (LCHIP), made payable to the Rockingham County Registry of Deeds, and three (3) copies of the final plan as approved by the Board

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3. One Hundred percent (100%) of the total cost of landscaping (\$ to be determined based on final approval plant count) shall be held for a period of two (2) growing seasons to guarantee the survival of the landscaping installation;
4. Ten percent (10%) of the site improvement cost estimate shall be provided as a site improvement and restoration security, a performance guarantee to be held until all site improvements are completed in a satisfactory manner. The applicant shall complete all site improvement work prior to the issuance of a certificate of occupancy;
5. All final approvals by the Planning Board expire within two (2) years from the date the Planning Board approval of the site plan, unless the Board grants an extension. See Section 23 – Site Approval Expiration, Site Plan Review Regulations.
6. Work is not to be started before final plans are approved and the mylar is signed and State and Town Permits have been received.
7. Address the concerns of Mark West for the restoration of the disturbed buffer and wetland system.
8. Modify CUP plan to include retaining wall and guard rail as permanent disturbances.
9. Move retaining wall away from wetland buffer to minimize future disturbances.
10. Modify note 22 (future parking spaces) on the Site Plan Sheet C-2 to the satisfaction of the Planning Board.
11. Meet the requirements of the M & N Operating Co., LLC, nature gas pipeline company as described in their March 4, 2019 letter. This will likely require the M & N Operating Company to conduct site inspections during construction.
12. Purchase wetland plaques from the Town of Newington Conservation Commission for placement around the wetlands buffers.
13. Provide a copy of the landscape plan that is signed by a licensed landscape architect or designer and obtain approval of the landscape plan from the Conservation Commission.
14. Schedule a preconstruction conference with Town engineering consultant, Eric Weinrieb, Principal P.E. with Altus Engineering
15. All Newington Zoning Ordinances and Regulations for the as built plans shall be met unless waived by the Newington Planning Board

*Erika Mantz seconded the motion for the Site Review approval and all were in favor.*

*Chris Cross seconded the motion for Lot Line Adjustment approval and all were in favor.*

*Erika Mantz seconded the motion to approve the Conditional Use Permit for wetland buffer improvements and all were in favor.*

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Mr. Colwell reminded the Board that they had requested two waivers, including a waiver from Zoning Ordinance Section 13C on traffic controls provided for safe access regarding a handicapped parking and a stop sign. Chair Hebert replied that he couldn't see any reason for waiving such a request, but agreed to waive the waiver from the lighting requirement.

*Erika Mantz moved approve the lighting waiver. Chris Cross seconded the motion, and all were in favor.*

Discussion continued regarding the lighting. Mr. Weinrieb said the police department wanted only wanted motion detection to alert them if someone was on the site. Vice-Chair Cross commented that the Board could make suggestions, but they couldn't make a mandate without an ordinance.

Vice-Chair Cross asked what the plan was for completing Storage Barn I and II. Mr. Phillips stated that they would complete landscape on Storage Barn I after the ground thawed and complete the swale. He said he would pour the foundation for the addition to the cape in 30 days.

Mr. Phillips said he would begin work on Storage Barn II as soon as all approvals were in. He said they were at least 30 days out to review and then he was hoping they could begin by April 2019.

Mr. Weinrieb asked what was going on to clear trees for Sponge-Jet's solar panels on their roof, and Mr. Phillips said they were returning to the Conservation Commission on Thursday, March 14, 2019.

Vice-Chair Cross asked when the storage piles of soil would be eliminated on the second parcel. Mr. Phillips replied that he didn't know if there were any limitations, but there was no storage on the Storage Barn I site, and he intended to process the soil to use the loam.

### **II) Old Business:**

Mr. Welch updated the Board that three bills to provide funding for dredging for the Port Authority wouldn't take place until 2012. He added that dredging for a turn basin in the Piscataqua River that was scheduled for 2019 also seemed to be stuck.

### **III) Other Business: Master Plan Update**

Mr. Coogan informed the Board that Theresa Walker with Rockingham Planning Commission (RPC) could not join them for a work session until March 28, 2019. The work session was scheduled for 3:30 p.m.



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**V) Additional Discussions:**

**A) Eversource "Seacoast Reliability" Transmission Expansion Updates**

Chair Hebert informed the Board that the FCC was held earlier in the day and that Durham's motion to reconsider was denied.

Chair Hebert stated that they had a license to proceed depending on the Supreme Court ruling. He said that Eversource asked the Town to be reasonable regarding their impacts on scenic roadways, and that they would inform the Board regarding moving poles and roadway conditions.

Mr. Coogan stated that Eversource would need to present a plan and a map in a public hearing before the Planning Board if they wanted to remove trees or poles. He added that Consolidated Communications told them that Eversource would own and be responsible for any poles that they removed.

Mr. Coogan informed the Board that the \$121,000 that was approved for wetlands mitigation was guaranteed to the Town of Newington, even if their application for an Aquatic Resource Mitigation (A.R.M.) grant was denied.

Mr. Weiner stated that he talked with someone in town who was no longer able to bring their work truck into town after 20 years of doing so because of the restriction preventing 20,000-pound trucks from entering, and was asking who he would talk to for relief. Chair Hebert said he could talk with the Board of Selectmen, but the ban was only until March to prevent pot holes from the frost heaves.

**Minutes:** *Jim Weiner moved to approve the Minutes for the February 11, 2019 meeting with corrections as noted. Peter Welch seconded, and all were in favor.*

**Adjournment:** *Peter Welch moved to adjourn the meeting. Erika Mantz seconded the motion and the meeting adjourned at 8:21 p.m.*

**Next Meeting:** Monday, March 25, 2019

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

*These Minutes were approved and adopted at the March 25, 2019 Planning Board Meeting.*