

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, October 25, 2021

- Call to Order:** Chair Denis Hebert called the October 25, 2021, meeting at 6:00 p.m., followed by the pledge of allegiance.
- Present:** Chair Denis Hebert; Board Members: Christopher Cross; Ben Johnson and Peter Welch; Alternate Board members, Rick Stern and Jim Weiner; the Town Planner, John Krebs and Jane Kendall, Recorder
- Absent:** Board member, Russ Cooke; and Board of Selectmen's Representative, Bob Blonigan
- Public Guests:** Mark Phillips

Chair Hebert extended thanks on behalf of the Board to Vice-Chair Mantz for her service.

I) **Public Hearing:** Continuation of Residential 4-lot Subdivision of 21.26 acres new road frontage on property owned by Joseph and Paula Akerley that was located at 325 Fox Point Road, Tax Map 9, Lot 2.

Town Planner, John Krebs passed out the most recent plans from CivilWorks. Chair Hebert stated that it had been the intent to wrap up the application, but the applicant's engineer did not submit plans until the previous Friday, October 22, 2021.

Chair Hebert said because they were not able to pull the complete plans together for the Board to review in a timely manner before the meeting, they would need to continue the meeting to a date certain to extend the 65-day time clock.

Chair Hebert announced that both alternate members would vote because Vice-Chair Mantz had resigned, and two members were absent.

Peter Welch moved to extend the public hearing for the five (5) residential house lots Subdivision application of 21.26 acres with new road frontage on property owned by Joseph and Paula Akerley that was located at 325 Fox Point Road, Tax Map 9, Lot 2 to Monday, November 8, 2021. Ben Johnson seconded the motion, and all were in favor.

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II) **Work Session:**

A) Review of potential sale of Town property located on former off-ramp from Woodbury Avenue to Patterson Lane as requested for recommendation by the Board of Selectmen.

Chair Hebert informed the Board that he had reconsidered the sale of the parcel upon further thought because there could be a lot of utilities going through the easement, and it might be wise for the Town to maintain utilities. Chair Hebert added that the Air Force couldn't sell the easement to a private entity, but they could give it to the Town. Chair Hebert said the Town received a fee for right-of-way, and someone might be able to use the use the conduit.

Alternate Board member, Rick Stern responded that the Town wasn't allowed to lease land. Chair Hebert said legal counsel had told him that they could.

Mr. Stern added that the RSA states that towns can only lease properties yearly. Chair Hebert responded that two attorneys said they could create a legal mechanism for long term leases.

Mr. Stern said he would be concerned with liability if there was digging on or near a Town held utility easement. Chair Hebert said the Town already owned the parcel, and even he didn't think the soil was contaminated, three quarters of town soils were contaminated from Air Force runoff, and he didn't petroleum-based asphalt from paving would make it any worse.

Alternate Board member, Jim Weiner agreed with concerns for utilities below.

Board member, Ben Johnson asked if the property had to go up for bid as previously mentioned. Mr. Krebs said he talked with Town Administrator, Martha Roy, and the Board of Selectmen said they wouldn't have to put it up for bid. Chair Hebert added that a large parcel would have to go up for bid, but not such a small parcel as this.

Mr. Krebs commented that it was common for towns to sell properties, whether from taking a parcel for back taxes, or a right-of-way if there was a reason to sell.

Chair Hebert asked Mr. Johnson to abstain from voting because he might have an interest in the property.

Board member, Chris Cross said the frontage requirement was significant, but these were grandfathered lots, and combining lots with abutters should be considered to create reasonable sized parcels.

Mr. Cross added that it would be a fractional gain for a building close to a pipeline that could be dangerous.

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Chair Hebert stated that anyone purchasing the lot without owning the abutting lots could allow a property owner to say he had rights, so it would be better if the Town owned, and transferred the easement.

Chair Hebert asked the Board to rescind their previous motion, and make a new motion recommending that the Town retain ownership, and legally convey use with an easement or lease for adjoining properties.

Jim Weiner moved to rescind the Board's previous motion recommending the potential sale by the Board of Selectmen of Town owned property located on former off-ramp from Woodbury Avenue to Patterson Lane, and instead have the Town retain ownership, and legally convey use with an easement or lease for adjoining properties. Peter Welch seconded the motion, and all were in favor.

III) Other Business and Discussions:

(This item was taken out of order.)

The Board held a brief discussion on the naming of Town roads. Chair Hebert recommend that they stick with the standard of naming roads after local coves, inlets, or historic names.

Mr. Cross said former Historic District Commissioner Gail Pare said Dave Hislop had done some historical research, and found a reference to Steven's Point, Zachary's Point, and Trickey's Cove surrounding the Shackford lot.

Mr. Welch noted that there was a monument for Trickey's Cove was on the other side of the bridge, but Hebert pointed out that Trickey's Cove was on the left side before the bridge was built nearby.

B) Discussion of potential Zoning Ordinance and Regulation Amendments

Mr. Krebs said he kept a list of zoning and regulation issues that came up through the year, and presented ten items that he thought were time sensitive.

1. **ZO, Article III, Page Z-11** Add reference to "Workforce Housing Overlay Zone"

Chair Hebert stated that he thought that this was only an administrative correction.

Mr. Krebs said he would have Town counsel, Attorney John Ratigan review all amendment recommendations.

Discussion ensued regarding overlay districts.

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Mr. Cross asked why the Historic District was not listed as an overlay district. Mr. Krebs responded that that most towns had wetland overlay zones, and natural resources districts, and just added or modified their regulations for overlays because wetlands sometimes move rather than change districts.

Chair Hebert noted that Shattuck Way was an overlay district that was given special consideration for existing buildings. Mr. Krebs said they could add Shattuck Way and along with Workforce Housing.

Peter Welch moved to add a reference to Workforce Housing Overlay and Shattuck Way Overlay to ZO, Article III, Page Z-11 Overlay DistrictS. Jim Weiner seconded, and all were in favor.

2. ZO, Section 5, Page Z-53

Mr. Krebs stated that an ordinance couldn't be repealed where there was a conflict, but the more stringent ordinance would apply.

Chair Hebert commented that such a statement was already in the Ordinance.

Mr. Weiner said there would be no problem mentioning it twice, and cross referencing.

Peter Welch moved to recommend an amendment to ZO, Section 5, Page Z-53 to include: "in cases where a zoning ordinance or parts thereof may be in conflict with another section, the more stringent shall apply". Jim Weiner seconded, and all were in favor.

3. ZO, Definitions, Page Z-5: Frontage and Front Yard

Mr. Krebs stated that there needed to be clarification to avoid misinformation on front yards, corner lots and multiple frontages.

Mr. Krebs said frontage shall mean the width on a public right-of-way, and the Planning Board would determine frontage with the full width of a lot, but it also said that both roads on a corner lot would require a front setback.

Chair Hebert said the original intent was for the Planning Board to determine frontage on parcels that were on more than one road so that all the buildings would face in the same direction.

Mr. Weiner commented that some applicants might disagree because they wanted to determine their own frontage, and he wondered if that would create a problem.

Board member, Peter Welch noted that Town counsel, Attorney Keriann Roman had recently stated that the Ordinance required front setbacks from both roads on a corner lot. Mr. Krebs said the concern was requiring front setbacks on both roads limited property owner's use of their parcels.

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Mr. Cross commented that they needed to consider which front setback would be most advantageous to the Town in conforming to the 200 feet of frontage required. Chair Hebert responded that they also needed to be more builder friendly, so 300 feet of frontage wouldn't be required.

Mr. Johnson asked if they would also need to change the reference on Page Z-23. Chair Hebert responded that that reference came out of consideration of lots that had 150 feet of frontage on one side and 50 feet on the other of a corner lot that would prevent the use of a building lot even though they had sufficient acreage.

Mr. Krebs added that the ordinance didn't address the type of road, such as when the property was on a State highway, so they might want to specify that frontage, and the front setback would be on a public right-of-way that provided access to the lot. Chair Hebert responded that was on the Page Z-23 footnote already.

Mr. Krebs suggested that frontage shall be only portion of lot that shall be subject to a front setback, and the Planning Board shall determine which right-of-way was subject to front setbacks.

Peter Welch moved to recommend an amendment to ZO, Definitions, Page Z-5: Frontage and Front Yard to say frontage shall be only portion of lot that shall be subject to a front setback, and the Planning Board shall determine which right-of-way was subject to front setbacks. Ben Johnson seconded the motion, and all were in favor.

9. ZO, Section 7C, Page Z-16

Mr. Krebs recommended getting rid of the residential use for the historic property on Bloody Point.

Chair Hebert commented that the Bloody Point house was never intended for residential use.

Mr. Krebs said the building was owned by the State, and now they were selling the lot that also included parcels on the other side of the bridge, so he wondered if the State should subdivide because he didn't see how they could sell disconnected parcels.

Chair Hebert noted that the Newington Historic Society, not the Historic District Commission (HDC) wanted the Town to buy the Bloody Point building, but it would cost \$350,000 to fix. Mr. Cross responded that the reason was that Historic Society could apply for grants, but the Historic District couldn't.

Mr. Cross said that they intended to submit a petition to expand the Historic District locations. Mr. Krebs noted that people could either submit a request to the Planning Board to change a zoning district, or they could submit a petition for a ballot vote that would go before the Planning Board for recommendation.

Mr. Cross recommended establishing a Historic District 1 (HD1) and Historic District 2 (HD2).

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Mr. Krebs agreed that they should have made a Historic District overlay, but Mr. Cross' suggestion was clean. Mr. Krebs suggested that they amend the Ordinance to say that residential uses were permitted in Historic District 1 (HD1), but HD2 on Bloody Point was only to be used for non-residential purposes.

Mr. Cross suggested that uses include those permitted in the Waterfront-Industrial Zone. Mr. Krebs responded that Bloody Point abutted the Office Zone.

Mr. Stern commented that the value of the lot would go down if residential use wasn't allowed. Mr. Krebs responded that it would be in keeping with the Planning Board intent to keep residential use away from the other side of the Spaulding Turnpike.

Mr. Stern asked if making the site a park would be allowed. Mr. Krebs replied that the Town could do whatever they wanted if they wanted to buy it, but the State was not giving it away. Chair Hebert responded that the site was surrounded by the Office, and Waterfront-Industrial Zones that would be a better use.

Chris Cross moved to recommend amending ZO, Section 7C, Page Z-16 with the addition of the existing Nimble Hill Road Historic District 1 (HD1), and Bloody Point Historic District 2 (HD2) with the same uses allowed in the adjacent Office Zone. Peter Welch seconded the motion.

Mr. Johnson asked if the Historic District regulations would determine how buildings were built in the Office Zone. Mr. Krebs responded that the last sentence in C1 states that the use would be subject to provisions of the Historic District Ordinance regulations, but he didn't think it fair to apply to a commercial building.

Chair Hebert said the HDC looked at architecture, and was supposed to work with the Planning Board that suggested uses allowed for the zones. Chair Hebert said they might need to update the provisions of the Historic District Ordinances or specify that they work together to avoid issues.

The motion passed with in favor.

10. ZO, Article XV, Section 2, Page Z-49: Ground mounted solar arrays

Mr. Krebs said he suggested that applicants present their proposal before the Board in addition to the building inspector to be sure that they complied with the regulation for screening from all property lines.

Chair Hebert said the building inspector would only be required for a roof mount, but the Planning Board for a ground mount, and suggested that they submit requests for a Conditional use Permit to the Town planner. Mr. Krebs said they should go before the Board, so abutters were notified.

Mr. Weiner said they should specify that the array be non-reflective too.

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Chair Hebert said he was more concerned with reflection toward airplanes, and non-reflective material would address that issue. Mr. Cross commented that the same thing could happen with a roof mounted solar panel, and asked if they would apply the same restriction. Mr. Weiner said he would recommend non-reflective material for anyone.

Mr. Johnson said he got an estimate for three panels less of non-reflective panels that cost less. Mr. Weiner said he believed it would cost one and a half times as much, but would last longer, and provide better output.

Mr. Weiner suggested that they also specify year-round evergreen screening.

Mr. Cross commented that they needed screening that blocked abutters' views of the ground mounts, but screens would need to be at 30 degrees to get sunlight in December, and 70 degrees in July.

Mr. Krebs said the term dense screening was difficult to measure. Chair Hebert said the sun's angles changed with the seasons, so he would be satisfied with deciduous plantings as well.

Mr. Krebs commented that many lots were not suitable for ground mounted solar systems. Chair Hebert responded that they needed to consider the criteria for acceptance of location that was least noticeable from abutters and the road, and the placement of a screen.

Mr. Krebs said he would work on the language.

C) Continuation of Capital Improvements Program Discussion

Mr. Krebs presented his draft proposal, and reviewed department submissions with the Board.

Chair Hebert noted that the Board of Selectmen only listed industrial roads, and did not list residential roads.

Mr. Welch noted that only paving was listed, but some roads needed rebuilding.

Chair Hebert informed the Board that the Cemetery Commission wanted to put up cremation boxes, so that should be submitted. Mr. Cross added that the plan was to use the existing maintenance building for columbariums, with another being built 20 years later.

Chair Hebert noted that the impact of growth of school age children was listed on page 11, but the population had decreased. Mr. Cross responded that the populations were essentially level considering what they had been when the school was built for the children from the former Pease Air Force base. Chair Hebert said they would see an increase with new subdivisions.

Mr. Krebs said the Town was generating more taxes exponentially, and it would be interesting to see the tax changes on houses that had no changes over the past 20 years. Mr. Cross said the State had added 40% to taxes.

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Chair Hebert commented that departments used to present a warrant to the Town when they wanted to hire more full-time employees, but now they were hired under department budgets.

Discussion ensued regarding vehicles for the fire department. Chair Hebert said one way of collecting funds for the CIP was to present a warrant article. Mr. Krebs said he was not sure that older residents would want to pay in advance for items they wouldn't use when they wouldn't be around for after 10 years.

Mr. Krebs said body cameras isn't entire cost, there's also training, and replacement after 5 years so that was a reoccurring expense.

Mr. Krebs said the cost of body cameras was listed as \$120,000, but it also required training, and replacements after five years, so that was a reoccurring expense.

Chair Hebert said the Board of Selectmen didn't want to rebuild the Stone School, but they should have an independent consultant do a study on possible uses. Mr. Weiner agreed, but said he wasn't sure on how studies could be done that weren't biased.

Chair Hebert stated that the Planning Board might need to complete the Capital Improvements Program (CIP) as they have before if the Town administrator was too busy.

III) Other Business and Discussions:

(This item was taken out of order previously.)

Minutes: *Peter Welch moved to approve the Minutes for the September 13, 2021, meeting. Jim Weiner seconded, and all were in favor.*

Peter Welch moved to approve the Minutes for the September 27, 2021, meeting with corrections as noted. Rick Stern seconded, and all were in favor.

Chris Cross moved to approve the work session Minutes for the October 4, 2021, meeting with corrections as noted. Rick Stern seconded, and all were in favor.

Adjournment: *Peter Welch moved to adjourn the meeting. Jim Weiner seconded the motion and the meeting adjourned at 9:41 p.m.*

Next Meeting: Monday, November 8, 2021

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