

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, November 30, 2020

- Call to Order:** Chair Denis Hebert called the November 30, 2020 meeting at 6:30 p.m., followed by the pledge of allegiance.
- Present:** Chair Denis Hebert; Vice-Chair Erika Mantz; Board Members: Russ Cooke; Christopher Cross; Ben Johnson; and Peter Welch; Alternate Board member, Jim Weiner; Board of Selectmen's Representative, Ken Latchaw; and Jane Kendall, Recorder
- Absent:** Alternate Board member, Rick Stern, and Town Planner, John Krebs
- Public Guests:** John Newick; Paige Libbey with Jones and Beach Engineering

I) Public Hearings: Subdivision proposal by John Newick regarding property located at 34 Fabyan Point Road, Tax Map 47, Lot 6

Board member, Ben Johnson recused as an abutter on this item.

Paige Libbey with Jones and Beach Engineering appeared before the Board to present with applicant, John Newick's proposal for a subdivision of is 4.4 acres.

Mr. Libbey stated that there was water service on the lot already, and the original subdivision showed a driveway stub to access the field that could access the proposed lot.

Ms. Libbey said that the leach field for Mr. Newick's house was on the proposed lot, so they would need to relocate it before selling the new lot.

Ms. Libbey showed a voluntary 34-foot setback, and Town Planner, John Krebs suggested making it an easement instead of a setback. Chair Hebert said the Planning Board was only concerned with a 15-foot setback, but was not concerned with deed restrictions. Ms. Libbey said the applicant would prefer an easement so they wouldn't have to go for a side setback variance.

Chair Hebert asked what the plan was to be sure the septic would be put on the new lot. Ms. Libbey replied that they would be able to file for a septic permit from the New Hampshire Department of Environmental Services (DES) once they received approval for the subdivision. Chair Hebert said he would want to be sure that was in the

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conditions for approval. Vice-Chair Mantz noted that it was listed in #6 on Mr. Krebs' recommendations for approval. Chair Hebert responded that #6 needed to clarify that that there would be no sale of the new lot until DES approved the septic, and it was installed in the right location. Mr. Newick stated that the current system was installed when he remodeled his home 18 years earlier. Board member, Chris Cross said the septic for Mr. Newick's home needed to be installed on his lot, but only a perk test was required for subdivision approval.

Board member, Russ Cooke said he didn't think the Board should approve the subdivision until the requirement was made clear. Chair Hebert said he thought a condition to say that the subdivision would not be approved until the septic system was approved by DES, and that the lot could not be sold until the septic system was installed; however, the subdivision could be approved without the installation of a septic system.

Chair Hebert asked if the applicant was selling the property as a buildable lot, and if they had done a perk test. Ms. Libbey replied that they had already received approval for perk tests.

Mr. Cross read page 12, Section 4 from the Subdivision General Requirements for the Bord. Chair Hebert responded that he had checked with Town counsel, Attorney John Ratigan, and that requirement was for a buildable lot subdivision. Mr. Cross commented that it didn't differentiate between buildable or non-buildable lots, and he was trying to ensure that there would be no hardship in future. Chair Hebert said he believed the applicant was meeting all the regulations for a buildable lot, and the Board could discuss the wording of the regulations further at another time.

Chair Hebert commented that he wasn't sure if the Board had granted the existing curb cut as a lot of record, so the applicant, or new owner would need to return to the Board if they wanted to move the curb cut at a later date due to the placement of the house.

Chair Hebert stated that Alternate, Jim Weiner would be voting.

Ken Latchaw moved to accept the subdivision proposal by John Newick regarding property located at 34 Fabyan Point Road, Tax Map 47, Lot 6 as substantially complete. Peter Welch seconded the motion, and all were in favor.

Chair Hebert closed the public discussion.

Jim Weiner moved to approve the subdivision proposal by John Newick regarding property located at 34 Fabyan Point Road, Tax Map 47, Lot 6 with the following conditions:

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1. The owner's name shall be added to both the existing lot and the proposed lot on sheets 1 and 2 of the Plan set;
2. The applicant or owner of Lot 47-6C shall apply for and obtain a Driveway Permit for the lot prior to the issuance of a Building Permit;
3. David Collier, NHLLS shall sign the final paper and Mylar Plan set;
4. The applicant shall remove the 30' voluntary side setback Note on Sheet A1. The applicant may place the same restriction in the deed to the lot; however.
5. Plan Notes 5, 6 and 7 should be deleted from Sheet A1, as they are not applicable to this application. Plan Note 8 shall be amended by deleting the first sentence;
6. The Plan Note stating that the "Existing Septic for 34 Fabyan to be removed" shall be amended to state: "Prior to the sale of the new lot, the septic leach field, tank and piping located on Tax Map 47, Lot 47-6C shall be moved in its entirety to the existing house off-site in accordance with applicable NHDES Regulations."
7. Sheet D1 shall be removed from the Plan set. The only relevant detail is the Typical Driveway Sections, which can be added to another sheet in the Plan set, a single 8.5"x11" sheet, submitted as part of the application, or deleted altogether as it is not required;
8. Plan Note 12 on Sheet A1 should be amended by adding "...Town of Newington tax records **acquired on** __/__/____ (date)...and are subject to change";
9. Plan Note 2 on Sheet A1 shall be amended by adding a table containing the required dimensional requirements *and* the lot dimensions for each lot, including lot areas, frontages, and setbacks. Additionally, the Form Factor Calculations provided in Plan Note 14 shall be included in the Note;
10. A Note shall be added to Sheet A1 stating that "All utilities shall be located underground";
11. The NH LLS shall provide a certificate guaranteeing placement of all monumentation depicted on the Plan, with his LLS stamp and signature;
12. A PDF of the FINAL approved plans shall be submitted which reflect any and all changes required as part of the approval process;
13. Provide two copies of 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;
14. All final approvals by the Planning Board expire within two (2) years from the date the Board approved the Subdivision, unless the Board grants an extension.

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Peter Welch seconded the motion, and all were in favor.

II) Additional Discussions:

The Board had a brief discussion regarding septic requirements for subdivisions.

Chair Hebert said a portion of the Darius Frink Farm had been subdivided for an agricultural lot, and no perk test had been done. Chair Hebert went on to say that he thought that Attorney Ratigan had told him that there was an RSA that said perk tests were not required for non-buildable subdivisions that might be used for other uses such as storage or agriculture, but he would look into it.

Mr. Cross said he thought that the Frink easement was put in reserve outside of the Heritage restrictions, and was not an actual subdivision.

Mr. Cross said he didn't see how a lot could be subdivided in the Residential Zone without a perk test, and expressed concern with a lot being approved and sold without a perk test, and then someone putting in a septic system. Mr. Cooke commented that a septic could be put in almost anywhere if a property owner was willing to put in fill.

Alternate Board member, Jim Weiner expressed concern with the poor air circulation in the Town Hall, and staff walking around without masks as the COVID pandemic continued, possibly for the next year and a half. Mr. Weiner said the Board and the Town needed to consider option to continue meetings that would also allow members of the public to participate.

Chair Hebert responded that he wasn't sure of all the solutions available, but there was a provision to cancel all meetings if necessary. Chair Hebert said the Zoning Board of Adjustment said they didn't want to meet at all for the month of December.

Chair Hebert said he would like to see a greater distance than six feet between people.

Chair Hebert said Zoom meetings were a possibility, but many Board members didn't like them, and it was difficult for the Planning Board to review drawings if not in person. Mr. Weiner said it was possible for applicants to send out PDF files with drawings.

Mr. Cross agreed that the Town needed to provide opportunities for applicants, the public, but they also needed to consider the health risks. Mr. Cross said there was a right-to-know law for all boards, but meetings might not be possible for a high-risk abutter, and agreed that a call-in number, or a number to join online meetings could work. Mr. Cross said they could also do Zoom meetings that anyone in Town could join if there was a lockdown from the pandemic.

Board of Selectmen's representative, Ken Latchaw informed the Board that the Town had purchased equipment for recording and posting all meetings on the Town website, and Zoom meetings could be viewed as they were happening.

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Chair Hebert asked if the Board of Selectmen wanted to record meetings because of the pandemic or another reason. Mr. Latchaw replied that they decided it would be beneficial because of the virus, and also because residents wanted to view meetings that they couldn't attend in full.

Mr. Cooke wondered how many people would want to watch meetings after the fact, and thought people would be more likely to view a live Zoom meeting. Mr. Latchaw responded that many residents in the Town didn't have or want a computer. Chair Hebert added that they could call and complain that they weren't able to participate, and then the meeting would have to stop.

Chair Hebert noted that Town Meeting was coming up, and that many didn't attend in March 2020 because they were uncomfortable with public gatherings. Mr. Latchaw responded that the Town of Peterborough held their meeting online, and posted it online. Chair Hebert added that some towns delayed their town meetings until the weather improved for outside meeting.

Board member, Peter Welch asked if the Town was investigating UV methods to clean the air with smaller filters. Mr. Latchaw replied that Newington Public School had them, and that the Town was researching them.

Mr. Welch said the library was also looking at a disinfecting system, and Mr. Latchaw said he expected the Town to acquire something similar soon.

Mr. Latchaw noted that one sanitizing method was to use cleaning equipment to mist the air. Mr. Welch said there were portable systems as well. Mr. Cross said the Congregational Church misted after services until last week, but it did nothing to protect people during a gathering.

Chair Hebert suggest that the Town contact Lonza about what filters they used. Mr. Johnson commented that Lonza had shut down on this day because one or more of their employees tested positive for COVID despite having 150 full-time cleaning people on three shifts.

Mr. Cross commented that he was sure there were State agencies in Concord that had determined ways to hold large public meetings, rather than rely on the small Board members.

Minutes: Chair Hebert said he thought that the Board already *approved the Minutes for the October 5, 2020, but didn't see them on the Town website.*

Jim Weiner moved to approve the Minutes for the November 16, 2020 meeting with corrections as noted. Russ Cooke seconded, and all were in favor.

Adjournment: *Ken Latchaw moved to adjourn the meeting. Erika Mantz seconded the motion and the meeting adjourned at 7:30 p.m.*

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Next Meeting: Monday, December 28, 2020

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

These Minutes were approved and adopted at the January 4, 2021 Planning Board meeting.