

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, December 13, 2021

- Call to Order:** Chair Denis Hebert called the December 13, 2021, meeting at 6:00 p.m., followed by the pledge of allegiance.
- Present:** Chair Denis Hebert; Board Members: Russ Cooke; Jim Weiner; and Peter Welch; Board of Selectmen's Representative, Bob Blonigan; Town Planner, John Krebs and Jane Kendall, Recorder
- Absent:** Vice-Chair Christopher Cross; Board member, Ben Johnson; Alternate, Rick Stern
- Public Guests:** Joe Coronati, P.E. with Jones and Beach Engineering; Mike Garrepy with Nimble Hill Realty Investments, LLC; Town legal counsel, Attorney Keriann Roman; Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering

**I) Public Hearing:** Continuation of Lot Line Adjustment, Subdivision and Conditional Use Permit application(s) by Nimble Hill Realty Investments, LLC for fourteen (14) residential lots located on Tax Map 6, Lot 1; Tax Map 11, Lot 2 and 3; and Tax Map 12, Lots 4, 6 and 9.

Town Planner, John Krebs said the applicant had returned to review their updates.

Mr. Krebs said he hoped all the outstanding items would be resolved by the January 10, 2022. Mr. Krebs said he and Town legal counsel, Attorney Keriann Roman, and Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering had drafted conditions of approval for the applicant and Board to review.

Mike Garrepy with Nimble Hill Realty Investment, LLC said had met with Mr. Weinrieb and Mr. Krebs after the November 8, 2021, Planning Board meeting to address comments that were mostly on drainage. Mr. Garrepy said they then met with Attorney Roman to discuss the draft on conditions of approval.

Mr. Garrepy said Jones and Beach Engineering had modified the plans since their meetings, and submitted them on December 6, 2021, though Mr. Weinrieb hadn't had a chance to review them for this meeting.

Mr. Garrepy said they received the Conservation Commission's recommendation for the Conditional Use Permit during their November 2021 meeting. Mr. Garrepy said they then presented their Dredge and Fill Permit, and prime wetland delineation

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, December 13, 2021

changes to the Conservation Commission on December 9, 2021, and had received their recommendation for that as well. Mr. Krebs said he was waiting for Conservation Commission Chair, Jane Hislop's signature on the letter to the Department of Environmental Services (DES).

Attorney Roman said she sent through the discussions on conditions of approval from the last meeting, and submitted a draft along with the declaration for the homeowner's association and easements. Chair Hebert asked Mr. Krebs to forward the drafts for the Board to review.

Joe Coronati, P.E. with Jones and Beach Engineering said their packet to Mr. Krebs had included a letter to serve from the City of Portsmouth Water Department, and Eversource had laid out the electric service. Chair Hebert asked Mr. Krebs to share their information with the Board.

Mr. Garrepy said the City of Portsmouth Water Department had issued a commitment to serve, but they hadn't signed off on the plan, and it seemed that they hadn't reviewed it yet.

Mr. Weinrieb suggested that they use a loop system. Mr. Garrepy replied that they were proposing to go down Coleman Drive to avoid crossing utilities, but were they not proposing a loop system. Mr. Weinrieb said a full looped system would provide better flow for the residents, and would be easier to repair without loss of service to everyone if there was a break.

Mr. Krebs asked Mr. Weinrieb if he was suggesting that the loop needed to go under Coleman Drive or the prime wetlands. Mr. Weinrieb said the pipes could be insulated in gravel under the bridge, and pipes were hung under bridges all the time, so he was not concerned with running the water line over culvert.

Mr. Weinrieb went on to say that the water service for Lot 6 was in the public right-of-way, and he was concerned that it would not have good flow, and become stagnant.

Mr. Krebs said if the line wasn't looped down the new road, they would need an easement on Map 12, Lot 5 because they wouldn't want a private water line down the right-of-way on the road.

Mr. Garrepy said they hadn't received comments from the City of Portsmouth Water Department yet to know if they would recommend looping.

Mr. Krebs said they would need to change the plan design if the City of Portsmouth Water Department wanted a loop system.

Chair Hebert said he had been trying to keep utilities off bridge because of the cost to the Town when the bridge needed replacing. Mr. Weinrieb responded that it wouldn't impact the structural integrity, and they would be able to disconnect the line if they needed to replace the culvert.

Hebert said there were other solutions besides putting the line over the bridge. Mr. Weinrieb said it might be fine if they end up with two private services, but they still might need a new hydrant within 500 feet of the homes. Mr. Krebs noted that Map 12,

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, December 13, 2021

Lot 5 would have a service going into the lot from Nimble Hill Road, but Lot 6 would need an easement. Mr. Weinrieb said they would need an easement for the City of Portsmouth Water Department and the homeowner.

Board member, Russ Cooke agreed that it would be up to the City of Portsmouth, but noted that the water line was dead ended on Hannah Lane, and Chair Hebert said Gundalow Landing was a dead end as well.

Mr. Krebs and Mr. Weinrieb said they should ask the City of Portsmouth what their preference was, and Board member, Peter Welch agreed.

Chair Hebert said he understood, but he was trying to avoid going over the bridge. Mr. Welch said it would be 100 years before the bridge had to be replaced.

Chair Hebert asked Mr. Weinrieb if he thought there would be adequate pressure on a dead-end line. Mr. Weinrieb replied that he was not sure if there would be adequate pressure to serve the site.

Chair Hebert said that no other subdivision had a looping system. Mr. Weinrieb said this development was different because Downing Way had been built to allow a longer road, and the water line proposed would be the longest dead end, so a loop would have better pressure.

Chair Hebert commented that Eversource had never signed off until a plan was approved.

Mr. Krebs said he was concerned that there would be confusion that the pins were road monuments. Mr. Garrepy said they could do a granite offset.

Mr. Coronati said after review, they determined that maintenance of the bioretention ponds would not be necessary for a long time, and grass would grow into the 12 foot wide Eco-Raster that they had proposed to support heavy maintenance vehicles accessing the bioretention ponds. Mr. Coronati said they had talked about lining the accessway with shrubs, but thought they would require additional maintenance to keep them trimmed back.

Mr. Krebs asked about the dark charcoal areas at the beginning of the ponds. Mr. Coronati replied that they would keep the Eco-Raster for the first pond off Nimble Hill Road, but most of other ponds were near or adjacent to the roadway, and wouldn't need it. Mr. Coronati said eliminating the Eco-Raster paving would also reduce the removal of trees.

Attorney Roman wanted to know if they would still want easements for access to the bioretention areas, and Mr. Coronati said they would.

Mr. Garrepy asked if Downing Way, and Watson Run or Watson Way would be acceptable names for the development roads, with the name of the development being called Shackford Point.

Mr. Weinrieb confirmed that a new subdivision starting construction in Portsmouth was called Watson Landing, and there was a Watson Road as well.

Mr. Krebs suggested that they come up with two alternate names. Mr. Krebs said that there were a lot of orchards on the site that might have some history as well.

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, December 13, 2021

Chair Hebert added that the filmmaker, Louis de Rochemont, and his family lived in town, and no roads had been named after him.

Chair Hebert asked about the anticipated timeline of the development. Mr. Garrepy replied that he expected the project to begin another three months after the Planning Board's approval before obtaining the Alteration of Terrain (AoT), and Dredge and Fill permit, which would be in late spring.

Mr. Krebs noted that the house on Coleman Drive was already empty so demolition there could begin earlier.

Chair Hebert asked what their intent was for the tenants of the existing rentals on the property. Mr. Garrepy said Condition 20 on the draft was to allow them to keep two structures on site for one year after the final plan was recorded, which would give the tenants one year to seek alternate housing.

Chair Hebert asked if they would take ownership of the property, and Mr. Garrepy said they would.

Chair Hebert asked if they would build the houses themselves. Mr. Garrepy replied they might do the custom buildings, but some buyers might prefer to use their own builders.

The Board reviewed the draft of the Conditions of Approval for changes.

Mr. Garrepy suggested that Condition 11 and 23 be merged, and the Board agreed.

The following changes were recommended:

15. Box culvert at station 4+-25

- i. An independent, third-party *structural engineer*...
- ii. Construction to include a *full* membrane on top to prevent salt seepage;
- iii. Construction to use epoxy-coated *rebar*...
- iv. An independent, third-party *structural engineer* shall observe and *report* on...

16. Add: "...and provide a construction sequence schedule."

Discussion ensued regarding the need for preconstruction photos of Coleman Drive and Nimble Hill, and additional bonding.

Mr. Weinrieb said applicants often tried to pay road costs through bond reduction, and while it might be appropriate at a certain point, he wouldn't want them to do that every month. Mr. Krebs said there should be a separate bond held for a year after the road was done.

Chair said they should also have regulations on the maximum load capacity. Chair Hebert said he was concerned from past experiences, and didn't want the Town to spend \$100,000 in court to recover \$100,000 in road damages.

Mr. Garrepy said he knew they might be the only heavy vehicles on Coleman Drive, but they wouldn't be the only heavy vehicles on Nimble Hill Road, so he thought

## Town of Newington, NH

### PLANNING BOARD

Meeting Minutes, Monday, December 13, 2021

there needed to be a limit to what they were responsible for. Chair Hebert agreed, saying that most of the traffic on Nimble Hill Road would be going toward the Spaulding Turnpike.

Mr. Weinrieb noted that they would be installing electric between the new road off Nimble Hill Road and Coleman Drive.

Mr. Krebs suggested that the applicant be responsible for a bond that would cover damage on Nimble Hill Road approximately 200 feet on either side of Coleman Drive, and down Coleman Drive. Mr. Weinrieb added that the costs would be for the milling and fill of any damage sectioned. Mr. Garrepy said he needed to know the amount. Mr. Weinrieb said they could itemize the costs for Coleman Drive, and reduce the bond after completion.

Mr. Krebs said it wouldn't take damages into account if a trucker missed the entrance to the new road, and went down Coleman Drive in error, so he thought the bond should remain in place until the road was base coated. Chair Hebert said requiring the bond to remain one year beyond the time the pavement went down was standard practice. Mr. Krebs said Mr. Weinrieb, Attorney Roman and he would come draw up new language.

17. Mr. Krebs said Mr. Weinrieb, Attorney Roman, and he would revise the language on this condition as well.

19. (Change wording from "...the Town engineering consultant must inspect..." to *observe*).

20. (Add "*Tax Map 12...*")

Mr. Krebs noted that the Board was taking the applicant's word for it that they wouldn't tear the structure down as soon as the sales agreement went into effect.

Mr. Garrepy said he thought the tenants had already been notified. Chair Hebert said trying to help because of current housing shortage.

Mr. Krebs asked if it they should extend the removal of demolition and debris removal considering that Mr. Garrepy had said he was committed to finding housing for the existing tenants, and so they wouldn't be displaced unnecessarily. Chair Hebert suggested listing a year, and returning for an extension if necessary.

Chair Hebert asked why "...failure to bring the lots into conformity within this one (1) year period shall require a variance from the ZBA" if the Planning Board was making conditions. Mr. Krebs replied that the subdivision was creating a non-conformity to the rental dwellings, and they couldn't continue into perpetually. Mr. Garrepy added that the duplex would straddle the proposed lot line. Mr. Weinrieb suggested that this could be about non-transfer. Attorney Roman said they could replace one year with "*...from the date of recording*".

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, December 13, 2021

Chair Hebert asked what the result of the ZBA's actions were. Mr. Krebs replied that the 4-unit apartment could remain, but only if it was converted to a single-family home. Mr. Garrepy said it would be straddling the lot line, however. Chair Hebert said they would need to do a lot line adjustment.

Chair Hebert asked if the condition(s) could be retracted if the property was sold. Mr. Krebs said they could tighten the condition(s) to be aware of the Town's concerns.

Mr. Krebs said the buildings would probably come down quicker if sold to another developer.

Attorney Roman suggested that the condition require demolition to occur with two years of reporting the subdivision plan, and approval would be revoked if violated.

Attorney Roman went on to say that Lots 5 and 6 shall not be transferred until the structures were demolished and debris removed.

Mr. Weinrieb asked what revocation would mean if the road had already been started. Mr. Garrepy said it would probably mean partial revocation of those lots.

23. (Merged with #11, and subsequent numbers adjusted)

24. (Becomes #23)

25. Attorney Roman agreed with Mr. Krebs's recommendations. Mr. Krebs said he would work on the language with Mr. Weinrieb, and Attorney Roman for the Board's review before the January 10, 2022, meeting.

Mr. Weinrieb asked if they would add the hours for road construction, as they had for the other subdivision. Chair Hebert stated that a standard work week during standard business hours, and Saturdays on rare occasions, after contacting the Town.

Mr. Krebs said he would send Mr. Weinrieb's review comments to the Board before the January 10, 2022, meeting.

The applicants, Attorney Roman, and Mr. Weinrieb left at this point in the meeting at 8 p.m.

II) **Work Session:** to discuss potential Zoning Ordinance and Regulation Amendments

Chair Hebert said Mr. Krebs had sent out an invitation to the Chair of the Historic District Commission (HDC) to invite members to the meeting. Chair Hebert said he also called Vice-Chair John Lamson to inform him of the discussion on HDC boundaries, who said he hadn't heard of anything.

Mr. Krebs said he had made changes on everything discussed at the last meeting.

Mr. Krebs said he added the word public road instead of right-of-way on Amendment 4 because there might be cases of a private road. Chair Hebert

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, December 13, 2021

commented that some streets like Avery Road were privately owned, but were still a public way, so they might want to say Town roads. Mr. Krebs said the statute says Class V highway, right-of-way or better so could they add road approved by the Planning Board.

5. Mr. Krebs said he hoped to get together with Chair Hebert later to define the Bloody Point districts further.

Mr. Cooke said it was unclear if the Town shed was part of the Historic District, or where districts were when referenced by dimensions rather than physical buildings. Mr. Krebs agreed, and said Bloody Point was more challenging because the Historic District was only part of a lot.

Hebert said the Historic District was established many years ago, with historic buildings, and there could be lots in a district that would need to follow criteria for any new buildings, but all the land out of view would not be historic so wouldn't be included.

### 7. Article XV, Section 2, Page Z-49

Discussion ensued regarding the regulation of glare from ground mounted solar systems to abutters and overhead aircraft.

Mr. Krebs said he wasn't sure how anyone could prove glare to aircraft. Chair Hebert said it would be up to the FAA.

Mr. Krebs suggested one more meeting to work on wording before moving items to a public hearing.

### III) Other Business and Discussions:

Chair Hebert informed the Board that Vice-Chair Cross wanted to review Town owned land and conservation easements for a natural resource overlay/area.

Mr. Blonigan said some people in the Recreation Committee wanted to work on a walking path. Chair Hebert said Vice-Chair Cross and Board member, Peter Welch had been working on paths through town.

Mr. Krebs said he didn't see what it would accomplish to rezone if the Town already owned the land.

\*\*\*\*\*

Discussion ensued regarding best uses for new businesses development in the Commercial Zone.

Mr. Weiner said they needed to consider the best financial asset for a space.

Chair Hebert encouraged board members to look at ordinance to see if anything missing.

# PLANNING BOARD

## Meeting Minutes, Monday, December 13, 2021

\*\*\*\*\*

Chair Hebert announced that Rockingham Planning Commission's Economic Development Committee was hosting a discussion on January 21, 2022.

\*\*\*\*\*

Chair Hebert said the ZBA was hearing a variance request on January 3, 2022.

**Minutes:** *Review and approval of the Minutes for the December 6, 2021, meeting was delayed until the next meeting.*

**Adjournment:** *Peter Welch moved to adjourn the meeting. Jim Weiner seconded the motion and the meeting adjourned at 9:01 p.m.*

**Next Meeting:** Monday, December 27, 2021  
Monday, January 10, 2022

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

*These Minutes were approved and adopted at the January 24, 2022 Planning Board meeting.*