

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, December 19, 2022

Call to Order: Chair Denis Hebert called the December 19, 2022, meeting at 6:00 p.m., followed by the pledge of allegiance.

Present: Chair Denis Hebert; Board Members: Russ Cooke; Ben Johnson; Jim Weiner and Peter Welch; Alternate Board member, Rick Stern; Board of Selectmen's Representative, Bob Blonigan; Town Planner, John Krebs and Jane Kendall, Recorder

Absent: Vice-Chair Christopher Cross

Public Guests: Gregg Mikolaite; P.E with August Consulting, PLLC; Nick Dewhurst; Clint Maxin; Peter Doucet with Torrington Properties; Brian Jones with Allen and Major Engineering; Bob Clark; Joey Fonseckoe with Bohler Engineering; John Chagnon, P.E. with Ambit Engineering; Robert Schummeric, Gas Engineer for Unitil; Roger Barham, Manager for Granite State Gas Transmission; Mark Dupuis with Unitil; Tracey Sweeney, Senior Land Agent with Unitil; Robert Siede; John Lorden, P.E. with Tighe and Bond; Town Engineering Consultant, Eric Weinrieb, P.E. with Altus Engineering

I) Public Hearings:

A) Continuation of **Site Review** for **Zero West Park Realty Trust** develop a drive-thru **Chick-Fil-A** restaurant at the former Moko Japanese Steakhouse at 2060 Woodbury Avenue, Tax Map 27, Lot 20

Chair Hebert informed everyone that Town Planner, John Krebs' hadn't received Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering's comments in time to include them in the Board's packet the previous Thursday.

Mr. Krebs passed out Allen and Majors Engineering's response to each memo.

Gregg Mikolaite; P.E with August Consulting, PLLC stated that they had attended several work sessions, met with the Newington Fire Department, had their first public hearing with the Planning Board that approved the application as substantially complete, and responded to review letters from Mr. Krebs and Mr. Weinrieb.

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, December 19, 2022

Mr. Mikolaites stated that they had received a landscaping recommendation by the Conservation Commission on December 8, 2022. Mr. Krebs noted that the Conservation Commission was very pleased with the landscaping plan.

Chair Hebert noted that he hadn't heard anything from fire or police. Mr. Krebs replied that the police had no comments, and the Fire Department was okay with the site plan, and had submitted a letter for the record.

Discussion ensued regarding the waiver requests.

Board member, Jim Weiner asked for an explanation of the planting island waiver. Mr. Krebs explained that the intent of the regulations was to provide enough parking spaces, but this site had a unique traffic flow. Mr. Krebs said the regulation allowed for a minimum of 24, and maximum of 56 parking spaces, but they were asking for 128. Board member, Russ Cooke noted that they had lowered the impervious surface.

Alternate Board member, Rick Stern asked if any grease would go out to the dumpster, and Brian Jones with Allen and Major Engineering said it would not.

Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering said they would need to know what they would use for grease disposal and treatment. Clint Maxin said there was a standard drain by the trash area that would pass through the site drainage system, and the grease inside would pass through an internal system before discharge.

Chair Hebert asked what the hours of operations would be, and Mr. Maxin said they would be open 6:30 a.m. to 10 p.m., Monday through Saturday, and closed on Sunday.

Chair Hebert asked if there would be an outdoor speaker system. Mr. Maxin said a speaker would be near the menu board to take orders. Mr. Maxin said they could also send workers out when the lines were busy, as well as delivering food.

Mr. Weinrieb asked to change the note to say speaker would be normal conversational volume.

Chair Hebert asked about signs. Mr. Krebs said their signs had to comply or they would need a variance.

Mr. Weinrieb said a corner lot would have two frontage allowances for signs, but the side road was a private road that didn't qualify. Discussion ensued regarding whether the privately owned road that served as a public right-of-way qualified.

Mr. Weiner suggested that they could go to the Zoning Board of Adjustment (ZBA) with a Planning Board endorsement. Board of Selectmen's representative, Bob Blonigan said he didn't think would need a variance.

Mr. Krebs said the Board needed to decide if the private road met the definition of a road, or not.

Chair Hebert read the definition of frontage that pertained to any road approved by the Planning Board. Chair Hebert added that if the Planning Board approved the site

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, December 19, 2022

as a corner lot that would qualify for two signs, the private roadway would not count as frontage for new lots. Board members agreed.

Mr. Weinrieb said that they didn't know the timeline of further redevelopment of the next lot, so they might want to build a pedestrian walkway sooner than later. Mr. Weiner suggested that they wait six months to a year to see if a pedestrian path developed.

Chair Hebert said they needed to look at what was built next door, and what the best location would be, but the Board could make a condition that Torrington be required to build a walkway between both lots.

Mr. Weinrieb suggested that they create a permanent barrier to prevent snow dumping in the wetland. Chair Hebert said he thought multiple signs would work the same as they had required of Cumberland Farms

Chair Hebert closed the public hearing.

Mr. Krebs said that he had 20 minor comments, and Mr. Weinrieb had 67 minor comments minor, and they wanted to be sure everyone agreed that they met the requirements for the Conditional Use Permit, and Mr. Mikolaites agreed.

Mr. Stern asked if they would clean about drain around the dumpster with detergents flowing into the drain. Mr. Weinrieb added that detergents would have to go into the sewer system. Nick Dewhurst stated that they would only use water without any chemical cleaners.

Chair Hebert asked if they had received State permits, and Mr. Dewhurst said they had not as yet.

Mr. Krebs said noted that they would need to comply with their set delivery schedule, or return to the Board.

Mr. Krebs presented a draft list of Conditions of Approval for the Board to review, and suggested that they act on the approval first and then add between a condition that a second freestanding sign be permitted at the entrance of Westpark Drive.

Mr. Krebs also suggested that the motion include the Conditional Use Permit for the wetland buffer.

Chair Hebert appointed Alternate Rick Stern to vote in place of Vice-Chair Cross who was absent.

Jim Weiner moved to approve a Waiver from Site Plan Regulation, Section 14 for Chick-Fil-A restaurant. Rick Stern seconded, and all were in favor.

Peter Welch moved to approve a Waiver from Site Plan Regulation, Section 17 for Chick-Fil-A restaurant. Russ Cooke seconded, and all were in favor.

Ben Johnson moved to approve a Waiver from Site Plan Regulation, Section 18A for Chick-Fil-A restaurant. Peter Welch seconded, and all were in favor.

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, December 19, 2022

Peter Welch moved to approve a Waiver from Site Plan Regulation, Section 18B for Chick-Fil-A restaurant. Jim Weiner seconded, and all were in favor.

Russ Cooke moved to approve a Waiver from Site Plan Regulation, Article 2 for Chick-Fil-A restaurant. Jim Weiner seconded, and the motion passed.

Peter Welch moved to approve a Conditional Use Permit to allow Chick-Fil-A restaurant to work within the wetland buffer. Ben Johnson seconded, and all were in favor.

Rick Stern moved to approve the Site Plan for Zero West Park Realty Trust develop a drive-thru Chick-Fil-A restaurant at the former Moko Japanese Steakhouse at 2060 Woodbury Avenue, Tax Map 27, Lot 20 with the following Conditions of Approval:

Site Specific Conditions:

- 1. Correct technical issues identified by Altus Engineering and the Newington Planning Board in their Final project review memos;*
- 2. List all approved Waivers on the Site Plan;*
- 3. Obtain all State permits required such as NHDES Alterations of Terrain, and others if needed;*
- 4. Record Stormwater management maintenance requirements; Peter Welch seconded the motion, and all were in favor.*

Administrative Conditions:

- 1. Provide funds for third party engineering inspection services;*
- 2. Provide a PDF of the FINAL approved plans, which reflect any and all changes required as part of the approval process, including technical review comments;*
- 3. One hundred percent (100%) of the total cost of landscaping shall be held for a period of two (2) growing seasons to guarantee the survival of the landscaping installations;*
- 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 were 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 Site Plan approval unless the Board grants an extension. See **Section 23 – Site Approval Expiration**, Site Plan Review Regulations;*
- 6. Submit an “As Built” plan in CAD and PDF format prior to the release of security;*
- 7. A second freestanding sign be permitted at the entrance of Westpark Drive;*

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, December 19, 2022

8. *Site work was not to be started before FINAL plans were approved and the Mylar was signed, and State permits have been received;*
9. *All application, review and other applicable fees shall be paid to the Town in-full prior to the granting of Final Approval;*
10. *The approval of this Site Plan relies on a strict delivery schedule by large trucks. Deliveries made outside of the hours of 12:00 AM – 3:00 AM shall constitute a violation of this Approval;*
11. *The Applicant and its Agents shall adhere to ALL Planning Board Site Plan Regulations unless the Planning Board has granted waivers from such regulations.*

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

B) Building Height Zoning Amendment, Section 2: to amend the method of measuring residential building heights

This item was delayed to the end of the meeting so that the next item could be heard first.

II) Preliminary Consultation: with **Unitil/Granite state Gas Transmission/Norther Utilities** to upgrade and replace an existing gas facility with a new facility as needed for system reliability. The new facility will include a meter station, pig (pip cleaning) launcher and retriever, meter, and filter. The project was to be located at Tax Map 7, Lot 2A owned by SNS Equity, LLC

John Chagnon, P.E. with Ambit Engineering provided revised renderings of Unitil's upgraded gas facility in response to the Board's previous discussions, which included a more residential appearance of the utility building, and moving the white spruce plantings to the outside of the fencing.

Mr. Stern asked where the construction truck access was located, and Mr. Chagnon replied that the roadway was shown on the plan as being off the ramp to the back.

Mr. Krebs asked if the access could be relocated when the area was developed, and if they would plow in winter. Mark Dupuis with Unitil replied that they would keep the roadway plowed because they needed regular access for monthly checks inside the building for general assessment, infrequent communications check, and the annual inspection of facility equipment usually took most of a working day.

Board member, Peter Welch asked if they had received a curb cut permit from the New Hampshire Department of Transportation (DoT). Mr. Schummeric replied that they were in discussions, but DoT had no issues.

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, December 19, 2022

Mr. Weinrieb asked if a waiver from the State was required. Mr. Schummeric replied that the State didn't want the access in their right-of-way, so they were building on the property line.

Mr. Weiner suggested that they could move 13 trees from the back because a stand of trees was already behind them. Mr. Chagnon responded that the back side would eventually be developed so they thought it best to plant the trees there.

Chair Hebert said he thought they had agreed on planting the trees inside the fence to prevent deer browsing, and asked what would do to prevent damage. Robert Schummeric, Gas Engineer for Unitil said they selected white spruce instead of arborvitae that were more vulnerable to deer browse.

Mr. Schummeric said landscape contractors would take care of the trees, but they were hoping that they would be mostly maintenance free; however, they would replant them if they were decimated by wildlife.

Chair Hebert commented that deer wouldn't jump a lower fence if they couldn't see a place to land, so they might consider a lower fence on the outside, and plant the trees on the inside of the fence as discussed in the previous meeting.

Mr. Weinrieb noted that the specimen chosen were deer resistant.

Mr. Krebs suggested staggering to make the plantings look more natural.

Chair Hebert said all trees need watering to established, and his experience with Eversource's transmission expansion project was that they had not watered their trees, and they had not replanted those that had died. Mr. Dupuis said he could only speak for Unitil, and they would be concerned for their reputation because the Unitil signage would be outside.

Chair Hebert noted that there was no water on this site, so they would need a water truck to provide water. Mr. Weinrieb said he didn't know the cost of connecting to the water line, but it would probably exceed bringing water in. Mr. Weiner recommended tree water donuts or gators. Mr. Dupuis responded that the landscaping company had to guarantee survival.

Mr. Krebs note that there would be a 100% landscaping bond to guarantee survival for the first two or three years, and they were going with a reputable contractor. Mr. Weinrieb suggested that the Board place conditions on plan approval that the trees could be replaced in any number of years if necessary.

Board member, Ben Johnson noted that Unitil's other locations were well maintained, so he thought the Board could be confident that this would be no different.

Chair Hebert asked how high the trees would be at planting, and Mr. Chagnon said they would be six to eight feet high at the most because anything taller would take longer to establish.

Chair Hebert asked what the height of the fence would be, and Mr. Schummeric said it would be eight feet high.

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, December 19, 2022

Mr. Dupuis went on to say that the type of fence and screening with trees outside would create extra structural security so that the fence wouldn't become a big sail with heavy winds.

Discussion ensued regarding the color of the fence and the building structure. Mr. Dupuis said they could change color of building to blend in with landscape. Mr. Schummeric said could do earthy browns or greens.

Mr. Weiner asked if they could extend the roof overhang. Mr. Dupris replied that they would have to ask the building contractor. Mr. Johnson commented that he didn't think the structure would look good with a hip roof.

Mr. Weinrieb asked about if there would be a drip edge around building for storm water management. Mr. Chagnon replied that there would be a net reduction of runoff because pavement was being removed, and replaced with crushed gravel. Mr. Chagnon went on to say that all runoffs went to the wetland area first, then headed toward and under Shattuck Way.

Mr. Welch asked if industrial buildings were allowed there in the Office District. Mr. Chagnon replied that they were proposing a replacement upgrade to the utility building for the area network. Mr. Krebs added that a utility building was allowed.

Mr. Krebs asked if the structure would comply with the setback requirements. Mr. Chagnon replied that there would be a 75-foot setback from the highway. Mr. Schummeric said they were trying to improve a grandfathered use. Mr. Krebs stated that he would speak with Town counsel to be sure they would meet all requirements.

After discussion, Mr. Krebs said they could submit a formal application for Monday, January 23, 2023.

III) Driveway Permit: Request by **Robert and Deidre Siede** to relocate their existing, driveway 85 feet to the west to improve site distance on their property located at 148 Nimble Hill Road, Tax Map 11, Lot 11.

The applicant, Robert Siede stated that there were two existing curb cuts that were grandfathered, and that he wanted to move one of the blind driveways 80 feet toward Fox Point Road to the crest of the hill for better visibility existing and entering.

Mr. Siede said he would need to remove two invasive Norway maples that were topping the stone wall, and rebuild the interior wall 19 feet to allow the new driveway.

Chair Hebert asked if there were any plans to do something further, and Mr. Siede said he would submit an application to the building inspector for new garage eventually, and the new driveway would eventually be paved.

Mr. Krebs noted that Mr. Siede only owned a sliver of land on Fox Point Road, and the rest was owned by the abutter, so Mr. Siede didn't have enough frontage to place his curb cut there. Mr. Siede said he only owned 105 feet in from the corner and he would have to cut through the hill.

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, December 19, 2022

Mr. Weinrieb asked if there was a culvert at either drive. Mr. Siede said there was not as they were at the peak of the hill. Mr. Weinrieb said there would probably be a swale in the driveway.

Mr. Weinrieb asked how close the drive would be to the fire station entrance. Mr. Siede replied that the fire station entrance was between and kitty corner to his driveways.

Mr. Stern asked how the line of site would be better on the other side of the circular drive. Mr. Siede replied that he would be moving the driveway 80 feet up the hill to improve the line of site. Mr. Krebs commented that Mr. Siede's request would be a traffic safety improvement. Chair Hebert agreed, stating that currently view of oncoming cars were nearly on top of the driveway when pulling out.

Mr. Stern commented that the current circular driveway was grandfathered, but he thought that moving the center curb cut would be adding a new driveway.

Mr. Weinrieb asked where mailbox. Mr. Siede said would need to relocate mailbox. Mr. Siede said he would turn the center drive to lawn, and keep the second drive unpaved for farm access.

Mr. Weiner said Mr. Siede had a right to continue the use of his grandfathered farm access.

Chair Hebert said someone on Welch Cove had done something similar so there was a precedence if it improved safety.

Mr. Johnson said he thought they should allow the move to improve safety, but asked if the additional curb cut would be grandfathered if there was a change.

Mr. Cooke wondered why they had to call the farm access a second curb cut considering that people could park on their lawns. Mr. Krebs said the concern was with stripping a resident of his property rights for future use of access to his barn.

Mr. Krebs noted an example of a grandfathered building that had burned, and could be rebuilt, and even moved slightly to make more conforming. Chair Hebert agreed, and said right now there was only 20 feet between curb cuts, and the change would increase the distance to 100 feet, making it more compliant and safer.

Rick Stern moved to approve the request by Robert and Deidre Siede to relocate their existing, driveway 85 feet to the west to improve site distance on their property located at 148 Nimble Hill Road, Tax Map 11, Lot 11 for line of site safety reasons. Jim Weiner seconded, and all were in favor.

IV) Other Business and Discussions:

- A) Brand name change for approved hotel on Woodbury Avenue and Shattuck Way

Mr. Johnson recused himself.

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, December 19, 2022

Mr. Krebs informed the Board that he had met with John Lorden, P.E. with Tighe and Bond representing a potential buyer of the hotel site on Shattuck Way that would have a slightly different footprint because of a different brand.

Mr. Krebs said they had talked about changing the frontage from Shattuck Way to a right in right out from Woodbury Avenue instead of looking at backside of hotel from Woodbury Avenue. Mr. Krebs said it would also make sense to eliminate the long entrance from Shattuck Way through the wetlands.

Mr. Lorden said the property has been owned by the same four people for a long time, and was initially approved in 2020, then returned with a Hilton Home 2 Suites design in July 2022, but now a new buyer wanted to build a Choice Hotel brand, Ever Home Suites, which was similar.

Mr. Lorden said they would be increasing the number of rooms from 98 to 106, and adding couple of parking spaces. Mr. Lorden said there would be no pool, and no breakfast, but there would be a small market of prewrapped items. Mr. Lorden said the intent of the hotel would be for business use suites with a sleeping area and sitting area.

Mr. Lorden said they would remove the extensive access to and from Shattuck Way with all the wetland disturbance, fill, drainage, and utilities, and they would flip the same hotel to face Woodbury Avenue with a right in and right out. Mr. Lorden said they would pay a fee to connect utilities from Woodbury Avenue because there was a moratorium.

Mr. Krebs said they talked to the Fire Department that said they would be fine with the entrance off Woodbury Avenue. Mr. Weinrieb commented that the Fire Department would need to do a U-turn somewhere unless they came down Shattuck Way and Piscataqua Drive.

Mr. Krebs said the dumpster site would need to be moved from the Woodbury Avenue side. Mr. Lorden said they would have to review where it could be moved.

Mr. Welch asked about the sidewalk along Woodbury Avenue. Mr. Lorden said that was part of approval and would stay.

Mr. Cooke said he thought the Town wanted to shift traffic away from Woodbury Avenue. Chair Hebert said Vice-Chair Cross had reconsidered his opinion, and agreed that the Woodbury Avenue entrance would be better. Mr. Weiner agreed that the orientation should be set up for success.

Discussion ensued regarding traffic. Mr. Krebs said this use wouldn't generate that much traffic, but business activity for the malls, etc. would be beneficial to the economy.

Chair Hebert asked that they return with a new application and site plan for the new applicant. Mr. Weinrieb said they would be able to amend the Alteration of Terrain (AoT) and Wetlands Impact permits.

Mr. Weinrieb left at this point of the meeting at 9:04 p.m.

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, December 19, 2022

B) Business Updates

Chair Hebert informed the Board that he and Mr. Krebs had met with Torrington Properties to see what kinds of development could be done within the existing Ordinances. Chair Hebert said the mall was still working, but they wanted to know what they could do temporarily until they determined a better long-term use.

Mr. Krebs said he didn't think the mall would be redeveloped this year, but expected that they would in the next couple of years that would keep the Board busy.

Chair Hebert said they also met with Sprague's new owners. Chair Hebert said petroleum products were on the decline, but they were installing \$500,000 air scrubber as required, and they discussed ownership and sharing Avery Lane.

Mr. Blonigan, he had talked with the Board about a joint meeting with the Historic District Commission, but informed the Board that had received a resignation from former Historic District Commission Chair, Lulu Pickering.

Chair Hebert said the Historic District Commission still needed to formalize criteria for building or renovating in the Historic District, go to a public hearing or have the Town vote for regulations. Chair Hebert suggested that the Planning Board representative could help with that. Mr. Blonigan agreed, and said he was trying to get them to put something on paper.

I) Public Hearings:

This item was delayed to hear the previous items first.

C) **Building Height Zoning Amendment, Section 2:** to amend the method of measuring residential building heights

Chair Hebert said the first three lines were definitions, and the proposed amendment would not include the criteria for granting a Conditional Use Permit, but would go in a note below.

Mr. Krebs said the Board had many meetings, this was what would go to a public hearing, and they would have to re-notice if the Board wanted any changes.

Mr. Cooke said he thought applicants should go before the Zoning Board of Adjustment (ZBA) for relief from the height ordinance, instead of the Planning Board granting a Conditional Use Permit. Mr. Krebs responded that most towns did that, but the Planning Board had settled on this because they thought they would better understand the circumstances of an application, and if not granted, the applicant could still go to the ZBA; whereas, they would have to go to court if the ZBA didn't grant relief.

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, December 19, 2022

Chair Hebert said the Board already reviewed Conditional Use Permits for industrial and commercial buildings, and he thought that the Board needed to be more user friendly when working with applicants.

Rick Stern moved to recommend moving to a public hearing on January 9, 2023, the Building Height Zoning Amendment, Section 2: to amend the method of measuring residential building heights, and move the criteria for granting a Conditional Use Permit to a note below. Jim Weiner seconded. The motion passed 6-1 with Russ Cooke opposing.

Minutes: *Peter Welch moved to approve the Minutes for the November 21, 2022, meeting with changes. Ben Johnson seconded, and all were in favor with Mr. Cooke abstaining.*

Adjournment: *Peter Welch moved to adjourn the meeting. Rick Stern seconded the motion and the meeting adjourned at 9:38 p.m.*

Next Meeting: Monday, January 9, 2023

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

These Minutes were approved and adopted by the Planning Board at their January 9, 2023 meeting/