

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, March 23, 2020

- Call to Order:** Chair Denis Hebert called the March 23, 2020 meeting at 6:43 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; Town Planner, John Krebs and Jane Kendall, Recorder
- Absent:** Alternate Board members, Rick Stern and Jim Weiner; Board of Selectmen's Representative, Mike Marconi;
- Public Guests:** John Lorden, P.E. with Tighe&Bond; Town Engineering consultant, Eric Weinrieb, P.E. with Altus Engineering; Attorney Timothy Phoenix; Amanda Murphy

### I) Public Hearings:

A) Continuation of Site Review proposal by **Doloma Investment of Portsmouth, Inc** to construct a 98-room, four (4) story Home2 Suites hotel at **141 Shattuck Way, Tax Map 20, Lot 4-C**

Chair Hebert stated that the application was getting close to completion, and the 75-day point, so it was determined to review the updates for a final decision.

Town Planner, John Krebs informed the Board that the Conservation Commission had recommended approval of the wetlands permit, and the landscape plan that included a maintenance plan.

Mr. Krebs said that the Commission had made one comment that the existing 12" culvert under the access driveway might need to be enlarged after their Alternation of Terrain (AoT) permit review, and review by Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering.

Mr. Krebs noted that the Board also needed to act on waiver requests. The applicant's engineering representative, John Lorden, P.E. with Tighe&Bond said he letters requesting waivers were including with their original submission.

Mr. Lorden stated that they were asking for a waiver from the height limit of 45 feet that would allow an additional two feet and seven inches for the parapet, and a

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maximum height of 54" to 59'4" for the glass towers considering the change of grade. Chair Hebert responded that he thought the additional height was acceptable considering it was mostly for the elevator shaft, and not the entire building.

Board member, Chris Cross agreed, and added that he didn't think it would be objectionable considering the elevator shaft would be visible from the rear.

*Erika Mantz moved to grant the waiver request by Doloma Investment of Portsmouth, Inc to allow a maximum height of 47 feet at the parapets, and 59'4" at the glass tower for the construction of a 98-room hotel on property located at # Shattuck Way, Tax Map 20, Lot 4-C. Russ Cooke seconded the motion, and all were in favor.*

Mr. Weinrieb commented that there were several deficient areas in the parking lot that had site lighting levels that didn't meet the regulations, so they needed to adjust their plan, or request another waiver. Mr. Lorden stated that he had informed the lighting engineer, but he didn't have the revised plan yet. Mr. Krebs replied that they could make it a condition of approval to agree to meeting the requirement.

Mr. Lorden noted that the hotel's prototype only required one parking space per room, but that they had added an additional seven spaces at the Board's request.

Mr. Weinrieb said he thought that the conditions should state that there would be no overflow parking along Woodbury Avenue, or Shattuck Way, and parking would not block the accessways. Chair Hebert added that there shall be no parking outside the parking plan including along the driveway or offsite, and that the hotel shall reduce the number of guest rooms if there was inadequate parking.

Mr. Cross suggested that they clear invasives, and consider putting gravel down beyond the wetland setback for the parking of buses and trucks, or for additional snow storage. Mr. Lorden replied that he could bring it up, but that it would require an additional wetland crossing impact, and they were trying to avoid the wetlands. Mr. Lorden added that it was also remote from the site, and no one would use it.

Mr. Weinrieb asked who would maintain the sidewalk leading to Old Dover Road. Mr. Cross said that the Town took responsibility of the nearest light, and of Woodbury Avenue leading up to the Spaulding Turnpike, so he thought that the Town should take over maintenance of the sidewalk as well. Chair Hebert responded that the Town didn't have any sidewalk plows for maintenance, and that maintenance should be the applicant's responsibility. Mr. Cross asked why the Town would penalize this applicant, considering that the Department of Transportation (DOT) had already put in another sidewalk up the hill, over to the roundabout on Arboretum Drive. Mr. Weinrieb agreed that the State would expect that the Town would maintain the sidewalks.

Board member, Ben Johnson commented that the Town subcontracted plowing for Woodbury Avenue. Chair Hebert responded that they still didn't plow the sidewalks, unless it was in their contract. Board member, Russ Cooke stated that he thought it



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would be okay if the sidewalks were not maintained because the Town didn't have the equipment.

Mr. Cross noted that Federal funds built the sidewalk and the State obtained the Board of Selectmen's agreement that the Town would plow once they took over Woodbury Avenue. Mr. Weinrieb noted that the sidewalk was setback with a grass panel separating it from the road, and the road plows.

Chair Hebert said he thought the applicant should maintain the sidewalk on their own property. Mr. Cross agreed that the hotel probably would do that for their patrons. Mr. Weinrieb commented that an agreement needed to be memorialized as to what was to be expected in the right-of-way. Mr. Krebs responded that maintaining the short stub would be included in the list of conditions.

Mr. Weinrieb noted that the limited kitchen had an internal grease trap, and there should be a stipulation that the applicant would return if there was an increase in meal preparation.

Mr. Weinrieb stated that the removal of invasives should be an annual process, and that an annual report should be sent back to the Conservation Commission, with a copy sent to the building inspector, and Town. Mr. Lorden replied that a maintenance agreement had been added to the plan. Chair Hebert added that a condition of approval would give the Town additional enforcement from the Planning Board.

Mr. Weinrieb noted that the retaining wall design needed to be approved by the building inspector. Mr. Lorden replied that design plans would be submitted.

Mr. Weinrieb pointed out that certification by DES for the subsurface detention area under the pavement should be sent to the Town as well.

Chair Hebert commented that he had an issue with 24-inch pipe coming from the mall and the 12-inch culvert under the drive. Mr. Lorden said there was concern that increasing the size would increase flow to Paul Brook. Mr. Weinrieb pointed out that the driveway flooded, and recommended a larger pipe. Vice-Chair Mantz asked what the Conservation Commission recommended, and Mr. Lorden said they suggested that they review the size with DES and Mr. Weinrieb.

Chair Hebert asked that Mr. Weinrieb review the size, to be sure that DES paid attention. Mr. Weinrieb stated that calculations of offsite flow could be modeled to determine if 24 inches would be sufficient. Mr. Krebs commented that most towns didn't allow 24-inch pipes. Mr. Weinrieb said it could be 36 inches or two 24-inch pipes.

Mr. Lorden stated that a lot of the water flow to their lot was coming from the abutting detention flow. Mr. Cooke asked if the State would look at the water flow when they went for their AoT permit. Mr. Lorden said they would to the same degree that Mr. Weinrieb looked at it. Mr. Lorden stated that he would run a model for Mr. Weinrieb to review. Mr. Weinrieb said he would issue a report once all the issues were addressed.

Chair Hebert stated that the applicant could return to request an extension if necessary.

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*Chris Cross moved to accept the proposal by Doloma Investment of Portsmouth, Inc to construct a 98-room, four (4) story Home2 Suites hotel at 141 Shattuck Way, Tax Map 20, Lot 4-C as stipulated in the conditions of approval. Russ Cooke seconded the motion, and Erika Mantz, Russ Cooke, Christopher Cross, Ben Johnson, Peter Welch, and Denis Hebert all voted in favor.*

**B) Subdivision proposal by Joseph and Paula Akerley for two lots to be located at 325 Fox Point Road, Tax Map 9, Lot 2**

The applicant's legal counsel, Attorney Tim Phoenix stated that the purpose of the subdivision was for the applicant's daughter, Mandy (Akerley) Murphy and her husband, Rob Murphy to build a home on the family lot.

Attorney Phoenix showed a drawing of the current lot, existing drive, subdivision, and and new drive for the proposed lot. Attorney Phoenix stated that they were granted a variance to allow 160 feet of frontage for the new lot, and 200 feet of frontage for the larger remaining family lot.

Attorney Phoenix said that they had submitted an abutters' list, waiver request, mylars, and subject deed to the entire property.

Attorney Phoenix stated that they had received an ability to serve for water from the City of Portsmouth Water Department on November 13, 2019, two easements for city water, State subdivision and State septic approval. Mr. Weinrieb noted that the septic approval would go to the Town building inspector.

Attorney Phoenix said they also submitted their DES approval with a letter requesting a waiver of wetlands review because there were no wetlands on the property.

Chair Hebert commented that the site was elevated from the road, and had good soils for drainage, but wondered if they might want to put their septic behind the house instead of in the front. Mr. Cross said it made sense to put the septic on the lower portion. Mr. Weinrieb added that they didn't know the exact location of the house to be built, but the soils passed the perk test.

Chair Hebert asked if they had submitted a letter from the property owner. Ms. Murphy said they dropped off the signed and notarized owner agreement at Town Hall, and they had copies. Chair Hebert said that the letter would be a condition of approval.

Ms. Murphy stated that they also tried to submit their application to the Town for a curb cut, and but offices were closed last week.

Attorney Phoenix stated that the certificate of monumentation and monuments were already done.

Chair Hebert said the Town wanted to repair the culvert on Fox Point Road to Clamshell Pond across from the lot, and they wanted to be sure there was no objection with putting in a drainage swale on the right-of-way. Chair Hebert said it would be near the culvert easement so they would probably want to put in another culvert under the



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driveway. Mr. Weinrieb agreed and suggested that there be a condition that the applicant work with the Town on any drainage improvements. Attorney Phoenix responded that Rob Murphy and Joe Akerly had no objections if a culvert was required.

Mr. Cross commented that a swale would be close to the underground water access coming across from Joe and Paula Akerley's lot. Mr. Krebs replied that there was a 10 to 15-foot-wide easement plan for the water line to come in from Joe Akerley's private lot, and it wouldn't be crossing the swale on Town property. Weinrieb added they were tying in to the Akerley's private water line because the City of Portsmouth wouldn't allow anyone to compromise the main water line.

Mr. Cross asked where they would tie into the electric utilities. Mr. Krebs pointed out that Plan #7 showed that they would tie in from the street.

Mr. Cross noted that they didn't have a letter from Eversource. Ms. Murphy replied that her husband talked with Eversource. Mr. Krebs said that Eversource would probably make the decision for them to come off from the nearest pole. Chair Hebert stated that the Board would make it a condition of approval that they would tap in from the street.

*Chris Cross moved that a wetlands review was not required for the subdivision proposal by Joseph and Paula Akerley for two lots to be located at 325 Fox Point Road, Tax Map 9, Lot 2. Erika Mantz seconded the motion, and Erika Mantz, Russ Cooke, Christopher Cross, Ben Johnson, Peter Welch, and Denis Hebert all voted in favor.*

Chair Hebert informed the applicant that they would need the notarized letter from the property owner, and a deposit for engineering and legal costs. Mr. Weinrieb said his expenses would be minimal because he only spent half an hour on his review.

*Erika Mantz moved to grant the driveway permit for Joseph and Paula Akerley at 325 Fox Point Road, Tax Map 9, Lot 2 with the condition that they work on a culvert design with Town wetlands consultant, Eric Weinrieb, P.E. with Altus Engineering. Peter Welch seconded the motion, and Erika Mantz, Russ Cooke, Christopher Cross, Ben Johnson, Peter Welch, and Denis Hebert all voted in favor.*

Discussion ensued regarding future subdivisions. Chair Hebert stated that Joe Akerly had said during a previous discussion that he had no interest in further subdivision, but it would be up to a future the Planning Board if the family decided to do otherwise in the future. Attorney Phoenix responded that it would also be up to both property owners to agree on putting in a new road for a subdivision because there were setback and frontage issues.

Mr. Krebs read through the list of conditions that included that the conditions of the March 16, 2020 waiver from Article 8, Section 2 should be added to a recordable

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Mylar if granted, a letter from the property owners, that the condition of a culvert for the driveway permit be included on the mylar, that all fees be paid before the plan was recorded, that Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering be provided CAD and recording fees, and that all Town ordinances and regulations be followed.

*Erika Mantz moved to accept the subdivision proposal by Joseph and Paula Akerley for two lots to be located at 325 Fox Point Road, Tax Map 9, Lot 2 with conditions as outlined. Ben Johnson seconded the motion, and Erika Mantz, Russ Cooke, Christopher Cross, Ben Johnson, Peter Welch, and Denis Hebert all voted in favor.*

### **II) Other Business:**

Chair Hebert informed the Board that the mixed commercial and residential use study at the Fox Run Mall had been postponed from April 6, 2020

Chair Hebert stated that the Board of Selectmen, Economic Development Committee, and Zoning Board of Adjustment were all scheduled to have meetings on April 27, 2020, and that the Planning Board was required by law to meet once a month, but that might be waived during the current COVID19 closures.

**Minutes:** *Erika Mantz moved to approve the Minutes for the February 24, 2019 meeting with corrections as noted. Ben Johnson seconded, and the motion passed with Russ Cooke abstaining.*

**Adjournment:** *Russ Cooke moved to adjourn the meeting. Erika Mantz seconded the motion and the meeting adjourned at 8:20 p.m.*

**Next Meeting:** Thursday, April 30, 2020

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

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*These Minutes were approved and adopted at the June 8, 2020 Planning Board meeting.*