

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, April 12, 2021

- Call to Order:** Chair Denis Hebert called the April 12, 2021, meeting at 6:00 p.m., followed by the pledge of allegiance.
- Present:** Chair Denis Hebert; Vice-Chair Erika Mantz; Board Members: Christopher Cross and Peter Welch; Alternate Board member, Jim Weiner; Board of Selectmen's Representative, Bob Blonigan; Town Planner, John Krebs and Jane Kendall, Recorder
- Absent:** Board members, Russ Cooke and Ben Johnson; Alternate Board member, Rick Stern
- Public Guests:** Jose Valdez, Plant Engineer Manager with Georgia Pacific Gypsum; Phil Corbet, P.E. with CMA Engineering; Duane Hyde, Director of Southeast Land Trust; Bob Seide; Brandon Arsenault; Scott Akerley; Jessica Meehan, Director of Points North Recovery; Attorney Megan Carrier

I) New Business:

A) **Public Hearing:** Site Plan Review by **Georgia Pacific Gypsum, LLC** to construct a +-180' tall dryer stack on property located at **170 Shattuck Way, Tax Map 20/Lot 2.**

Georgia Pacific Gypsum Plant Engineer Manager, Jose Valdez stated that their proposal a new dryer stack would help with their processing, and improve safety maintenance by putting the stack at ground level.

Board member, Chris Cross asked if a State agency would provide approval of the stack building specifications. Mr. Valdez said the New Hampshire Department of Environmental Services (NHDES) regulated emissions from the stack, and the Federal Aeronautics Administration (FAA) established regulations in proximity with Pease airport.

Mr. Cross responded that he was surprised that a structure of that size would not need greater approval. Phil Corbet, P.E. with CMA Engineering said they would apply to

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the Town for a building permit for the foundation, but that the stack manufacturer met engineering standards.

Mr. Cross asked about fall safety standards, and Mr. Corbet replied that the stack wouldn't fall.

Chair Hebert asked if there would be any emissions other than water vapor. Mr. Valdez replied that there would only be water vapor, like the current stack.

Chair Hebert noted that the drawings hadn't been stamped by a licensed engineer. Mr. Valdez responded that they would submit stamped drawings for their building. Permit. Chair Hebert stated that a stamped plan would be a condition of approval.

Board member, Jim Weiner commented that there was a tower that was left incomplete in Boston that was being used as a cell tower, and wondered if GP's stack tower could be used similarly. Mr. Valdez said they were only applying for a smokestack.

Mr. Cross replied if there would be any opportunities for cell tower antennas in the future. Mr. Valdez replied that they hadn't been contacted by anyone, and they would have to redesign the tower, which would set their schedule back. Mr. Valdez went on to say that the current stacks would be decommissioned, but remain in place for the time being, so they could be considered for use.

Chair Hebert closed the public hearing, and announced that Alternate Weiner would vote in place of regular members that were absent.

Town Planner, John Krebs referenced his memo, noting that the fire department had reviewed the application, and identified no issues.

Mr. Krebs suggested that the Board replace #6 in his recommendations for conditions with a stipulation that all drawings and site plans be signed and stamped by a licensed New Hampshire P.E. and renumber the remaining items.

Mr. Cross asked if Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering would review the site plan. Mr. Krebs replied that Mr. Weinrieb had already reviewed the plan, and had no comments; however, the Board might want an inspector from Altus Engineering present when the applicant poured the foundation.

Mr. Valdez stated that the contractor would test the concrete. Mr. Krebs responded that the Board understood that the tower was preconstructed, but they would want the foundation to be monitored.

Mr. Weiner noted that cell towers were needed and asked if the tower was high enough to attach cell towers. Mr. Krebs responded that there was a taller tower nearby, and that the Board couldn't impose a height on the applicant that would accommodate a cellular tower, but they could work with a structural engineer to determine if it was strong enough to accommodate a cell tower if a company went to them.

Erika Mantz moved to accept the site plan by Georgia Pacific Gypsum, LLC to construct a +-180' tall dryer stack on property located at 170 Shattuck Way, Tax Map

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20/Lot 2 as substantially complete. Chris Cross seconded the motion, and all were in favor.

Jim Weiner moved to approve the site plan by Georgia Pacific Gypsum, LLC to construct a +-180' tall dryer stack on property located at 170 Shattuck Way, Tax Map 20/Lot 2 with the following conditions, and Erika Mantz seconded:

Site Specific Conditions

- 1. List all approved waivers on the Site Plan being recorded;*

Administrative Conditions

- 2. Provide funds for third party expenses such as engineering inspection and legal services as deemed necessary by the Planning Board;*
- 3. Provide a PDF of the FINAL approved plans, which reflect all changes required as part of the approval process;*
- 4. Provide two (2) copies of a Mylar of the site plan and three (3) copies of the final plan set as approved by the Planning Board;*
- 5. This approval requires strict adherence to all applicable regulations adopted by the Town of Newington in effect at the time of approval, excepting any waiver granted by the Board;*
- 6. The site plan and all construction drawings shall be stamped by a licensed New Hampshire P.E.*
- 7. A letter from the FAA or appropriate Federal agency approving the location and height of the proposed stack shall be provided to the Town prior to final approval;*
- 8. An "As Built" plan in CAD and PDF format shall be submitted prior to the release of security;*
- 9. Site work is not to be started before final plans are approved, the Mylar is signed, and State and/or Federal permits have been received by the Town;*
- 10. All final approvals by the Planning Board expire within two (2) years from the site plan approval date, unless the Board grants an extension. (See Section 23 – Site Approval Expiration, Site Plan Review Regulations).*

The motion passed with all in favor.

Mr. Krebs said he would talk with Mr. Weinrieb to determine the amount of the bond for the foundation inspection, and would then send the applicant the Notice of Decision after they provided the signed plans.

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Chair Hebert asked when GP would be shutting down, and Mr. Valdez replied that they would shut down for three weeks beginning May 1, 2021, and were hoping to return to work on May 24, 2021.

B) Discussion regarding proposed conservation easement on the **Adam's Homestead located at **148 Nimble Hill Road****

Chair Hebert informed the Board that the Board of Selectmen wanted the Planning Board to review the conservation easement deed proposal for the Adam's Homestead.

Chair Hebert said he reviewed the document over the weekend, and tried to merge changes. Chair Hebert said Town Administrator, Martha Roy passed on a revision that he made after it was reviewed by Town Counsel, Attorney John Ratigan, and that the document marked "D" was the version that they agreed upon.

Duane Hyde, Director of Southeast Land Trust (SELT) stated that the only change made after the Conservation Commission's review was changing the term "agritourism" to "agripromotion", but Attorney Ratigan referenced the statute that used agritourism, which was acceptable to them.

Mr. Weiner said he had negotiated the conservation easement for the Conservation Commission two years earlier, and recalled telling property owner, Bob Seide that he wanted to keep \$50,000 in the Conservation Fund, and that Mr. Seide had agreed. Mr. Weiner asked why they were using a new term that he didn't agree to. Mr. Seide responded that he had begun discussions with the Conservation Commission two years earlier, but they had only presented the deed recently. Mr. Seide went on to say that the term "agritourism" had recently been brought up after his attorney had suggested that their agreement include agricultural flexibility for heirs to keep the historic farm viable in the future, but they had also agreed that the Town would still have to approve uses within Ordinances and State Law as was discussed and agreed at the last Conservation Commission meeting.

Mr. Weiner stated that he hadn't been present to consider future uses, and he was concerned that sales would take place on the property, which was not his idea for a conservation easement.

(Board of Selectmen's representative, Bob Blonigan arrived at 6:43 p.m. at this point in the meeting.)

Conservation Commissioner, Jane Kendall commented that agricultural uses had been part of the original conservation easement discussions and agreement with the Commission, that they had clarified those agricultural uses would not be the same as commercial or industrial uses, and that the property owners would be required to follow Ordinances. Mr. Krebs agreed, and noted that page 5 of the deed explained the criteria that had to be met for any agritourism farm events to take place.

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Mr. Weiner said his objection was that he wouldn't want thousands of people coming into town for an agritourism event. Mr. Seide reminded Mr. Weiner that that would not be possible because they were required to seek approval from the Town and SELT, and it wouldn't be approved because they didn't have ample parking. Mr. Weiner responded that people could park at the school across the street and ruin the grass.

Mr. Weiner said he didn't have any objection with a single truck for wholesale, but he didn't want agritourism.

Mr. Hyde stated that a conservation easement was in perpetuity, and it wasn't easy to make it less restrictive, so they wanted to tighten the language up to clarify that the Town and SELT would have to approve agritourism uses as recommended by the Town attorney.

Mr. Cross asked Mr. Weiner to briefly explain if his objection was as a Planning Board member, or if there was a vote from the Conservation Commission. Mr. Weiner recalled the Conservation Commission going through steps to prevent approval.

Chair Hebert called on RSA91-A;3. (d) to go into non-public session.

Peter Welch moved to go into non-public session. Jim Weiner seconded, and a poll vote was taken with Denis Hebert; Erika Mantz; Christopher Cross Peter Welch; Jim Weiner; and Bob Blonigan all in favor.

Members of the public stepped outside.

After a brief non-public session under RSA91-A;3. (d) the public session was re-opened.

Mr. Cross asked if Mr. Weiner if the Conservation Commission had made a recommendation to the Board of Selectmen to go forward with the Adam's Home conservation easement, and Mr. Weiner said they had.

Chair Hebert asked Mr. Hyde if SELT accepted his recommendations for clarification to the April 12, 2021, conservation easement deed labeled "D" that had been reviewed by Attorney Ratigan, and Mr. Hyde said he believed he was, and asked Mr. Krebs to send him a digital version.

Jim Weiner moved to recommend to the Board of Selectmen approval of conservation easement deed "D" for the Adam's Homestead located at 148 Nimble Hill Road. Erika Mantz seconded, and all were in favor.

Mr. Blonigan said the Board of Selectmen would meet on April 19, 2021, to discuss the easement. Mr. Krebs asked Mr. Hyde to send an email to Ms. Roy and cc Town counsel, Attorney John Ratigan and himself a clean copy of the word document on the next day tomorrow.

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II) Other Business:

A) Preliminary Consultation regarding subdivision proposal by Joseph C. and Paula S. Akerley Revocable Trust regarding their property located at **325 Fox Point Road**

Mr. Krebs stated that the Ackerley's had received a variance from the 200-foot frontage requirement a year and a half ago to create a new lot for their daughter, Mandy and her family. Mr. Krebs said at the time, the Zoning Board of Adjustment (ZBA) asked the Ackerley's planned on subdividing, and Mr. Akerley said he would not, but his son, Scott Akerley had since returned from the D.C. area and the Ackerley's were now proposing to develop lots over time as needed.

Scott Akerley stated that he was going to take over his family's former residence soon, which would eventually be removed, and then he would rebuild on Lot 6.

Mr. Krebs said he met with the Ackerley's son-in-law, and abutter, Brandon Arsenault to discuss the pros and cons of two proposals.

Mr. Arsenault of 319 Fox Point said his brother-in-law, Scott Arsenault grew up in Newington, was a West Point graduate, and was planning on retiring from the U.S. Army as a lieutenant colonel.

Mr. Arsenault said currently there were three residential lots that shared a driveway since the 1960's. Mr. Arsenault said there was a lot of landlocked acreage, so a road would need to be built off Fox Point Road for access, which would bring his sister-in-law's house at 323 Fox Point Road into compliance.

Mr. Krebs said a new road would also create frontage for Dave Knight's former lot that was now owned by Dennis Lazara.

Mr. Krebs added that the proposal of lots outlined by yellow seemed to meet the form factor requirements. Mr. Arsenault said the benefit of the subdivision with the pink outlines was that the road was shorter and less expensive to build. Chair Hebert said he was not sure it would meet the form factor for all lots. Mr. Arsenault said the lot lines were only conceptual.

Chair Hebert asked if they would consider another subdivision for Lot 1. Mr. Arsenault said there was no intent at this point. Mr. Krebs noted that Lot 1 could be cleaved into 3 lots. Chair Hebert pointed out that they would have to extend the road to meet frontage requirements.

Chair Hebert went on to say that it would cost less to extend the road from the start then to wait. Mr. Krebs agreed, and recommended that they create 600 feet of frontage on the cul-de-sac now.

Mr. Arsenault said their first concern was to get buildable lots with frontage, meet the acreage and form factor requirements, but they didn't want to disturb open areas in

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current use that grew milkweed for butterflies, so they wanted to keep the cul-de-sac as far back as possible.

Mr. Cross asked about access to Dennis Lazara's lot. Mr. Krebs said that lot currently had an easement to use the shared drive.

Mr. Cross asked if they had talked with the Lamson family regarding extending the road out to Little Bay Road so they could create a connector for more lots, and eliminate the cul-de-sac. Mr. Arsenault said they could ask, but there were a lot of wetlands on the Lamson property. Mr. Cross commented that all properties in town would be developed eventually unless they were put into conservation, so it would be good to plan for future use.

Mr. Arsenault said without getting into financial details, they might want to consider divestiture, and take the property out of current use.

Mr. Cross said instead of subdividing taxable lots, they could leave Lot 1 as a single lot that could be developed eventually. Mr. Krebs responded that building a road to the end would create a subdivision. Mr. Cross disagreed, saying that it was current legal practice.

Mr. Weiner commented that they were spending too much time designing the subdivision for the applicant.

Chair Hebert asked if they found out if a new water line was being put in. Mr. Arsenault said that the City of Portsmouth Water Department was putting a new water line in under Great Bay.

Mr. Weiner commented that the Portsmouth Water Department wouldn't allow them to tap into the main line. Mr. Arsenault said there was a moratorium on tapping into the concrete low pressure line, but they were laying a new 8-inch-high pressure steel line that would be continued down Fox Point Road to Arboretum Drive and on to the tower near Walmart.

Mr. Arsenault noted that there would be hydrant(s).

Board member, Peter Welch asked if the Lamsons would be required to upgrade his road to meet Town specifications if they ran a connection through his property to Little Bay Road. Chair Hebert said they could ask, noting that the John Lamson had appeared before the Board regarding a subdivision years ago, but didn't pursue it further.

Mr. Arsenault said there was a 150-foot-wide strip that abutted Little Bay Road so there wouldn't be a lot of room for a subdivision.

Mr. Arsenault asked if they could continue with the power feed across the field to save costs. Mr. Krebs said the based on past practices, the Board had never granted above ground utilities.

Mr. Arsenault asked if the Board might consider a one-way street that was 24 feet wide like the current road that fed the same number of residents currently. Mr. Krebs commented that if they were asking for a one-way road if Mr. Arsenault, who would be an abutter, and the Lamsons agreed on a connector to Little Bay Road, he

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was a fan of narrow roads himself, but the Planning Board and the fire department would have to review the request.

Mr. Arsenault stated that he had talked with Fire Chief Hoyt informally, who told him that the ladder truck required 18 feet, but there would be no use for the ladder truck on homes that far from the road.

Chair Hebert stated that the school bus service would also have to approve the width for their turn around. Mr. Arsenault said he would follow up on the width requirement for the school bus, but they wouldn't change the circumference of the cul-de-sac.

Mr. Akerley commented that he had to walk to the intersection of Fox Point Road and Little Bay Road to wait for the school bus when he was a kid.

Mr. Cross commented that granite curbs on Mott Cove were put in too close to Fox Point Road where the bus couldn't make turns, so they had to move the curb back ten feet.

Chair Hebert said he liked the idea of reduced asphalt that would cost the Town less for maintenance and repair if they could exit between Arsenault's house and Jan Stuart's house, or to Little Bay Road if the Lamson's agreed.

Mr. Krebs said it would be a long road going to Little Bay Road, so they would need to determine if it made sense. Mr. Krebs said they would also need to determine how to get three lots out of Lot 4 if they exited on to Fox Point Road by the Arsenault's property.

Chair Hebert asked where they would stop the road if they did the subdivision in stages. Mr. Arsenault said they would stop at a section on the west side of Lot 3 in front of trees. Chair Hebert said they could, but reiterated that it would cost a lot more to continue the road later. Mr. Arsenault said their thoughts were about not impeding upon open nature of land.

Mr. Blonigan congratulated Colonel Akerley on his military career, and welcomed him back to town.

B) Continued discussion on proposal for **Points North Recovery Center** on property located at **2299 Woodbury Avenue, Tax Map 19/Lot 9**

Mr. Krebs informed the Board that this was an informal discussion regarding the proposed addiction treatment center because they had been told that they had to go through a change of use site review.

Attorney Megan Carrier said the Site Regulations required stormwater management and erosion plans, which would not pertain to their occupancy.

Jessica Meehan, Director of Points North Recovery Center stated that they were making no changes to the building or parking.

Ms. Meehan stated that they would have no more than 15 clients at a time, and they encouraged clients to be dropped off and picked up rather than drive in

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themselves. Ms. Meehan added that they discouraged clients from bringing their own car by charging a storage fee.

Ms. Meehan stated that the building was occupied by medical offices where clients and patients used parking to the left of the building, and their use would be no more than 16-20 vehicles.

Ms. Meehan included the abutters list, and other tenants that had been notified, and there was a letter from their landlord that showed their parking area. Ms. Meehan said she didn't know what the daily traffic was for the other businesses, but she had observed multiple empty spaces separate from their space.

Chair Hebert stated that the Board's concern was that they didn't want all businesses claiming the same parking spots, so they wanted to know what their lease said to avoid problems. Mr. Krebs agreed that the question would be answered so long as the lease said the applicant had 20 spaces. Ms. Meehan responded that they could ask the landlord to confirm the number of spaces they would have.

Mr. Weiner stated that he had spoken to his wife and learned that billing codes were used to determine medical uses, and wanted to know what codes they used to help him determine if the use was permitted. Ms. Meehan responded that she was concerned with discussing codes in detail because of HIPPA restrictions, but she could say that the code they fell under was non-hospital, non-ambulatory.

Chair Hebert reminded Mr. Weiner that the Board had already voted on to allow the use at the last meeting.

Mr. Krebs stated that Mr. Weiner had talked with him about his concerns with the use, and he informed Mr. Weiner that the Board had voted unanimously to allow the use, however, he could ask for more information, and if he was not satisfied, he could ask for reconsideration. Chair Hebert responded that Mr. Weiner could ask for reconsideration, but he was caught by surprise because of the Board's previous decision.

Mr. Weiner said he didn't think that the Board voted on preliminary consultations, and that he still wanted to know the code. Chair Hebert responded that consultation discussions were for information only, but then the Board voted to allow the use, and there would be no grounds for turning the decision around unless they were using it for something other than drug and alcohol recovery.

Mr. Weiner said his wife said that the Board needed to know the codes that they used to bill clients to determine whether it was a clinic or hospital. Ms. Meehan said there were thousands of codes, that they were not acting as a treatment center in a non-ambulatory, non-hospital setting, and it felt as if Mr. Weiner wanted to overturn the Board's decision.

Ms. Meehan went on to say that they would only be allowed to do what they were licensed to do, and could only do what was approved by the Board in that space as was required by accrediting as they would be shut down if they did anything outside of their practice.

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Chair Hebert stated that codes had nothing to do with the site review. Chair Hebert asked if they considered themselves a clinic or hospital. Ms. Meehan replied that they were billing as a non-hospital treatment center. clinic. Board members all agreed that this was what they discussed and approved previously.

Mr. Krebs stated that the codes shouldn't be issued because they would be part of the public record.

Ms. Meehan said she wanted to be sure the Board was not retracting their motion approving the use. Attorney Carrier added that they wanted a better understanding of what the Board wanted. Chair Hebert responded that there had never been a problem with parking on the site, but they wanted to be sure that they would have parking dedicated to their use.

Mr. Krebs stated that no site plan was on file, but there were 87 spaces, and one space was required for every 250 square feet of office space, so the Board wanted to see the lease agreement for how many spaces they had, and asked that they take an aerial photo of their parking spaces for a calculation.

Ms. Meehan stated that they would have a maximum of 12 staff members at any one time during regular business hours during weekdays, and a staff of 2-3 overnight with 15 patients that wouldn't have vehicles. Mr. Krebs responded that would come to 25 spaces.

Chair Hebert asked what square footage of space they would occupy, and Ms. Meehan replied that the clinic would occupy 7,500 square feet, and they were also looking at renting the upstairs for office space, which would bring the space to 10,000 square feet.

Mr. Cross commented that they were taking over the space where New England Surgical Care had been, and that was the facility that filled the parking in the back so he thought the same parking for Points North should be adequate.

Mr. Cross commented that as for the change of use, it was important to understand that they were next to an industrial area, so he wanted to see a breakdown of an emergency egress plan, and how their 24 operation and staff would follow a notification process for clients and emergency responders. Ms. Meehan stated that she spoke to the fire chief regarding potential for evacuation, and would write their plans out.

Ms. Meehan thanked the Board, and let them know that they had change their d name from Fox Point Recover to Points North Recovery. Mr. Blonigan noted that the fire chief would appreciate that.

C) Election of officers

Chris Cross moved to retain Chair Hebert as Chair, and Erika Mantz as Vice-Chair. Jim Weiner seconded, and all were in favor.

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Mr. Krebs suggested that the Board consider another alternate member that would attend all meetings so they would be up to speed should more members be needed.

Mr. Blonigan announced that the Board of Selectmen would be voting on alternates at their Monday, April 19, 2021 meeting. Chair Hebert pointed out that the Planning Board appointed their own alternates. Chair Hebert agreed that it was important that members attended regularly, and that he wanted Board members that would uphold what the majority of what the residents wanted.

Mr. Cross suggested that anyone interested should sign up for the New Hampshire Associate of Planners virtual conference on May 15, 2021.

III) Additional Discussions

Chair Hebert informed the Board that they were still waiting for the Rockingham Planning Commission to hire someone, but it was time for the Board to start working on the Capital Improvements Program (CIP).

Mr. Cross recommended that the Board receive a copy of the current version of the New Hampshire Municipal Association's books so they could reference the basics of budgeting in Chapter 10 for the CIP. Mr. Blonigan said that the Town could print copies and bind them in the office. Mr. Cross said that the \$70 books were available to towns for \$35.

Mr. Blonigan stated that the Town was working on updating tax maps. Chair Hebert said Eversource easements should be updated too. Mr. Krebs added that it would be good to have a copy of the maps so lot lines could be updated, and given to the tax assessor.

Vice-Chair Mantz noted that an email had been sent out that they would meet with the Economic Development Committee on April 26, 2021, but she hadn't heard anything further on the agenda.

Mr. Krebs said the boards might not agree on everything, but it would be nice to meet and discuss what the boards did agree on.

Minutes:

Erika Mantz moved to approve the Minutes for the March 22, 2021, meeting with corrections as noted. Jim Weiner seconded, and all were in favor.

Chris Cross moved to approve the Minutes of January 4, 11, and 21, 2021. Jim Weiner seconded, and all were in favor.

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Mr. Krebs said he would send out the January 25, 2021 Minutes for approval at the next meeting.

Adjournment: *Peter Welch moved to adjourn the meeting. Jim Weiner seconded the motion and the meeting adjourned at 9:20 p.m.*

Next Meeting: Monday, Apr 26, 2021 Work Session

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

These Minutes were approved and adopted by the Planning Board at their May 24, 2021 meeting.