

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, May 20, 2019

- Call to Order:** Chair Denis Hebert called the May 20, 2019 meeting at 6:00 p.m., followed by the pledge of allegiance.
- Present:** Chair Denis Hebert; Board Members: Russ Cooke; Christopher Cross; Ben Johnson; and Peter Welch; Alternate Board member, Jim Weiner; Board of Selectmen's Representative, Mike Marconi; Town Planner, Gerald Coogan and Jane Kendall, Recorder
- Absent:** Vice-Chair Erika Mantz
- Public Guests:** Ted Mooney; Steven Demers with Starkin Autoworks; John Briggs with Vera Coffee; John Liatsis; Attorney John Bosen; Maggie Cooke; John Frink

*Chair Hebert informed Alternate Board member, Jim Weiner that he would vote in place of Vice-Chair Erika Mantz who was not present for this meeting.*

**I) Public Hearing:** Site Review for 4-story, 83-room hotel proposed by **Doloma Investment** of Portsmouth, Inc. regarding property located at **141 Shattuck Way, Tax Map 20, Lot 4**

Town Planner, Gerald Coogan informed the Board that the applicant had requested a continuation to Monday June 3 or June 17, 2019. He said the applicant was having Gove Environmental reflag the site, and Town wetlands consultant, Mark West then review the wetlands delineations.

Mr. Coogan said the applicant sent out an email stating that they would also relocate the building further from wetlands, and would return to review before applying for variances and waivers as needed.

Chair Hebert commented that they started the review on April 22, 2019 and were getting near the 90-day mark and he was concerned that they might need to restart the clock, but perhaps they could waive the fees for a new application. Board member, Russ Cooke asked what would happen if they denied an application as presented, and Chair Hebert replied that they could consult with Town counsel.

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II) **New Business:** Change of use discussion for **Mooney** building located in the Waterfront-Industrial Zone at **436 Shattuck Way, Tax Map 7, Lot 12.**

Mr. Coogan informed the Board that the Mooney building received variance in the Waterfront-Industrial Zone for non-waterfront use, and the condition of approval at the time was to return to the Board for any future changes of use. The applicant, Ted Mooney specified that the variance request was between 1986 and 1987.

Mr. Mooney said that Vera Coffee that was leasing the 3,300 square foot space in the northern most corner of the building was moving to a new location. He said they had a year left on their lease, and found another business to sublease the space.

Steven Demers with Starkin Autoworks stated that they were distributors of German and American auto parts, and were interested in subletting the space for their new startup business.

Board members asked questions regarding their wholesale distribution use, parking, customer and vehicle traffic.

Mr. Demers stated that they not be doing any service repairs or body work. He said they would only be shipping out smaller items and FedEx and UPS would be their primary carriers.

Chair Hebert asked what kinds of chemicals would be in the building, and Mr. Demers replied that they would carry typical fluids like brake, and steering fluids, etc.

Chair Hebert said the Planning Board only had to look at parameters

Board member, Chris Cross asked if retail sales were not allowed in the Industrial or Office zone, and Chair Hebert replied that retail use was not allowed, and the tenant would be crossing the line if they offered onsite sales or local pickup.

Mr. Weiner commented that he thought the Board might consider allowing pickup for local auto wholesale. Mr. Demers agreed that they might allow local pickup for someone that didn't want to wait for shipment, but they wouldn't advertise it as they mainly wanted to focus on filling their internet mail orders. Chair Hebert said the concern was that a precedent could be set if retail crept in. Mr. Mooney commented that other tenants, like Bay Auto and Favorite Foods had customers stop in occasionally. Mr. Weiner said he thought that someone with a commercial wholesale account might pick up their order occasionally, but he didn't think they would get retail cash transactions or retail foot traffic. Chair Hebert agreed that the beauty supply store at the Allard building only allowed wholesale customers.

Chair Hebert said it could be a condition of approval that the use would only be for wholesale distribution. Mr. Coogan noted that the meeting was purely informational and that no application had been submitted for approval.

Chair Hebert noted that parking was tight and asked about trash disposal. Mr. Mooney said a dumpster could be placed in a no parking area near the cooling unit with

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a chain-link fence around it, and eight feet from the building. Mr. Demers said they would mostly use the area for cardboard packing recyclables.

Chair Hebert said he wanted to be sure that there was still room to turn a firetruck, so he wanted to be sure a dumpster wouldn't be in the way. He said he would like to see a plan for the dumpster and parking, and a letter stating the use, and hours of operation, prior to returning for the Monday, June 3, 2019 meeting.

**III) Old Business:** Continuation of Preliminary Consultation for subdivision proposed by **John Liatsis** property located at 271 Nimble Hill Road, Tax Map 18, Lot 3A

Mr. Coogan passed out New Hampshire State law regulations regarding preliminary consultations. Chair Hebert added that he also talked to Town counsel, and wanted the applicant to understand that discussions during a preliminary consultation was non-binding.

Russ Cooke recused himself as an abutter.

The applicant, John Liatsis, and his legal representative, Attorney John Bosen appeared before the Board.

Mr. Liatsis stated that he considered the Board's feedback from his initial consultation, and wanted to review alternative accessways that would not work, to show his reasons for requesting a waiver from Section 5C that would allow a road greater than 1,500 feet.

Mr. Liatsis said his property abutted Nimble Hill Road, Arboretum Drive and Jack O'Reilly's property on Fox Point Extension. He said it was suggested at the last meeting that he consider exits on Arboretum Drive or talk with Jack O'Reilly about obtaining access through the right-of-way onto Fox Point Extension.

Chair Hebert responded that only one Board member made suggestions during the preliminary consultation, but it was not the Board's responsibility to advise property owners. Mr. Cross added that he had only suggested that Mr. Liatsis talk with abutters to find another way. Mr. Liatsis replied that he understood that the discussion was only exploratory.

Mr. Liatsis stated that he met with Pease Development Authority (PDA) regarding an exit on Arboretum Drive, but they said they wouldn't permit it because it was residential.

Mr. Liatsis said he then looked at his right-of-way through the O'Reilly's property, but the O'Reilly's had built a barn on the right-of-way, and even if the O'Reilly's was willing to tear down their barn, he would still need a waiver to build within the setback from their house.

Mr. Liatsis reminded the Board that there had been objections to the proximity of a Nimble Hill Road access to other intersections, so he had a traffic study done. Mr. Liatsis said the traffic study determined that Hannah Lane and Nimble Hill Road were not main arterial roads, and that extremely low increases in traffic would not significantly

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impact intersection. Mr. Weiner responded that he thought that Nimble Hill Road was very arterial in its functional use.

Chair Hebert commented that he didn't recall there being an issue with traffic so there was no need to present details before putting an application in. Mr. Liatsis replied that a he would need to survey the lots, get test pits, and a full road design, so he wanted to know whether his proposed road could get approved before spending on those items.

Chair Hebert asked who did the traffic study, and Mr. Liatsis said that Stephen Pernaw and Company did the traffic study on May 19, 2019. Mr. Cross said have had engineering studies from them before, and Mr. Coogan said they were well known in the business. Chair Hebert added that the Board would have their own traffic engineer review the study.

Mr. Cross noted that the proposed access 400 feet from another intersection was new information for the Board to review, and that the entrance grade would need to be adjusted.

Mr. Liatsis went on to say that there had also been comments that allowing more residents to move into a subdivision would put a financial impact on the Newington Public School, but he did some research and found that the school had been built to support 70 students, and currently there were only 40 resident students enrolled, and 11 were tuitioned from other towns so there would not be any financial impact if they took in more students.

Mr. Liatsis added that the fire chief said he would want to see fire hydrants for the subdivision, and the chief of police said they would do whatever they had to for residents.

Mr. Liatsis commented that strict conformity of the Ordinance would cause a hardship in subdividing his 30 acres, and granting the waiver would consider the nature of the property so that the spirit of the Ordinance could be carried out. Mr. Weiner responded that the intent of the Ordinance was to allow the reasonable use of property, but the proposed road was 66% over the maximum allowed capacity of the road. Mr. Weiner went on to say that the applicant created his own hardship with an expectation that he had to build a road exceeding the regulations. Chair Hebert agreed that there was no guarantee that Mr. Liatsis could do whatever he wanted without regard to the Ordinances, and he was not being denied use of his property because of it.

Mr. Cross added that the applicant could subdivide his property with fewer lots to comply with the 1,500-foot dead end road, or could he could ask for a waiver, but it had been his experience that the Town seldom granted such waivers without good reason.

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Chair Hebert stated that the Board could not discuss granting a waiver without a plan meeting the necessary requirements, and a subdivision application. Mr. Liatsis replied that his plan involved the road length requiring a waiver to maximize the full use of his property. Chair Hebert reiterated that this was only a preliminary consultation.

Chair Hebert pointed out that Mr. Liatsis had presented different options that did not work, but he had not presented any new solutions that met the Ordinance since his last consultation. He added that the Board needed to consider the impact setting a precedent. Mr. Liatsis responded that his request from a waiver was not likely to set a precedent because there but very few lots like his that weren't in conservation.

Chair Hebert said there were other lots in town that needed to address unique issues without breaking the Ordinance. Chair Hebert suggested that Mr. Liatsis could have reviewed property issues with the Board before the purchase.

Chair Hebert added that wetlands were considered for all developments. He reminded Mr. Liatsis that he needed to hire a wetlands scientist to flag the wetlands delineations, and that the Town's wetlands scientist, Mark West with West Environmental would need to review the property to confirm the location of the 50 foot and 100-foot wetlands setbacks. Mr. Liatsis stated that he had hired Joe Nowell to flag his wetlands, then had Dave Hislop survey the lot, and then had Gove Environmental map the wetlands again, and it was determined that Pickering Brook was not on his property. Mr. Weiner reminded him that the Town wetlands consultant would still need to review the property. Chair Hebert added that the Board required a deposit of funds to cover the cost of consultant reviews.

Mr. Liatsis said it appeared that he would need to cross wetlands with his plan, and he believed roads could not cross wetlands, but that 10-foot driveways could cross wetlands. Board member, Peter Welch asked how he would get utilities to homes, and Mr. Liatsis said only two or three driveway crossings were necessary.

Mr. Cross said other residents would want applicants to comply with same ordinances that they had to follow. He added that waiving many wetlands crossings to get to uplands would be reviewed with caution. Chair Hebert said the Planning Board grants special exceptions for crossing wetlands, but he still needed to resolve the road length to ensure compliance with the Ordinance.

*(Board of Selectmen's representative, Mike Marconi came in at this point at the meeting at 7:15 p.m.)*

Mr. Cross commented that Mr. Liatsis had presented a concept plan before, and asked if the Board could vote on the plan as substantially complete. Mr. Coogan and Chair Hebert replied that the applicant needed to do test pits before submitting a subdivision plan, that could be voted on.

Mr. Weiner suggested making a master table and sit down with Mr. Coogan before going further. Chair Hebert reminded Mr. Liatsis that it was not the Board's responsibility to resolve issues with his property, and that he needed to come back with

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a plan that met the road regulations as well as address the distance to the abutting road.

### IV) **Other Business: Master Plan:** Update

Mr. Coogan informed the Board that the next Master Plan Work Session was tentatively scheduled for Thursday, June 6, 2019 at 3:30 p.m.

### V) **Additional Discussions:**

Maggie Cooke of Hannah Lane complimented the Board on upholding the Ordinance and representing residents when considering applications.

Mr. Marconi informed the Board that Board of Selectmen, Ken Latchaw informed them that Pease Development Authority (PDA) had an income surplus of 4 million dollars, and that the Board of Selectmen was petitioning them to do something about the condition of Arboretum Drive.

Mr. Marconi said the Board of Selectmen were also asking to permit a Newington representative to sit on the Port Authority board as a lot of business was coming into Newington's port. Mr. Welch commented that Port Authority paperwork now included Newington with Portsmouth.

**Minutes:** Chair Hebert said the administrative office didn't have a chance to distribute the Minutes from the previous week, so the Board would vote on the May 13, 2019 Minutes at the next meeting.

**Adjournment:** *Peter Welch moved to adjourn the meeting. Jim Weiner seconded the motion and the meeting adjourned at 7:45 p.m.*

**Next Meeting:** Planning Board: Monday, June 3, 2019 at 6 p.m.  
Master Plan: Thursday, June 6, 2019 at 3:30 p.m.

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

*These Minutes were approved and adopted at the June 3, 2019 Planning Board Meeting.*

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