

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, May 24, 2021

- Call to Order:** Chair Denis Hebert called the May 24, 2021 meeting at 6:00 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; Alternate Board members, Rick Stern and Jim Weiner; Board of Selectmen's Representative, Bob Blonigan; Town Planner, John Krebs and Jane Kendall, Recorder
- Public Guests:** Joseph Coronati, Jones and Beach Engineers; Mike Garrepy with Garrepy Planning Consultants; Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering; Robert "Guy" Young, Jr; Skip and Lorraine Cole; Gail Klanchesser; Abby Hood; Jeanne Knox Haskins; Paula Knox; Steven Hill and Rhonda Baker Hill; Craig Daigle; Ken Latchaw; Suzanne Russell; Edna Mosher; Derrick Wilson; Mike and Janice Marconi; Doreen Stern; John Lamson; Margaret Lamson; Doreen Stern; Town counsel, Attorney John Ratigan

1) Public Hearing:

A) Lot Line Adjustment, Conditional Use Permit, and Subdivision application by Nimble Hill Realty Investments, LLC regarding property owned by Randal and Bren Watson located off Nimble Hill Road, Tax Map 6, Lot 1; property owned by Dean and Lorraine Cole of 30 Coleman Drive, Newington, located on Tax Map 11, Lot 2; property owned by Dean Cole and Dulcie Donn Haas of 30 Coleman Drive, Newington, located on Tax Map 11, Lot 3; property owned by Lucy and Robert "Guy" Young, Jr. located at 92 Nimble Hill Road, Newington, Tax Map 12, Lots 4 and 6; and property owned by Robert "Guy" Young, Jr. Located at 92 Nimble Hill Road, Newington, Tax Map 12, Lot 9.

Chair Hebert announced that this meeting was scheduled for an hour and a half, and would be the first of several meetings.

Town Planner, John Krebs stated that the primary access for the proposed subdivision would be on Nimble Hill Road, and the second access would be off Coleman Drive.

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Mike Garrepy with Garrepy Planning Consultants stated that he had appeared before the Board several months earlier to present preliminary plans. Mr. Garrepy said they had since made a few minor adjustments to the lot line and road configuration.

Mr. Garrepy stated that several parcels were under consideration for subdivision and lot line adjustments, and five waivers, with 35 acres on Map 6, Lot 1 being the primary parcel that they would reconfigure in 14 lots.

Mr. Garrepy stated that they were proposing to access the lots on "Shackford Lane" from Nimble Hill Road, leading to a second access onto Coleman Drive, and a cul-de-sac.

Mr. Garrepy said the intent was to have the application accepted, hear from the Board and public, and then go through the plans in further detail.

Mr. Garrepy stated that the proposal included a couple of wetland crossing, one of which was significant, and would need a conditional use permit.

Mr. Garrepy said he received Mr. Krebs and Town engineering consultant, Eric Weinrieb, P.E. of Altus Engineering's first reviews.

Joseph Coronati with Jones and Beach Engineers presented the engineering plans, stating that the 25-foot-wide right-of-way easement to the Watson property was insufficient for a road so they were proposing to purchase 25 feet from Robert "Guy" Young, Jr. and do a lot line adjustment. Mr. Garrepy said they would leave the remainder with Mr. Young if they didn't need all of the land.

Mr. Krebs asked who would get parcel A, and Mr. Coronati replied that it would go to the right-of-way, and the other side of Lot D would go to newly formed Map 11, Lot 2. Mr. Coronati stated that they would remove the small one-car garage on Lot 1.

Mr. Coronati said they had met with the New Hampshire Department of Environmental Services (DES), Army Corp of Engineers (ACOE), and Environmental Protection Agency (EPA) who recommended the wide opening bridge for hydrology, and wildlife crossing. Mr. Coronati said they were requesting several waivers to avoid the wetlands and buffers on the other side of the bridge.

Mr. Coronati said they were also proposing to purchase a lot from Skip and Lorraine Cole, do another lot line adjustment, remove the house, and build the second access off Coleman Drive.

Mr. Coronati stated that the length of Downing Lane from Shackford Road to the cul-de-sac was less than the 1,500-foot limit.

Mr. Coronati said they were doing several other lot line adjustments to create larger, and more conforming lot that met the frontage and form factor requirements, except for Lot 8 and Lot 11 that did not meet the form factor, 8 and 11 because of the existing shape of the land point, and the tidal line.

Mr. Coronati stated that they would use curbing on the built-up roadway to allow for less cutback expansion, and runoff on the heavy clay soils, and wetlands.

Mr. Coronati said utility lines would run underground. Mr. Coronati added that there was a new water line on Coleman Drive, but they still needed the City of Portsmouth Water Department to review putting in a water line above or below the bridge.

Mr. Coronati said drainage on the flat areas on the Watson property, and they were proposing many low impact rain gardens to handle runoff with eight mowed lawn areas as

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preferred by DES instead of perennial plantings that required maintenance and get neglected.

Mr. Coronati said there were some challenging buffer impacts in the variety of freshwater, prime, tidal, and shoreland setbacks, and they would apply to the State for Alteration of Terrain (AoT), Shoreline Protection, and State Subdivision permits.

Mr. Coronati provided a brief review of their waiver requests. He said they would be requesting a waiver from the intersection angle requirements under Section 5.E, on the westerly side where the proposed road meets the existing road radius as shown on Sheet A1.

Mr. Coronati said they would also need a waiver from the requirement of 400 feet between other intersections, where the Shackford Lane would be 375 feet from center line to center line, and 325 feet between the right-of-way.

Mr. Coronati went on to say they would need a waiver from the side slope requirement of 4-1 at the entrance from Nimble Hill Road, along the vertical bridge abutments, where there was curbing to allow tighter cuts to the trees, and along the wetlands.

Mr. Coronati said the final waiver would be from the form factor for the lots that ran along the irregular shaped topography of the shoreline.

A brief review, and identification of no build deed restrictions, and no cut buffers was discussed.

Mr. Coronati said there would be trees planted throughout the subdivision, and they pulled the road 25 feet back from the property line of Map 11, Lot 4, and Map 12, Lot 8 for some drainage, and landscaping for a privacy buffer.

Mr. Krebs commented that this was the first time the Board was seeing the 34-page plan set, so it would be good to go over the specifics of the waivers required to for design. Chair Hebert said they prob wouldn't act until they were ready to review, however.

Mr. Coronati clarified that Sheet A1 relates to 5.E, the 30-degree radius angle requirement at the intersection of Nimble Hill Road and the proposed Shackford Lane. Chair Hebert asked if the radius met the requirement in the right-of-way, and Mr. Coronati said it would.

Board member Jim Weiner asked for the current radius. Mr. Coronati replied that the radius was zero at Mr. Young's property intersection. Chair Hebert added that the road would have a proper radius. Mr. Coronati added if not granted they would need to move the road over more, and would have more useless right-of-way between the abutter. Mr. Garrepy added that they wouldn't have sufficient setback from the existing abutter's house if they moved the road over.

Mr. Krebs asked for the width along Nimble Hill Road, and Mr. Coronati replied that it was 75 feet wide. Mr. Garrepy said there just wasn't enough room for the required radius on both sides of the road.

Edna Mosher of Nimble Hill Road said she lived across from Mr. Young's property, and the line of sight of cars exiting Coleman Drive from her driveway was not good, and asked why they wouldn't demolish the rental house abutting Mr. Young's home. Vice-Chair

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Mantz also asked why they wouldn't remove the house to eliminate the line-of-sight issues. Mike Marconi of Coleman Drive also agreed that there was a line-of-sight issue with the hill.

Mr. Coronati responded that the top of the hill where Mr. Young's house sat was closer to Coleman Drive, and the line of sight was worse going down the hill. Chair Hebert said the Board would need a site walk to get a sense if the hill would interfere with the line of sight.

Mr. Coronati said that the third waiver was to allow 375 feet of distance between center line to center line from the 400 feet requirement as the Department of Transportation required less distance between driveways and roadways, and this would be a way of preserving the house. Mr. Garrepy added that there was an economic benefit to keeping the rental housing.

Board member, Chris Cross said he tended to agree with Ms. Mosher, and said both waivers should be checked during the site walk.

Mr. Weinreib commented that they would review from the driver's points of view. Mr. Krebs noted that raising the driver's eye height would broaden their view.

Mr. Weinreib said they also needed to look at the line of site for all seasons. Mr. Coronati said DOT's requirement was to measure back 14 feet back from the driver's eye, which was deeper than most vehicle hoods of ten feet.

Rhonda Baker Hill of Coleman Drive commented that she thought that the proposed road would give a better view than the view of exits further down the hill.

Mr. Coronati discussed the slope waivers for the subdivision road, and the bridge with vertical side slopes with retaining walls and guide rails, curbing to avoid the isolated wetlands on the Watson property. Mr. Garrepy added that there were a lot of mature hardwood trees on the lot, and the steep slopes would allow them to save more trees along the roadway and site.

Chair Hebert commented that there were wet spaces from steep slopes on Arboretum Drive, and he was concerned with the road collapsing due to steep slopes over time.

Mr. Weinreib commented that the details showed fabric near the wetland crossings, but suggested geotextile be placed throughout the road as there was not a lot of soil variation in the area. Mr. Coronati responded that using fill to build up the road would improve the road. Mr. Weinrieb suggested that they use more fill on the sides to level out the slope more. Mr. Coronati they would need a ditch and berm if the Board wanted a 4-1 slope, and didn't want the curbing. Mr. Weinreib agreed that the grading would go beyond the 50-foot right-of-way.

Chair Hebert said he didn't like the 2-1 slope. Mr. Cross said he was willing to review during the site walk, and thought that there would be more stability if it wasn't on both sides,

Mr. Cross said he didn't see any reason not to accept the waiver from the form factor because of the shoreline configuration. Mr. Krebs agreed that it was not self-created, and there was nothing they could do to change the topography.

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Abby Hood of Coleman Drive asked if there were any concerns with the line of site for traffic coming out of Downing Way onto Coleman Drive, and Mr. Coronati said there was not.

Derrick Wilson of Coleman Drive asked for an explanation of form factor. Chair Hebert stated that the regulation to create uniform square or rectangular lots that was like that in other towns, and was established to prevent odd shaped lots, such as a five-foot strip running from a land locked lot to create frontage, or spite strips, which could block frontage, and lock up other lots.

Chair Hebert commented that he noticed an underground storm drainage system on P17-19 of Sheet H1, and wanted it understood that the Town discouraged systems that were expensive for the developer, and would increase road maintenance. Mr. Coronati responded that they wanted to avoid ditches close to the water table that ranged from 11 to 24 inches down.

Mr. Garrepy suggested that they forego further discussion of the the Conditional Use request until they discussed drainage and impacts with the Conservation Commission first.

Chair Hebert recommended the Conservation Commission join the site walk. Mr. Krebs said they he would talk to the Conservation Commission, and post the site walk on the Town website.

Mr. Marconi asked if the public could join the site walk. Chair Hebert said they could, but they would need to limit questions to the Chair for everyone to hear, and there could be no interaction with Board members.

Craig Daigle of Nimble Hill Road asked about the access. Mr. Krebs replied that they didn't need another access unless the cul-de-sac was longer than 1,500 feet, and they were over by 400 feet, and this was also good planning for a second emergency access.

Mr. Daigle asked if the homeowner's association would maintain the road. Chair Hebert said it would until the Board of Selectmen accepted the road. Mr. Krebs said there was a remote possibility that homeowners wouldn't want the Town to take over the road from the association, but most do, so developers were required to build roads to the Town's standards; however, it wouldn't happen for a handful of years.

Mr. Daigle asked what the traffic expectations were, and Chair Hebert replied that traffic would be part of the review.

Mr. Marconi asked if they would address storm water runoff. Chair Hebert said Town wetlands consultant, Mark West of West Environmental had reviewed the site, but he hadn't seen the report yet.

Mr. Marconi asked what the weight limit was for the bridge. Mr. Coronati said he don't know the tonnage, but it was designed to handle dump trucks, etc.

Chair Hebert commented that this was the first proposal for a bridge leading to a development, and wanted to know how a long aluminum structure would last. Mr. Coronati stated that it would only be exposed to fresh water, not salt water, and lasted for 50 or more years. Chair Hebert asked Mr. Weinrieb if he had any knowledge of these bridges. Mr. Weinrieb said he had heard it was a good product, but he could look into it further. Mr. Garrepy said they were being guided by DES rules for the prime wetland.

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Chair Hebert commented that he thought that three or four culvert pipes would last longer than the proposed bridge. Mr. Garrepy said they were currently being guided by DES, but would consider interaction between DES and the Town planner and the wetlands consultant to discuss alternatives that would last longer, but still be less impactful.

Alternate Board member, Rick Stern commented that culverts wouldn't allow wildlife to pass in the same way that a bridge would. Ms. Baker Hill added that concerns for financial costs were taking precedence, but they also needed to consider protection of the environment, and maintaining the rural character of the town.

Chair Hebert said culverts might last 200 years, and wouldn't interrupt wetlands as much as replacing a bridge every 50 or 75 years. Mr. Cross commented that they needed to keep an open mind in considering which would have less impact.

Mr. Krebs asked if the Board was ready to accept the application as substantially complete. Chair Hebert said he didn't think they were ready. Mr. Weinrieb stated that there were always parts missing before full review, but there was a full set of plans, with test pit logs, a drainage plan, conditional use application, so he thought that the application was substantially complete, and they would have 65 days to complete and review the full application.

Chair Hebert commented that they had accepted the Fabyan Point Road development early, but then there were many delays in completion. Mr. Garrepy responded that they were a different applicant driving the engineering. Mr. Weinrieb added the Fabyan Point Road development was complete, but then there were many changes that followed.

Chair Hebert said he was concerned from past experiences, and they had a long punch list of issues to address. Mr. Krebs noted that the statute says that the Board had to tell the applicant what was missing if they didn't accept an application when presented. Mr. Garrepy agreed that they still needed site walks, and plan changes, so the application was not ready for final approval, but it was ready for review.

Mr. Cross commented that the application seemed more complete than others had.

Chris Cross moved that the application Subdivision application by Nimble Hill Realty Investments, LLC regarding property owned by Randal and Bren Watson located off Nimble Hill Road, Tax Map 6, Lot 1; property owned by Dean and Lorraine Cole of 30 Coleman Drive, Newington, located on Tax Map 11, Lot 2; property owned by Dean Cole and Dulcie Donn Haas of 30 Coleman Drive, Newington, located on Tax Map 11, Lot 3; property owned by Lucy and Robert "Guy" Young, Jr. located at 92 Nimble Hill Road, Newington, Tax Map 12, Lots 4 and 6; and property owned by Robert "Guy" Young, Jr. Located at 92 Nimble Hill Road, Newington, Tax Map 12, Lot 9 was substantially complete, and ready for a site walk. Erika Mantz seconded the motion, and all were in favor.

Mr. Krebs informed the applicant and the Board that the application would be good for 65 days until July 29, 2021. Mr. Garrepy said he would be willing to request an extension.

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Mr. Krebs asked Mr. Coronati when he would be able to discuss the bridge with DES, as well as address his and Mr. Weinrieb's concerns, informing him that the Town would need submittals two weeks before meetings.

Mr. Krebs informed the applicant that they would need to meet with the Conservation Commission to review Mr. West's report on drainage, buffer impacts, and to discuss cover landscape at the Commission's next meeting on the second Thursday on June 10, 2021. Mr. Coronati suggested that they attend a Technical Review Committee (TRC) meeting first.

Mr. Krebs recommended a Monday, June 14, 2021 site walk at 5 p.m., followed by a meeting.

Erika Mantz moved to continue the subdivision application by Nimble Hill Realty Investments, LLC regarding property owned by Randal and Bren Watson located off Nimble Hill Road, Tax Map 6, Lot 1; property owned by Dean and Lorraine Cole of 30 Coleman Drive, Newington, located on Tax Map 11, Lot 2; property owned by Dean Cole and Dulcie Donn Haas of 30 Coleman Drive, Newington, located on Tax Map 11, Lot 3; property owned by Lucy and Robert "Guy" Young, Jr. located at 92 Nimble Hill Road, Newington, Tax Map 12, Lots 4 and 6; and property owned by Robert "Guy" Young, Jr. Located at 92 Nimble Hill Road, Newington, Tax Map 12, Lot 9 to a date certain of Monday, June 14, 2021 with a site walk at 5 p.m. followed by a meeting. Bob Blonigan seconded the motion, and all were in favor.

Mr. Stern stated that he had been listed as an abutter, but he was not.

Mr. Krebs suggested that the applicant send information to meet with the Conservation Commission before the site walk.

Chair Hebert informed everyone that each lot line would need a separate review and vote to provide a record for each contingent for final approval of the project.

(Attorney John Ratigan had appeared at this point in the meeting.)

II) New Business Discussions:

A) Review of Draft language to regulate parking for agricultural uses under Section 14 – Parking Lot Design Requirements

Chair Hebert said he had invited Town counsel, Attorney John Ratigan to discuss concerns with agritourism uses such as large wedding venues in barns because of concerns with hundreds and thousands of people coming into town.

Attorney Ratigan said most municipalities had amendments that agritourism required conditional use permits, and would be subject to site plan review. Attorney Ratigan said he put together a draft regulation at Mr. Krebs's suggestion for ten parking spaces that would be good until the Board could put forth new amendments in March 2022.

Attorney Ratigan said that site plan review would be treated the same as other site plan regulations. Attorney Ratigan said the Board would need to consider what conditions

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would be imposed, such as a conditional use permit would need to consider criteria, and conditions imposed, such as limitation to noise, time of day, and lights. Attorney Ratigan said the State established regulations on the percentage of agricultural product sales farm stands had to sell, but they also had to consider that farms that had expanded their uses such as a restaurant at Applecrest Farm were on State highways. Mr. Krebs commented that the State wouldn't monitor agricultural uses, however so the Town would need to. Attorney Ratigan said except for cut-through commuter traffic, Newington's roads were not heavily traveled like highways, however.

Board member, Peter Welch suggested that they add a maintenance requirement for porous pavement under C. Mr. Krebs said porous pavement was not durable, so not encouraged. Chair Hebert suggested removing completely. Attorney Ratigan said porous pavement made some sense along lakes and perhaps farms, but they would need to be considered as an impermeable surface for drainage review. Chair Hebert said couldn't be counted on as a stormwater treatment plan.

Board member, Russ Cooke asked if parking areas needed to be paved. Mr. Krebs said paved parking wasn't typical for a farm operation, and gravel parking created a mess, but there was a question on how you define parking spaces if not marked.

Mr. Cooke said he didn't see the point of paving, and didn't see anything wrong with dirt or gravel parking for once-a-week events. Attorney Ratigan suggested that the Board could grant a waiver.

Board of Selectmen's representative, Bob Blonigan commented that Emery Farm on Route 4 in Less had grown from a fruit and vegetable stand, and was and now a store and restaurant. Mr. Krebs said it was not an issue there, but it was a problem in a residential area where abutters were close.

Mr. Blonigan said the issue was selling eggs, honey, and other produce from farms in town. Mr. Cooke said he didn't have a problem with farms in town selling their goods, but this suggested that they would need to pave.

Mr. Weiner commented that there had been a concern that there were no size restrictions for agritourism events and parking when the subject was discussed with the Conservation Commission.

Chair Hebert said the Board should work on ordinance amendments through the year so they would be ready, rather than rush at the last minute.

Mr. Krebs said he needed a motion to post a public hearing to be scheduled on Monday, June 14, 2021 at 8 p.m.

Erika Mantz moved to send the draft language to regulate parking for agricultural uses under Section 14 – Parking Lot Design Requirements to a public hearing. Bob Blonigan seconded the motion, and the motion passed 6-0 with Russ Cooke abstaining.

B) Planning Training Sessions

Mr. Krebs said he spoke to Attorney Ratigan regarding municipal board procedure training sessions for the Planning Board and Zoning Board of Adjustment. Chair Hebert

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said the topics could be a kind of Planning 101 that would include the right-to-know law, communications among Board members outside of meetings, and the five criteria to granting variances from the Ordinance.

Mr. Krebs added that they might also discuss current land use cases that might affect the Planning Board's work, such as the push for affordable workforce housing in town.

Attorney Ratigan said appeals for residential housing had been turned from Superior Court to the appeals board as there had been such a backlog, and they were obliged to turn a decision over in 30 days.

Attorney Ratigan said New Hampshire Governor Chris Sununu, and the Legislature recognized that the lack of workforce housing was having an effect on attracting and keeping the workforce in the area. Attorney Ratigan said as a result, he thought there would be a move to encourage the building of more housing, and he thought there were ways to build attractive housing in areas that had more land.

Mr. Weiner commented that applications were often presented by attorneys, and other consultants presenting over multiple meetings, and he wondered if Newington might prevent rushed decisions by doing as other towns had by limiting the number of applications reviewed in a certain time by using a lottery. Attorney Ratigan responded that the Planning Board had to follow a 65-day clock after an application was presented, and accepted as substantially complete. Attorney Ratigan went on to say that some towns wouldn't begin the review of an application that had queued past 10 p.m. so that they could stagger the number of applications they reviewed at one time. Mr. Krebs said the problem was that there could be a backlog of applications waiting for review, or there would be numerous meetings per month, however the Newington Planning Board had become efficient by limiting the amount of time they would expend on reviewing incomplete applications. Mr. Krebs added that some towns had growth moratoriums, but that hadn't happened for years.

Attorney Ratigan said another important thing for Board members to keep in mind when reviewing applications, that all applicants had the right to present information for consideration as part of the public hearing process, that everyone would review the same information that had been presented for public review, and board members were not to have independent discussions and do independent research outside of meetings to draw their own conclusions. Attorney Ratigan said that board members could contact the Town Planner with their questions if there was any ambiguity on issues or procedures.

Chair Hebert asked about Board members calling upon their own technical knowledge on a subject that came up. Attorney Ratigan said referencing knowledge during a review was different than doing independent research, and drawing conclusions on an application that was to come before the Board.

Mr. Stern asked if a Board member had the right to review non-public meeting discussions for a meeting that they had not attended, so they would know what was being discussed. Attorney Ratigan said it was not unreasonable to share those discussions for the sake of educating one another. Chair Hebert said it might be different if the topic was a personnel issue that involved that individual, however.

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Minutes: *Peter Welch moved to approve the Minutes for the April 26, 2021 meeting. Chris Cross seconded, and all were in favor with Russ Cooke abstaining.*

Adjournment: *Russ Cooke moved to adjourn the meeting. Peter Welch seconded the motion and the meeting adjourned at 9:15 p.m.*

Next Meeting: Monday, June 14, 2021 following 5 p.m. site walk

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

These Minutes were approved and adopted by the Planning Board at their June 14, 2021 meeting.