

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, June 13, 2022

Call to Order: Chair Denis Hebert called the June 13, 2022, meeting at 6:08 p.m., followed by the pledge of allegiance.

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

Absent: Alternate Board member, Rick Stern

I) **Work Session:**

A) Discussion and Review of **Capital Improvements Program Draft**

Town Planner, John Krebs presented changes to his June 2022 Capital Improvements Program (CIP) draft after receiving several recommendations from the Board.

Discussion ensued regarding pros and cons to recommendations to remove a reference to Newington as a transportation hub, and industrial seaport. Board member, Peter Welch noted that Newington's seaport was larger than Portsmouth making it the largest.

Board member, Jim Weiner said he had no issue with referencing the seaport, but he viewed Newington as a pass through, and said he would be concerned with ramifications of calling it a transportation hub.

Vice-Chair Cross agreed that they could say Newington was a transportation pass through as it could be used to the Town's advantage with air, highway, rail, or water.

Mr. Krebs noted that Vice-Chair Cross had commented that Newington had a larger operating budget per capita due to its lower population.

Mr. Krebs said he added the Conservation Commission, Cemetery Committee, Historic District, and Trustees of Trust Funds information on page 15.

Mr. Weiner stated that the Conservation Commission had a discussion on their 2022 goals for some items that might be included in the CIP, so they wouldn't lose sight of them for another ten years.

Mr. Krebs noted that maintenance payments for the Langdon Public Library's HVAC and roof had been spread over five years, but it was suggested that it be done

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over ten years, however the Budget Committee would decide how they wanted to spread the payments out. Mr. Welch noted that it would need to be done by 2030.

Board member, Russ Cooke said he thought CIP funds were to be put away each year, and he hoped payments for the library would come from their trust funds. Mr. Welch said they were doing that.

Mr. Welch said regulations stipulated that the library could only spend the interest from their trust fund, and not the principal. Mr. Welch added that the library had discovered that interest had not been paid for five years, so they used that to pay down the bond for the library expansion.

Mr. Weiner commented that he thought there weren't any funds left in the Fox Point fund, but discovered that \$119,000 had been moved into the General fund, so he would like to know the funds list, and stipulations.

Mr. Krebs said he had added trust funds that applied to projects listed, but not all 50. Mr. Krebs said budgets and funds were listed in the Annual Report each year.

Mr. Krebs noted that sufficient funds weren't being put away for some items, so the Budget Committee would determine how to close those gaps.

Mr. Krebs said he added a note about grant funding, but they needed to be careful about timelines, and requirements of grants because free money wasn't always free.

Chair Hebert said the CIP might or might not change much, but it was supposed to be updated annually. Chair Hebert reminded everyone that the CIP list was only a recommendation, and each item would still need to go through the Town Warrant process each year.

Vice-Chair Cross added that the Planning Board polled departments for CIP recommendations, but budgeting was the purview of the Budget Committee and the Board of Selectmen.

Chair Hebert said the Planning Board made recommendations to the Board of Selectmen, the Budget Committee, and voters to decide process. Chair Hebert said more concerned with completing for compliance rather than overthinking what will happen after that. Mr. Krebs noted that the list could be amended from any other department that wanted to add a project.

Mr. Krebs said he listed commonly accepted paving procedures on page 17. Mr. Krebs said the Board of Selectmen were in charge of the road maintenance schedule, and might alter from the schedule on occasion to defer increased costs, but he recommended that they continue putting funds into the CIP even if they skipped a year waiting for costs to come down.

Mr. Cooke asked if Budget Committee Chair John Lamson had seen the recent draft, and Mr. Krebs said was sending Mr. Lamson all of his updates

Ben Johnson moved to send the CIP to a public hearing. Peter Welch seconded the motion, and all were in favor.

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B) Discussion on **Building Height Zoning Ordinance Amendment**

Mr. passed out his memo with recommendations for amending the residential height regulations for next fall. Mr. Krebs said they had time, but they learned that the Planning Board couldn't approve Special Exceptions after they received two requests for Special Exception from the height regulation due to sloped lots recently.

Mr. Krebs said Building Inspector, Steve Paquin suggested that height be measured from the average grade to the roof height, but he got the sense that the Board felt that would be too complicated. Mr. Krebs suggested new language to say that an applicant would need to request approval for a Conditional Use Permit from the Planning Board if height exceeded 35 feet, rather than a Special Exception or variance from the ZBA.

Mr. Cooke said he didn't agree with the Planning Board making Conditional Use Permits, and thought applicants should go to the ZBA.

Mr. Cooke said he would also prefer a measurement from the sill to the top of the roof. Mr. Krebs pointed out that some houses didn't have a sill, and some filled Styrofoam blocks with concrete, and the sill was at the top of the roof. Mr. Cooke said he would then prefer they measure from the highest grade to the top of the roof.

Chair Hebert said the building inspector was recommending they measure from the lowest grade.

Mr. Johnson suggested they take an average.

Mr. Krebs said they could take an average grade to the average roof, or they could bump the height limit to 40 feet, so no average would be required, but this had to do with aesthetics, and they should also consider building placement on lots, and their surroundings, such as a three-story house with a 15 foot setback from an abutter with a 15 foot setback, and a one-story ranch.

Mr. Cooke said he didn't like Conditional Use Permits. Chair Hebert pointed out that there were other Conditional Use Permits allowed in the Zoning Ordinance, but an applicant could also go to the ZBA with an appeal from the Planning Board's decision.

Mr. Weiner said he thought the Planning Board was best qualified for site reviews, but the ZBA had 5 criteria, and would be concerned with overreach from the Planning Board.

Mr. Krebs said one of the issues they were looking at was that a strict ZBA member might not accept an applicant's perception of hardship.

(Board of Selectmen's representative, Bob Blonigan arrived at this point in the meeting at 7:18 p.m.)

Discussion ensued. Vice-Chair Cross agreed with Mr. Cooke that exceptions could go to the ZBA.

Board of Selectmen's representative, Bob Blonigan asked about the Commercial the Zoning Ordinance, and expressed concern with an applicant going before the ZBA

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before presenting a variance request from a site plan before the Planning Board. Mr. Krebs there was no height restriction for the Commercial and Industrial Zones in the Ordinances, but this was about the Residential Zone.

Mr. Blonigan said rules were rules, and he didn't understand why the Planning Board was set up as clearing house. Chair Hebert said the State allowed the Board to grant Conditional Use Permits in some cases, and it was already in the Zoning Ordinance, and they were now recommending correcting a legal error citing for the use of Special Exception instead of a Conditional Use Permit. Chair Hebert said the purpose of Conditional Use Permits, Special Exceptions, and variances was to go with the intent of the Ordinance.

Vice-Chair Cross said a Conditional Use Permit had been listed on page Z26 in the Ordinance because there had been a big issue with access to uplands when the Wetlands Ordinance came in, but he didn't think it applied to building height.

Mr. Johnson asked if an applicant with a civil engineer could go straight to the ZBA before going to the Planning Board. Mr. Krebs said the Planning Board has had a tradition of having Commercial and Industrial Zoning applicants discuss options with them first to avoid variances, when possible, but an applicant still had the right to go straight to the ZBA if they wanted.

Mr. Krebs said he was not sure if an applicant could go to the ZBA for a variance first if they didn't want to go to the Planning Board for a Conditional Use Permit, however. Chair Hebert said he thought they would need to go to the Planning Board first if a Conditional Use Permit was allowed, and then the ZBA if they wanted an appeal.

Mr. Krebs said an applicant would go to the ZBA to appeal a Planning Board misinterpretation of the Zoning Ordinance, but denials went to Superior Court

Mr. Johnson commented that going before the ZBA was best done with a legal representative, which added to costs.

Mr. Krebs said the Board could list measurement from the average grade. Chair Hebert said they should state a measurement from the average existing grade versus post development grade.

Mr. Welch responded that using an average would be easy for lots already developed, but it would be more difficult with sloped lots, so he was in favor of a Conditional Use Permit.

Chair Hebert took a straw poll of Board members that were in favor of allowing a Conditional Use Permit for building height in the Residential Zone, and Chris Cross, Ben Johnson, Peter Welch, Jim Weiner, and Chair Hebert were in favor. Mr. Cooke said he was in favor of a variance, and Mr. Blonigan said he needed further consideration.

Mr. Krebs encouraged Board members to do their homework because future development with a number of expensive three-story homes with 10-11-foot-high ceilings, and walk-out basements on sloped lots would be coming before them, so they might want to bump the height regulation up to 35 or 40 feet.

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Vice-Chair Cross said he could foresee four-story homes if they allowed them to be 40 feet high. Mr. Krebs commented that the Town of Rye was not so flexible, so many homes had gambrel or mansard roofs.

Mr. Welch said 35 feet might be a reasonable fit for Newington, but anyone building a 2.5-million-dollar home might want exceptions. Mr. Welch pointed out that there would be exceptions no matter what number they picked, and they needed to bear in mind that higher buildings near the water would be visible from the water, and block visibility of the water from abutters.

Mr. Krebs commented that builders would not be able to cut within the shoreline and wetlands buffers.

Chair Hebert said he had no problem with 35-40-foot-high houses along the shoreline, but he would want to be sure they were standardized to some degree.

Chair Hebert pointed out that whatever was allowed in the Residential Zone would apply to workforce housing units, so they would need to keep that in mind also.

III) Other Business and Discussions:

Mr. Krebs informed the Board that the hotel approval on Shattuck Way had lapsed by two months, so the applicant would return in July.

Mr. Krebs informed the Board that the Akerleys were hoping to start construction in the third week of July.

Chair Hebert said Eversource did not have a right-of-way for the power line needed to connect to five homes on Great Bay, so they needed to come in from Little Bay. Mr. Krebs said it was not a Town issue, but it was causing a problem for the Akerley's subdivision construction.

Mr. Krebs said that Nimble Hill Realty had hired Severino Construction to do the Shackford lot subdivision road, but they were still waiting for their Alteration of Terrain (AoT) and Wetlands permits from the New Hampshire Department of Environmental Services (DES). Mr. Krebs said they were hoping to start construction in August or September. If possible.

Mr. Krebs also informed the Board that the Sears building, and 300 parking spaces was purchased by an unknown buyer, so he would expect redevelopment eventually.

Chair Hebert announced that he would schedule just one meeting per month for June, July, and August if possible.

Minutes: *Vice-Chair Cross moved to approve the Minutes for the May 9, 2022. Jim Weiner seconded, and all were in favor.*

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Adjournment: *Peter Welch moved to adjourn the meeting. Russ Cooke seconded the motion and the meeting adjourned at 8:05 p.m.*

Next Meeting: Monday, July 11, 2022

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

These Minutes were approved and adopted by the Planning Board at their July 25, 2022 meeting.