

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, July 25, 2022

**Call to Order:** Chair Denis Hebert called the July 25, 2022, meeting at 6:00 p.m., followed by the pledge of allegiance.

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

**Absent:** Board Members: Russ Cooke

**Public Guests:** John Lorden, P.E. with Tighe and Bond; John Lamson, Chair Budget Committee; Mark Phillips

### I) Public Hearings:

- A) Site Approval for **Doloma Investment of Portsmouth, Inc.** proposal to construct an 83-room, 4-story hotel at **141 Shattuck way, Tax Map 20, Lot 4-C.**

The application approval had lapsed from the Conditions approved by the Planning Board on March 24, 2020

Town Planner, John Krebs passed out the March 24, 2020, Conditions of Approval that had lapsed for Board members to review. Mr. Krebs stated that the applicant had provided a new application and notification fee. Mr. Krebs said he had talked with Town department heads, and appeared to have changed in the new application.

John Lorden, P.E. with Tighe and Bond confirmed that everything was the same except for the updated date on the plans.

Mr. Lorden stated that the application was originally approved in 2007, but had not been built due to bad timing. Mr. Lorden said the property owners wanted to sell the property in a year, but would build the hotel themselves if they couldn't sell within year will build themselves.

Board member, Peter Welch said he thought the Board had approved three stories, not four. Chair Hebert responded that the Board approved a height 59.4 to allow for the extended elevator shaft as presented.

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Board member, Jim Weiner said he had noted a nine-foot change to grade in the application. Mr. Lorden said he reused the old application for the 83 room Comfort Inn that hadn't been updated for the 94 room Hilton Suite. Mr. Weiner acknowledged that the Ordinance referenced roof tops and extension appendages, but that wouldn't apply to the current review because it had previously approved.

Mr. Weiner asked about exiting on Shattuck Way considering that there had been some concern with missing the entrance, and making U-turns that could cause accidents. Mr. Lorden responded that the New Hampshire Department of Transportation (DOT) restricted curb cuts on Woodbury Avenue, and although Newington was in charge of Woodbury Avenue now, the owners didn't want to change at this point, but might return to reduce site costs by removing the long drive to Shattuck Way.

Board of Selectmen's representative, Bob Blonigan commented that everyone had GPS in their cars or phones, and would be confused by a Woodbury Avenue address.

Vice-Chair Cross commented that he understood that there was a view that marketing would be a challenge without the Woodbury Avenue address, and adding stop light between the two existing stoplights on Woodbury Avenue would interfere with traffic flow, so he still wondered if they might be able to work something out with the Allard Storage owners for access.

Chair Hebert noted that a new sewer line had been installed, and wanted to be sure the connector points were still valid. Alternate Board member, Rick Stern said it had been discussed at the last Sewer Commission meeting, and Newington Wastewater Plant Operator, Denis Messier didn't see a problem.

Town Planner, John Krebs pointed out that the Board couldn't extend a lapsed approval, so recommended that the Board make a motion for a new approval with the same conditions, and add that the sewer connection was all set.

Chair Hebert closed the public hearing.

Mark Phillips of Hodgdon Lane said he supported industry that generates more revenue per acre, adding that Newburyport, Massachusetts didn't allow hotels, so many lodgers come up to Portsmouth, and so he thought Newington should share in some of the profit making.

John Lamson, Budget Committee Chair noted that there was a comment in the Capital Improvements Program (CIP) that cities and towns can't develop their way to a lower tax rate, so as good as hotels were, they needed to keep in mind that an increase influx of people could increase the burden on fire and police services.

Chair Hebert asked if increased construction costs had been updated. Mr. Krebs replied that they had except for the \$5,000 engineering review, which had already been partially spent. Mr. Krebs said already reviewed by town engineer previously, so they would not require it again. Chair Hebert asked about bonds. Mr. Krebs replied that they would need landscaping, a site improvement bond, and inspection fee that would be set when satisfying the conditions of approval.

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Chair Hebert said he hadn't gone over the plans, but had been told there were no changes, so he wanted that to be included in the conditions of approval. Mr. Krebs noted that he went through the plans, and revisions dates there.

*Chris Cross moved to approve the previously approved proposal by Doloma Investment of Portsmouth, Inc. proposal to construct an 83-room, 4-story hotel at 141 Shattuck way, Tax Map 20, Lot 4-C March 22, 2020, with the following conditions:*

### Site Conditions:

- 1. List all approved waivers on the site Plan being recorded;*
- 2. Obtain all State permits such as NHDES Alteration of Terrain and others if needed, and add approval numbers to the recordable Mylars;*
- 3. Record stormwater management maintenance requirements; and*
- 4. Provide an annual inspection report for the stormwater management system to the Planning Board in perpetuity;*

### Administrative Conditions:

- 5. Provide funds for third party expenses such as engineering inspection, and legal services;*
- 6. Provide a PDF of the FINAL approved plans, which reflect any and all changes required as part of the approval process;*
- 7. Provide two copies of the Mylar suitable for recording at the Rockingham County Registry of Deeds (RCRD) with appropriate recording fees (depending on Mylar size) with separate fee for Land Conservation Historic Investment Program (LCHIP), made payable to the Rockingham County Registry of Deeds, and three (3) copies of the final plan as approved by the Board.*
- 8. One hundred percent (100%) of the total cost of landscaping shall be held for a period of two (2) growing seasons to guarantee the survival of the landscaping installation;*
- 9. Ten percent (10%) of the site improvement cost estimate shall be provided as a site improvement and restoration security, a performance guarantee to be held until all site improvements are completed in a satisfactory manner; the applicant shall complete all site improvement work prior to the issuance of a certificate of occupancy;*
- 10. The applicant/owner shall construct a hotel equal to, or of higher quality than the proposed hotel presented to the Planning Board; any alterations of the hotel in terms of branding or design shall require Planning Board approval;*

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11. *In no circumstances are any rooms to be rented for stays in excess of 90 consecutive days;*
12. *Under no circumstances shall any person staying at the hotel claim their legal residence in the Town of Newington for any purpose;*
13. *The applicant shall depict the SNOW STORAGE areas on the Recordable Site Plan, add the following note to the Plan: "Snow shall be stored entirely within the snow storage areas depicted on the Plan. In no case shall any parking spaces, loading areas, walkways, or any other areas be used for snow storage. Excess snow must be trucked off site, as necessary."*
14. *The applicant shall modify the plans and supporting documentation to the satisfaction of Town Engineering consultant, Altus Engineering, including the cross-culvert sizing under the access drive.*
15. *The sidewalk and associated crosswalk construction along Woodbury Avenue shall be coordinated with the Town Engineer, Town Planner, and Board of Selectmen;*
16. *This approval requires the strict adherence to ALL applicable regulations adopted by the Town of Newington in effect at the time of approval, excepting any waivers granted by the Board;*
17. *The Landscaping Plan and the Operation and Maintenance Manual submitted herewith is integral to the approval.*
18. *The approved hotel kitchen is designed to provide limited food preparation for continental breakfasts, and has an internal grease trap. Any expansion of the kitchen or food offerings shall require Planning Board approval;*
19. *A note shall be added to the recordable Mylar indicating that the Planning Board granted a waiver of Article III, Section 2.B (1) and Article VII to allow the building height NOT to exceed 59'4";*
20. *The applicant shall modify the lighting/photometric plans to meet Newington's Site Plan Review Regulations, and to the satisfaction of the Town Engineer;*
21. *The input of the Conservation Commission shall be adhered to, including, but not limited to requiring slow release, low nitrogen organic fertilizers, and the Operation and Maintenance Manual shall be amended accordingly;*
22. *In the event that the number of parking spaces are deemed inadequate as evidenced by parking anywhere off-site or in locations not approved on the Site Plan parking spaces, the hotel shall immediately reduce the number of rooms offered for rental until the parking deficiency is cured and approved by the Planning Board;*
23. *The applicant shall submit an "As Built" plan in CAD and PDF format prior to release of security;*
24. *Site work is not to be started before FINAL plans are approved and the Mylar is signed, and State permits have been received;*

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25. *The Applicant and its Agents shall adhere to ALL Planning Board Site Plan Regulations, unless the Planning Board has granted waivers from such regulations;*
26. *All final approvals by the Planning Board expire within two (2) years for the date of Site Plan approval; unless the Board grants an extension. See **Section 23 – Site Approval Expiration**, Site Plan Review Regulations;*
27. The applicant shall confirm that their plans for sewer connection are approved for the new sewer conditions
28. That the plans submitted for the July 25, 2022, Planning Board approval are the same plans that were submitted for the March 24, 2020, approval.

*Jim Weiner seconded, and all were in favor.*

Discussion ensued regarding the length of approval. Mr. Krebs noted that the Board was considering a proposal for the third time in ten years, so he thought approval for one more year would be enough.

Vice-Chair Cross said the applicants' taxes were up to date, and they deserved a reasonable marketing time for the project. Mr. Welch said the date for completion from approval was already two years, and they didn't need to extend it for another two years. Chair Hebert agreed, and said an extension they should only allow a one-year extension to prevent four years from going by without further review. Jim Weiner 2<sup>nd</sup>. Chair Hebert said thinks 1 year because 4 years without further review. Vice-Chair Cross agreed that nothing had changed from the initial approval.

*Chris Cross moved to amend Condition 26. All final approvals by the Planning Board expire within two (2) years for the date of Site Plan approval; unless the Board grants an extension of no more than one year. See **Section 23 – Site Approval Expiration**, Site Plan Review Regulations;*

### B) Zoning Ordinance and Regulation Amendments: 2022-2023 **Capital Improvements Plan**

Mr. Krebs provided Board members with a copy of the Capital Improvements Program (CIP) draft with previously discussed recommendations in blue, and Board member, Russ Cooke's recommendations in red. Mr. Krebs said he thought all the recommendations were good.

Discussions ensued regarding additional editorial recommendations:

Mr. Weiner suggested that the last sentence in the first paragraph be stricken and instead say, "A substantially higher per capital budget due to the balanced makeup of industry, retail, and location of a working seaport, and major highways and cities."

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Mr. Weiner provided a diagramed pie chart showing percentages of land use. After some discussion on correcting the percentages and references, Mr. Krebs suggested that it could be placed at the bottom of the first paragraph on page 2, and the Board members agreed to the addition.

Mr. Lamson noted that the inflation rate was listed as 2% on page 4, but it was hard to predict, so he recommended leaving it out, and instead explain that rates had been low, but were influx and hard to predict.

Mr. Weiner also suggested removing the decimal and pennies on the chart on page 2. Mr. Krebs said the department heads provided the numbers based on the cost-of-living numbers, and suggested that they say, "2% and 3% was projected when this report was compiled, but these rates were likely to change in the future."

Chair Hebert noted that the fourth line under the "Impact of Growth" on page 12 said that Newington's population had decreased, but it contradicted the chart below that was based on the census that counted summer residents.

Mr. Krebs said there would be a shortfall to the budget in 2027, but the Board would have four years to address the issue. Mr. Lamson said the Board of Selectmen, Budget Committee and residents would make final decisions on how to meet the short fall.

Chair Hebert commented that he had been pushing to make the CIP just for vehicles, and not maintenance, and this was finally being corrected.

Mr. Krebs said he didn't know for certain about selling and replacing the tower truck. Mr. Blonigan said the fire department was also looking at selling their old pumper truck, which would also factor into the costs.

Mr. Blonigan said it was fortunate that they were able to buy a truck that another town wanted to sell for less than new, but they might not be so lucky next time. Mr. Lamson said they needed to put in conservative estimates for salvage values.

Mr. Krebs said the Planning Board recommended each of these projects for the CIP, but there was no way of knowing about a new fire station. Mr. Lamson agreed that a new fire station was too big of a project to know. Mr. Lamson went on to say that just because a department asked that it be added to the CIP, but it was only a reference, and the Board of Selectmen, Budget Committee, or residents might not support it.

Mr. Krebs asked if Newington's Langdon Library could use funds in their capital reserve fund for some of their requests. Mr. Lamson said the fund contained private, donated money that had contingencies, just like the cemetery funds. Mr. Lamson added that the library typically didn't spend large sums except when they built the addition, and were able to use the interest from the fund to help with the bond because they had previously spent conservatively.

Flexibility in deviating from the Board of Selectmen's Road maintenance plan was discussed to allow catching up with increased costs. Mr. Krebs said the Board of Selectmen were redoing the road maintenance schedule next year or the following year, and standard practice recommendations would come from the Town engineer.

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Mr. Krebs said building maintenance wasn't in the CIP, but roof replacement was more costly, and might need to be considered.

Mr. Blonigan and Mr. Blonigan stated that Budget meetings would begin in October.

Chair Hebert closed the public hearing.

*Chris Cross moved to approve the 2022-2023 Capital Improvements Plan as amended. Rick Stern seconded, and all were in favor.*

Mr. Lamson asked if Newington Public School had provided any requests for the CIP. Mr. Krebs said he asked school for input, but hadn't received anything. Mr. Lamson said he would be meeting with the new SAU50 superintendent.

Mr. Krebs said the Conservation Commission wasn't ready to make any recommendations either, but were discussing it, and could come back in October.

Mr. Krebs said the fire station might want to come back for their roof replacement as well.

Chair Hebert stated that the Board should update the CIP annually, instead of every 5 or 10 years.

### II) Continuation of Building Height Zoning Amendment

*This item was delayed in order to hear the next topic.*

### III) Other Business and Discussions:

Mark Phillips passed out a conceptual plan for an industrial flex use building on one acre of property purchased from Eversource between River Road and the Spaulding Turnpike.

Mr. Phillips said he had wanted to purchase the ramp from the Town that abutted the north and south, but the Town wants \$175,000, and it was not buildable with an easement on either side. Mr. Phillips said the Mr. Krebs suggested straightening lot line.

Mr. Phillips' proposal showed a five unit building with an overhead door, a swing door, and bathroom. Mr. Phillips said he anticipated two or three tenants to occupy the building.

Mr. Phillips said he was presenting the concept as a courtesy to the Planning Board first, but would need to go to the Zoning Board of Adjustment (ZBA). Mr. Phillips said he had already been granted three setbacks for the front, but would need an additional setback variance for parking to meet the requirement for 10 paved and 12 gravel parking spaces. Mr. Phillips said he might not need a side setback if he was able to purchase the adjacent lot line.

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Chair Hebert said he would need a variance from the 75-foot front setback no matter what he did.

Chair Hebert asked Mr. Phillips if he talked with his abutter North and South, Inc. Board member, Ben Johnson, and co-owner of North and South, Inc. Mr. Phillips said he had.

Mr. Phillips said Stoneface Brewing had received their wetlands permit for their development on the abutting lot the previous Friday. Mr. Phillips said they needed further discussion with the New Hampshire Department of Environmental Services (DES) regarding stormwater discharge. Mr. Stern pointed out that the present location never had a permit for their septic discharge permit for their current location, and now DES wanted a permit for the increase discharge that would occur in the new location.

Vice-Chair Cross asked about the collection point of stormwater. Mr. Johnson said water flowed behind this and the North and South, Inc. lots on the State property. Vice-Chair Cross asked if they might connect the discharge.

Mr. Krebs commented that this was a unique location, and therefore, might not need as large of a parking lot. Mr. Krebs said times have changed and need for parking has decreased. Mr. Phillips said there would be pavement in front, and gravel in back.

Vice-Chair Cross pointed out there would be a drainage concern. Vice-Chair Cross added that outside storage on a gravel area as seen down the road would need to be addressed. Chair Hebert agreed that some areas of Newington look poorly so they wanted to make sure that the Board of Selectmen would enforce. Mr. Phillips said nothing was outside of his Storage Barn facilities, and nothing would be stored outside in this use.

Mr. Weiner commented that all assets were tradeable, and a small lot could be a problem for a startup that had nowhere to grow. Mr. Phillips said he would be agreeable to a condition of approval.

Mr. Phillips said there was no traffic on River Road, but there would be landscaping up to the pavement.

Chair Hebert suggested less pavement and the creation of an island in front for trees. Vice-Chair Cross responded that an island might be too close to the road, and it would not be green from October to springtime.

Chair Hebert asked Mr. Phillips if he had a potential customer. Mr. Phillips replied that he did, but the timing was off; however, he didn't see a problem now because the market was hot with limited spaces.

Chair Hebert said the Ordinance said that an applicant had to state the use, so he would be required to return for a change of use to identify parking needs and traffic patterns because they didn't know the use, just as they did with Ted Mooney's blue building on Shattuck Way required Planning Board review for each new tenant.



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### II) Continuation of Building Height Zoning Amendment building Discussion

*(This item was delayed to hear the previous item first)*

Mr. Krebs said the amendment couldn't be posted until fall, but he thought the Board should begin some of the discussions early.

Mr. Krebs said there were some Board members that wanted to allow a Conditional Use Permit for building height, and others wanted to require a variance. Chair Hebert specified that Mr. Cooke wanted a variance requirement, while other Board members wanted a Conditional Use Permit.

Mr. Krebs said the Planning Board could grant a Conditional Use Permit with Standards 1-4.

Chair Hebert said he had original thought of a Conditional Use Permit for residential building height, but realized it would be for everything because they were changing the definition on how building height was measured. Chair Hebert said Conditional Use Permit shouldn't be in the definition; however, and should be somewhere elsewhere.

Mr. Krebs said he was recommending consistency in carrying over the wording on Z5. Mr. Krebs said they could move the last sentence in the new section on Z23, Section 3 that the Planning Board may grant a Conditional Use Permit for building height.

Chair Hebert noted that the footnote says subject to the Planning Board approval, but they might have definitive height restrictions for other zones. Chair Hebert said he thought they should state maximum height from any side of a building, rather than complicating enforcement with an average.

Mr. Weiner noted that Mr. Johnson and Mr. Krebs were builders, and had said it would be easier to measure from the average, which seemed the most standard.

Mr. Krebs noted that there was no definitive answer as half the towns in New Hampshire do a grade average, while other measure from the lowest grade. Mr. Krebs said it was easy to say what many towns do, but there were fewer houses and there were no flat roofs in the Residential District of Newington. Mr. Krebs went on to say that many smaller towns had ladder trucks instead of towers, so the Board would want to take that into consideration in deciding on average grade and average roof or just average grade.

Vice-Chair Cross asked if trying to discourage four-story living spaces with 12 pitch roofs to keep aesthetic compatibility, or if they were trying to say residents could only have three, or three and a half story living spaces above ground.

Vice-Chair Cross said few flat roofed residential buildings. Vice-Chair Cross said there were few lots remaining so will probably have different grades and elevations, so he thought it realistic to measure from the average.

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Chair Hebert reminded the Board that the change would apply to workforce housing (WFH) as well.

Mr. Welch said he thought the point of aesthetics was for consistency, they also needed to look at aesthetics to avoid a monstrosity of roof.

Mr. Stern said he was in favor of average grade and roof measurements.

Mr. Johnson said measurement of an average roof would be tough on a house with three different heights, so he thought measurement should be to the four corners of the highest roof peak.

Chair Hebert began the discussion for the standards of review for a Conditional Use Permit for exceptions to building height.

1. The building is specifically authorized under the terms of this Ordinance;
2. The building will not substantially de-value abutting properties;

Mr. Johnson commented that it didn't matter if a property was valued at \$1 or \$100,000,000.

3. The building will be compatible with the neighborhood and with adjoining or abutting uses in the area in which it is to be located.

Vice-Chair Cross said compatibility was subjective. Chair Hebert said the Planning Board would have to make the decision based on compatibility with the surrounding neighborhood or abutting uses in neighborhood.

4. The building will be adequately set back from the property lines that taller height won't impact abutting properties, and the Planning Board may require greater setback to accommodate taller building.

Chair Hebert said they also needed to say that the height would not create fire, health, or safety issues, and would be under the sole discretion of the Planning Board.

Mr. Welch said he would rather include the measurement of anything on roof. Mr. Weiner said they would have to delete the item 2 about chimneys, etc. in the proposed definition. Chair Hebert noted that the definition was already part of the Ordinance. Vice-Chair Cross said he thought it should be included. Mr. Krebs said it should stay in the existing definition, and carry the measurement down.

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**Minutes:** *Peter Welch moved to approve the Minutes for the June 13, 2020, meeting. Jim Weiner seconded, and all were in favor.*

**Adjournment:** *Peter Welch moved to adjourn the meeting. Jim Weiner seconded the motion and the meeting adjourned at 8:22 p.m.*

**Next Meeting:** Monday, Aug 22, 2022

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

*These Minutes were approved and adopted at the September 12, 2022 Planning Board Meeting.*