

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, July 8, 2019

- Call to Order:** Chair Denis Hebert called the July 8, 2019 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, Jim Weiner and Rick Stern; Board of Selectmen's Representative, Mike Marconi; Town Planner, Gerald Coogan and Jane Kendall, Recorder
- Public Guests:** Alishia Busconi, V.P for KeyPoint Partners, property managers of the Crossings Mall; Steve Glowaki, P.E, with RJ O'Connell Associates; Jonathan Eckman from Aldi; Bill Marple; Alex Ross, P.E. with Ross Engineering; Attorney Christopher Mulligan; Mark Jacobs, Soil Scientist; Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering; Board of Selectman, Ken Latchaw

Chair Hebert announced that all Board members were present, so the two Alternative Board members would not be voting.

I) Public Hearings:

- A) Continuation of Site Review of proposal by the Crossings Mall for an **Aldi** grocery market to be located at the former Bugaboo Creek site at **45 Gosling Road, Tax Map 34, Lot 3.**

Steve Glowaki from RJ O'Connell Associates presented a modified layout on traffic flow, pedestrian movement, and open space from responses from the Board's last meeting and responses from the Technical Review Committee (TRC) meeting input.

Mr. Glowaki said they also addressed technical issues brought up regarding emergency vehicle turns. Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering commented that it appeared that the wheels of a fire truck might go over parts of islands, and suggested that they cut the island near iHop.

Mr. Glowaki stated that they had moved some light poles, but only had progress plans because the lighting had not been finalized with designers. Mr. Glowaki stated

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that they wanted to consider whether they needed additional lighting poles before finalizing the plans, and that they had not met the minimum light levels on the original plan.

Mr. Cross asked if the light poles would have a baluster, and Mr. Glowaki said the base would be three feet above grade.

Chair Hebert asked about their plans for signage, and Mr. Eckman replied that they would have two building signs illuminated within a light box. Chair Hebert asked Town planner, Gerald Coogan to review the signage plan and the Town's sign regulations to be sure they were in compliance.

Board member, Russ Cooke asked how big the lighted sign on the side of the building was, and Mr. Glowaki said it was 10 feet by 12 feet. Mr. Coogan stated that a total of 150 feet was allowed.

Mr. Glowaki stated that they were adding an enclosure with a gate and screen for the dumpster.

Chair Hebert asked what material they were using for the trash enclosure. Mr. Glowaki replied that they were using a wooden stockade panel on one side and two swing gates in the front. Chair Hebert suggested that they use CMU block as they had for at PetSmart, and not use the chain-link and wooden stockade fencing on the side because they tended to deteriorate over winters. Mr. Glowaki replied that they could review it further.

Mr. Eckman expressed concern that CMU block wall. He said that the truck dock was recessed, and the dumpster would be out of view at the bottom, but that they could place a fence on top of wall.

Mr. Eckman said CMU block wall would move when hit would shift, so could have a fence on top of wall. Chair Hebert suggested bringing the dock wall up another four feet.

Chair Hebert noted that the recess loading dock and dumpster were not included in the elevation plan. Board member, Chris Cross said the Board usually only sees the site plan, but not the building plan. Eric Weinrieb, P.E. with Altus Engineering said the Board still needs a drawing.

Discussion ensued on whether the dumpster would be visible from the road. Mr. Weinrieb agreed that the dumpster would probably not be visible from the road. Chair Hebert said he was only concerned with the exterior view.

Mr. Glowaki said they found ten-year stormwater calculations for the entire mall did, and did an analysis of upstream and tail waters. He said they would improve stormwater management for the new site, but didn't expect to meet current standards.

Chair Hebert responded that his biggest concern was with whether the drainage plan was for a ten or a fifty-year storm. Mr. Glowaki replied that new sites required a 50-year stormwater management plan, but their design was for a stand-alone site even though they were asked to look at the runoff from the surrounding area where all pipes were done for a ten-year storm. He said there was no sign of standing water, but their

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design was an improvement, including higher catch basins. Mr. Weinrieb stated that he hadn't seen a drainage study for review, and Mr. Glowaki replied that it was forthcoming.

(Board of Selectmen, Ken Latchaw arrived at 6:30 p.m. at this point in the meeting.)

Board member, Peter Welch asked if they had analyzed the movement of water in the area. Mr. Glowaki replied that they had reviewed it, and were reducing stormwater coming off their site. Mr. Welch commented that it might show their area as overloaded because the offsite flow was only designed for a ten-year storm event.

Mr. Glowaki stated that they added notes regarding the prohibition of outdoor sales.

Chair Hebert asked what their intentions were for future development. Mr. Glowaki replied that Aldi wanted to reserve spaces because they might want to offer curb side pickup.

Alishia Busconi, V.P. for KeyPoint Partners, property managers of the Crossings Mall introduced Jonathan Eckman from Aldi. Mr. Eckman stated that "click and collect" was becoming more widespread in grocery sales. He said there were no plans for curbside pickup in New England yet, but they were doing trials elsewhere, so they wanted to keep parking close to benefit patrons and employees for pickup.

Mr. Weinrieb suggested making the area green now with a note that it could be parking for future pick up and place the handicapped parking on the southeast side where the Board had suggested.

Mr. Glowaki stated that the ADA code required them to place handicapped parking closest to the building. Mr. Cross asked if the ADU recommended parking be closest to the building or to the door. Mr. Glowaki said to the door, but the Board was asking them to move it, and this would require handicapped patrons to cross the travel lane to get to the building. Mr. Weinrieb disagreed because they would be backing into the front travel lane. Mr. Glowaki responded that everyone in a parking spot would be backing into a travel lane.

Ms. Busconi said they were listening to the Board's recommendations, but they also needed to be respectful to their national tenant's program design. She said she knew there was a concern with handicapped patrons backing into traffic, but they also were concerned with patron's coming in and out, especially during the height of retail season, so they needed to agree on having handicapped parking closest to the door, and she hoped that this was the best compromise.

Chair Hebert responded that he was concerned with handicapped people that couldn't turn their necks to see where they were backing out, so he thought their parking should be closest to corner. Ms. Busconi responded that anyone that with a driver's license was required to be able to backup with their mirrors.

Mr. Cross said as much as he liked the handicapped parking island, he agreed that it would be better closer to the front.

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Alternate Board member, Rick Stern asked where the handicapped parking would be moved if they put in a grocery pick up area. Mr. Eckman replied that the click and collect parking further down.

Mr. Weinrieb stated that he was concerned with the temporary access and exit for iHop, including getting delivery vehicles in and out through the main entrance, and that he would prefer another exit so that they didn't need to break the island. Mr. Weinrieb suggested that a phased exit would need to move back and forth as sections of construction were done. Mr. Weinrieb added that he didn't want to see vehicles exiting close to the entrance and getting confused and going out on the wrong side. Ms. Busconi suggested a right in and right out. Board of Selectmen's representative, Mike Marconi agreed, considering that he sees patrons taking a left turn when exiting Cumberland Farms and Olive Garden. Mr. Glowaki stated that they would also coordinate construction with the fire and police.

Mr. Weinrieb noted that the sidewalk on the opposite side of the drive was a good enhancement, but would require a Conditional Use Permit (CUP) because it would be crossing the 25-foot wetlands buffer.

Mr. Weinrieb added that he would like to see pedestrian crossing spaces hatched to prevent parking.

Mr. Weinrieb stated that he would like to see the island shift to block the possibility of a wrong way exit near the entrance, and include signs and arrows as needed.

Mr. Weinrieb noted additional items that would require follow up. Mr. Weinrieb asked if the applicant had submitted an Alteration of Terrain (AoT) permit request, and Mr. Glowaki said they had not because they were not certain what the outcome of the drainage study would be. Mr. Glowaki said they were improving the stormwater management on their site, including a marginal decrease in impervious pavement, but there was a 13-acre area was flowing to their site Mr. Weinrieb stated that he could guess what the State would say about the analysis, but they had a 48-day backlog and it would benefit them to submit their application to get into the cue. Mr. Coogan added that State law required that they be reviewed within 50 days, but they had backlogs of 100 days.

Ms. Busconi commented that they were eager to demolish the vacant Bugaboo Creek restaurant building, and get rid of the pad to get a head start for Aldi before the height of the retail season, but felt hesitant because they didn't have a decision from the Board. Mr. Weinrieb stated that they could demolish the building in two days, but they couldn't do any site work, and that they shouldn't worry about whether the Board wanted pavement or parking to move a few feet.

Chair Hebert continued the hearing to Monday, August 26, 2019.

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B) Continuation of site improvement proposal with parking lot, drainage and other improvements by **Marple** properties regarding property located at **117 Gosling Road, Tax Map 28, Lot 2**

Alex Ross, P.E. with Ross Engineering addressed concerns brought up at the TRC meeting regarding the parking lot and drainage improvements.

Mr. Ross stated that Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering had expressed concern that the overhead utility lines were too low above the dumpsters in the rear parking, and showed photos indicating that there would be enough space even for a dump truck with an 18-foot lift.

Mr. Ross stated that concern had also been expressed over the cable line that measured 15 feet above the pavement in front of the building near the access road going to the Newington Wastewater Treatment plant (NWWT).

Chair Hebert commented that utilities lines should be buried underground with a spare conduit as required so long as they were tearing up the pavement.

Mr. Ross stated that they had moved the two parking spaces that were blocking a doorway on the side of the building, and that they would install additional bollards to protect the gas meters and sewage pump chamber on that side of the building as well.

Discussion ensued regarding the width of the travel lane with the parking spaces on the side of the building, considering that parked vehicles would need space to open their doors and exit. Mr. Ross stated that he had talked about the travel lane with Denis Messier, operations manager of NWWT who said their use of the access was very low.

Chair Hebert said he wouldn't want to hold up the entire project, but would like to do site walk and have them consider giving up parallel parking along side of building. Mr. Marconi agreed that it could be a hazard.

Mr. Weinrieb said he thought parking in the front would work 90% of the time, but people would be inclined to park on the side of the building any time there was a shortage of front parking, whether parking spaces were there or not. He said they didn't get a lot of traffic, and hopefully Wilcox Way would be extended out to allow NWWT soon.

Mr. Ross commented that there would be no sense in a retaining wall if parking was not allowed. Chair Hebert responded that the retaining wall created an additional problem for snow removal when there was four feet of snow on both sides of the road, and only enough room for one vehicle to pass. Chair Hebert suggested that they might consider seasonal parking only. He said they could approve plan, and hold off approving parking until do a site walk. Perhaps it could be seasonal.

Alternate Board member, Jim Weiner suggested that the applicant pave up to the building, but not paint parking spaces to discourage parking.

The applicant, Bill Marple asked if they could use the space for employee parking. Mr. Weiner asked how many employees, and Mr. Marple said there might be four to six employees for each of the four units. He said they had just over 40 parking

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spaces just over 40, and that he could stipulate that karate patrons park in front of the building.

Mr. Weinrieb stated that the Town could only enforce a 25-foot access around the front of the building for the fire lane, but fire trucks usually parked on the corner of buildings for safety, and that they would be fine so long as they could reach over a parked car.

Board member, Russ Cooke asked if the access to NWWT was a driveway through the applicant's parking lot or a road. Chair Hebert replied that it was public access to the plant that included access for residential RV's use to dump their waste.

Mr. Stern stated that the access road was also used a lot by Key Auto. Mr. Weinrieb asked if they had the right to do so, and the applicant's legal counsel, Attorney Chris Mulligan replied that he didn't think there was any expressed agreement. Mr. Coogan commented that it appeared that Key Auto's owner, Anthony DiLorenzo had been using the easement for 30-40 years, and so he thought that the easement agreement should be reviewed by Town counsel, Attorney John Ratigan. Mr. Stern stated that NWWT had already sent out a letter. Mr. Cross agreed that more research needed to be done, recalling that the former owner auto dealer, Vincent Taccetta gave up parking rights when the Town gave up the sewer line access from Woodbury Avenue, but that he didn't believe that gave them the right through Mr. Marple's access from Gosling Road.

Mr. Stern commented that they were concerned because auto dealership trailers tore up the road without any responsibility for maintenance, and he also wondered if the road was the same construction as the parking lot.

Chair Hebert asked if they talked to their abutter about the construction and retaining wall. Mr. Marple said he spoke with the abutter a while ago, and got the impression that the abutter would like them extra parking. Mr. Coogan noted that the abutter had been sent a notice of the public hearing and was not present.

Mr. Cross asked if there would be a sidewalk in front for anyone waiting for pickup. Mr. Ross replied that there were no sidewalks on that side and that it was not pedestrian friendly to move between buildings with large trucks traveling up and down Gosling Road.

Chair Hebert added that the alley would have to be free of snow to keep as parking space, or the Board would withdraw the parking if it became a safety issue.

Vice-Chair Mantz said they should put up employee only parking signage as well.

Mr. Welch asked what their plan was for snow removal, and Mr. Marple replied that right now they were using a regular snow plow, but they would do whatever they had to depending on what the site looked like after approval.

Chair Hebert stated that snow would need to be removed from the site if there was not adequate storage during heavy snowfall.

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Mr. Weinrieb went through a checklist of outstanding items, including that the Board would need a statement from Eversource that snow storage and the dumpster placement was acceptable in their easement.

Chair Hebert asked where the water would collect if the pervious pavement failed, and Mr. Ross replied that it would flow toward the back wetlands. Mr. Weinrieb expressed concern that it would sheet on the parking lot before draining to the wetlands, but noted that it was an area without a lot of traffic

Attorney Mulligan commented on Condition #3 in the draft motion that required a bond of 100% of the landscaping costs to be held for two years. Mr. Coogan responded that 100% for new construction and acknowledged that this was an existing site. Mr. Weiner agreed that 50% would be fine as they were improving the existing site with landscaping, and Chair Hebert agreed. Mr. Ross stated that they present their landscaping plan to the Newington Conservation Commission on that Thursday, July 11, 2019

Mr. Cross commented that he was concerned that plants might not survive snow storage. Mr. Ross replied that their plan called for hardy plants, with a seeded meadow. Mr. Weiner also suggested that they put up snow stakes for the plows at the beginning of the season.

Attorney Mulligan also noted that Condition #4 stated that the Certificate of Occupancy would not be provided until all work had been complete, but the building was already occupied. Chair Hebert responded that holding the Certificate of Occupancy was the Board's hammer to get site corrections. Mr. Marple replied that he currently had two tenants. Attorney Mulligan said would put up 10% site improvement bond, and they had up to two years to complete site improvements. Mr. Coogan agreed with Attorney Mulligan. Mr. Weinrieb said they already had a building permit, so it was a nebulous area, but the Town could hold the bond until the construction was complete.

Chair Hebert said no problem with less dark sky compliant.

Chris Cross moved to accept the lighting waiver for Marple properties regarding property located at 117 Gosling Road, Tax Map 28, Lot 2 as proposed. Ben Johnson seconded the motion, and all were in favor.

Peter Welch moved to approve the site improvement proposal with parking lot, drainage and other improvements by Marple properties at their property located at 117 Gosling Road, Tax Map 28, Lot 2 with the conditions as discussed and written below.

1. Site specific Issues:

- a. Correct technical issues identified by Altus Engineering*
- b. Obtain all State permits such as NH DES and others if needed*
- c. Record Stormwater management and maintenance requirements*

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- d. *Have legal counsel review revised easement and the Memorandum of Understanding regarding maintenance of the traveled way with Town of Newington and Newington Wastewater Treatment plant legal counsel.*
- 2. *Administrative*
 - a. *Provide funds for third party engineering inspection services*
 - b. *Provide a PDF of the final approved plans, which reflect any and all changes required as part of the approval process, including technical review comments*
 - c. *Provide a Mylar approved for recording at the Rockingham County Registry of Deeds with appropriate recording fees, including a separate fee for Land Conservation Historic Investment Program (LCHIP), made payable to Rockingham County Registry of Deeds, and three (3) copies of the final plan as approved by the Board*
- 3. *Submit Fifty percent (50%) of the total landscaping costs to be determined by the final plan, to be held for a period of two (2) growing seasons to guarantee the survival of the landscaping installation*
- 4. *Submit ten percent (10%) of the site improvement cost estimate as a site restoration security, a performance guarantee to be held until all site improvements are completed in a satisfactory manner*
- 5. *All final approvals by the Planning Board expire within two (2) years from the date of site plan approval, unless the Board grants an extension. See Section 23 – Site Approval Expiration under Site Plan Review Regulations.*
- 6. *Work is not to start before final plans are approved and the Mylar is signed, and State permits have been received.*
- 7. *Employee only parking signage will be placed along the side of the building*
- 8. *The side of the building will be kept free of snow, and employee only parking on the side of the building will be revoked if it becomes a safety issue*
- 9. *Also note added that if not adequate storage in heavy snowfall, that snow would be removed from site.*

Russ Cooke seconded, and all were in favor.

II) Other Business:

- A) Convertible Castle, Inc. doing business as **Bernie and Phyl's Furniture at 30 Fox Run, Tax Map 26, Lot 2.**

Mr. Weinrieb recommended that the Board retain the \$2,000 bond until the outstanding erosion and landscaping issues were addressed, including the removal of the erosion control sock, some bare spots, and issues with distressed and dying plantings.

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Chair Hebert replied that it would cost more at least \$5,000 in engineering and legal costs to retain the \$2,000; and therefore, recommended that they send a note saying they would keep the entire construction bond in place until everything completed. Mr. Weinrieb agreed.

Mr. Cross asked if his recommendation to put a walkway connecting their parking lot to the Fox Run Mall had been implemented. Mr. Weinrieb replied there was a construction issue with the design, and they rerouted the walkway to the edge of the roadway.

B) Starkin Auto Works in the Mooney building located at **436 Shattuck Way, Tax Map 7, Lot 12**

Chair Hebert announced that the Board had received a letter agreeing to conditions for change of use from Vera Roasting that was subletting their space to Starkin Auto Works.

C) Master Plan: Update

Mr. Coogan announced that the next meeting would be held on Thursday, July 11, 2019 at 4:30 p.m., and that Theresa Walker with Rockingham County Planning would be talking about the housing and transportation updates.

V) Additional Discussions:

Chair Hebert brought up letters that had been sent from residents of Lydia Lane to Town Administrator, Martha Roy and Town Planner, Jerry Coogan regarding the incomplete construction of the residential site.

Chair Hebert recommended that the developer, Joe Calderola return to the Board for discussion, and that the residents be invited as well. Mr. Weinrieb agreed, noting that there was a problem with making changes, and not completing the plans as presented.

Mr. Weinrieb stated that the rain garden had not been watered to establish the new plant roots, and then rain washed all loam away and now only rocks remained. Chair Hebert said they were also required to keep soil on the site, but he saw them haul some of it away.

Mr. Weinrieb said until the development was completed as proposed, and the Board of Selectmen accepted Lydia Lane as a Town road, it would remain a private road and residents still wouldn't have curbside trash pickup, mail delivery or snow removal. Chair Hebert said he had been under the impression that the developer would

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be responsible, and not the homeowner's association, and that would be something they Board would need to check on.

Mr. Coogan said he and Mr. Weinrieb explained to him last year, but the development remained incomplete.

Mr. Weinrieb stated that the paving needed to be completed this season to be accepted by town.

Chair Hebert stated that he would have Mr. Coogan work with Town counsel to draft a letter for proper notification, and they would turn the issue over to legal counsel for further notifications of holding their final Certificate of Occupancy and bond if they didn't receive any response. Vice-Chair Mantz added that they needed to issue notice with a strict timeline as well.

Minutes: *Chris Cross moved to approve the Minutes for the June 13, 2019 Master Plan meeting. Peter Welch seconded the motion, and all were in favor, with Mike Marconi abstaining.*

Discussion ensued regarding remarks made under "Additional Discussions" of the Minutes of the June 17, 2019 meeting. Mr. Stern said he was not present, but wanted to know which RSA said that an alternate could not make a motion to nominate another alternate as Mr. Weiner had nominated him for the position.

Chair Hebert said he was not sure of the RSA, but he did know that the law says that no discussion from non-voting alternates is allowed after closing a public meeting.

Mr. Marconi stated that he found the reference under Roberts Rules of Order. Chair Hebert said he would call Town counsel, Attorney John Ratigan for clarification.

Erika Mantz moved to approve the Minutes for June 17, 2019 meeting with corrections as noted. Peter Welch seconded, and all were in favor with Mike Marconi abstaining.

Mr. Weiner stated that Mr. Marconi had said he had abstained during the vote to nominate Mr. Stern as an alternate, but that he didn't believe that was the case, and he was challenging the correction. Chair Hebert replied that the Minutes had already been accepted by the Board, and that he could make a motion to change them, but he didn't see what difference it made at this point. Mr. Weiner stated that he wanted the Minutes to reflect what was stated.

(Mr. Marconi left the meeting at 9:23 p.m. at this point in the meeting.)

Chair Hebert said he was trying to keep the Board functioning, and knew that people made mistakes and after consideration, changed their minds later, but he would like everyone present to be accountable for their discussions and votes.

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Chair Hebert said an alternate could make a motion and vote in place of an absent member if there wasn't a full board quorum, but he didn't understand to what gain it was to make an issue of it.

Chair Hebert said he talked to Attorney Ratigan who said that they could bring up another vote, but it wouldn't change anything.

Mr. Cross suggested that it might be enough to have brought his concerns up to Board members, and it was not necessary to change the Minutes again.

Adjournment: *Erika Mantz moved to adjourn the meeting. Chris Cross seconded the motion and the meeting adjourned at 9:34 p.m.*

Next Meeting: Monday, Aug 22, 2019

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

These Minutes were approved and adopted at the August 26, 2019 Planning Board Meeting.