

Town of Newington, NH

PLANNING Board

Meeting Minutes, Monday, August 23, 2021

- Call to Order:** Chair Denis Hebert called the August 23, 2021, meeting at 6:04 p.m.
- Present:** Chair Denis Hebert; Vice-Chair Erika Mantz; Board members: Russ Cooke; Chris Cross; Ben Johnson; Peter Welch; Alternate member, Jim Weiner; Board of Selectmen's representative Bob Blonigan; Town Planner John Krebs and Recording Secretary Jane Kendall
- Absent:** Board member, Rick Stern
- Public Guests:** Robert "Guy" Young, Jr.; Attorney Timothy Phoenix; Mike Garrepy with Nimble Hill Realty Investments, LLC; Joseph Coronati, P.E. with Jones and Beach Engineering; Bob Byrnes; Jeanne Knox Haskins; Matt Morton; Edna Mosher; Corey Caldwell, P.E.; and Justin Macek with TFMoran Engineering; Mike Dumont from Subcom; Joe and Paula Akerley; Brandon Arsenault; Amanda Murphy; Steve Haight, P.E. and Doug LaRosa, P.E. with CivilWorks Engineering; Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering

I) Public Hearings

A) Continuation of Lot Line Adjustment, Subdivision and Conditional Use Permit Applications(s) by **Nimble Hill Realty Investments, LLC** to adjust three existing property lines, and subdivide the remaining land into fourteen (14) new residential lots on **Tax Map 6/Lot 1; Tax Map 11/Lots 2 and 3; and Tax Map 12/Lots 4, 6 and 9**

Town Planner, John Krebs stated that he had received updated plans with a shift of the proposed road, and right-of-way on August 18, 2021.

Mr. Krebs referred to his review memo, and said that most of the issues he had raised had now been resolved. Mike Garrepy with Nimble Hill Realty Investments, LLC said he hadn't received the memo.

Mr. Krebs stated that the applicant had requested a lot line variance from the Zoning Board of Adjustment (ZBA) that had been denied at the August 17, 2021, meeting, while the request for relief from the setback from the newly proposed road had been approved; however, it was determined that the 4-unit building at 84 Nimble Hill Road would be non-conforming, and would need to be reduced from four residences to one.

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Mr. Krebs stated that two Planning Board members, Russ Cooke and Chris Cross had spoken against the variance requests at the ZBA meeting, so he asked the applicant's legal counsel, Attorney Timothy Phoenix if he would accept them as continuing to sit on the Planning Board. Attorney Phoenix stated that it was highly irregular for Planning Board members to testify on variances because of conflicts of interest, but he would allow Mr. Cooke and Mr. Cross to continue sitting on the Planning Board for their application.

Mr. Cross stated that he had raised several technical points, but he would be willing to step down if they felt he had a predetermined decision on the proposal.

Alternate Board member, Jim Weiner commented that most boards in town required receiving new information seven days in advance, but he had just received four or five new documents on the previous Friday. Chair Hebert agreed that a lot of information had just come in, but new information could come in at any time, and this was a new plan that had been submitted, so the Board wouldn't be voting on any information that had been received late.

Mr. Garrepy said they were presenting a new drawing, and were not expecting a decision, but they were hoping to take productive steps forward.

Mr. Garrepy said Joe Coronati, P.E. with Jones and Beach Engineering was redesigning the road to straighten it out, and increase the site distance based on Mr. Cross' comments at the ZBA meeting, though no issue had been raised by the Town's engineering consultant. Mr. Garrepy said they had also resolved issues raised over the radius.

Mr. Krebs commented that waivers would provide an additional 25 feet for the site distance, and wouldn't change the lot configurations.

Mr. Garrepy said the Board had determined that the 4-unit rental on Lot 12-6 would be compromised. Mr. Garrepy said although redevelopment of the Young's existing duplex on Lot 12-5 was not part of the current application, they would propose a lot line adjustment between Lot 12-6 and Lot 12-5 to create more frontage, demolish the existing 4-unit apartment, and put in a compliant duplex on the front lot.

Mr. Weiner asked how many apartments were on the lot, and Mr. Garrepy replied that Lot 12-6 had a 4-unit structure, and 12-5 had a duplex. Mr. Garrepy said they would put in new septic and water lines to comply the building codes.

Mr. Krebs said the Planning Board legal counsel, and the ZBA agreed that the non-conforming use for the 4-unit structure would be non-conforming on a smaller lot, but they were now making the lot larger.

Mr. Cross agreed that they were increasing the lot size for the duplex on Lot 12-5, but it was already an existing structure. Property owner, Robert "Guy" Young, Jr. stated that the Planning Board had approved the duplex on Lot 12-5 in the 1970's.

Chair Hebert asked if they did test pits to be sure the soils would support new septic systems. Mr. Garrepy said they had done some, but would need to do additional tests.

Mr. Cross said test pits were done from June 15 to October 15, so they would need to run new test pits nearer to the time when they were ready to redevelop, and Mr.

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Krebs agreed. Mr. Garrepy said he would talk to Mr. Young regarding State permits for the existing use in the meantime.

Mr. Coronati said the State didn't require test pits until the late 1970's. Mr. Young stated that there was a State approved drawing for the duplex. Chair Hebert informed the applicants that the Town Ordinance for duplexes and condominiums required separate septic systems.

Board member, Russ Cooke asked if they were proposing to transfer some of the property from Lot 12-6 to Lot 12-5, and if the back duplex would remain. Mr. Garrepy responded that it would for a time.

Mr. Krebs commented that there would be no need for a variance if they put the rear lot line in place.

Chair Hebert noted that the change would change the application from a 14-lot subdivision to a 15-lot subdivision. Mr. Garrepy responded that it would, but thirteen lots were new, and two already existed.

Chair Hebert commented that the change would address the concerns of Edna Mosher, the abutter at 97 Nimble Hill Road across the street.

Mr. Krebs added that there also were concerns regarding ledge in the field off Nimble Hill Road, and wondered if they could pull the road away further. Mr. Garrepy responded that it would be better to move further away as the ledge dropped, but that they would still need to do some cutting into the ledge. Mr. Coronati added that it was the entrance was what was changing.

Ms. Mosher asked if the applicant would still use the variance for the setback for the road that had been granted, and Mr. Krebs replied that the applicant's change to the road would nullify the variance.

Mr. Garrepy stated that they planned on doing a right-of-way alignment, and would then return for the subdivision approval. Mr. Krebs suggested that they do everything at once.

Chair Hebert noted that they would need payment to re-notice all the abutter, but that they would waive a new application fee.

Mr. Weiner stated that he still wanted a third-party engineer to review the road going through the heavy clays and wetlands. Chair Hebert said review and inspection of subdivision roads by the Town engineering consultant was a standard regulation for subdivisions. Town engineering consultant, Eric Weinrieb P.E. with Altus Engineering added that the applicant was still working on their road design, and understood that it had to be designed and built for stability.

Mr. Krebs asked if they had updated their storm drainage plans in response to their discussions with Mr. Weinrieb and himself. Mr. Coronati responded that they had designed open drainage for most of the road, with minimal catch basins and curb breaks, but they intended on retaining the curbing past the three wetlands impacts to avoid larger drainage ditches.

Mr. Coronati added that they removed two rain gardens, and added access roads for erosion control to maintain the detention ponds.

Mr. Coronati said they were redesigning the stream crossing with an open bottom box culvert for the stream crossing, and would submit an application to the New

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Hampshire Department of Environmental Services (DES) for the Conservation Commission's recommendation, and Planning Board's final approval.

Chair Hebert asked if the open box culvert would use reinforced concrete, and Mr. Coronati said it would.

Chair Hebert asked if the stormwater would be dissipated into open swales, and Mr. Coronati said it would, and they would provide easements to the Town.

Chair Hebert suggested that they bring the cutting of old trees before the Town so that they could be considered.

Mr. Weinrieb said he had received the changes on Thursday, but it appeared that they were moving in the right direction. Mr. Garrepy said they submitted revised plans on August 16, 2021, so they were not sure why Mr. Weinrieb hadn't received them. Mr. Krebs said he was only in the office two days a week, didn't have administrative support on Monday, had already sent the package out, and couldn't send the revised plans until he went into the office again on Thursday.

Chair Hebert asked what they would do with the sliver of land that they wouldn't be using. Mr. Weinrieb responded that it would go back to the property owner or Town after construction. Mr. Coronati stated that they would still need some grading for cuts. Mr. Coronati added the side slope of Nimble Hill Road was in the Town right-of-way that will provide better site distance. Mr. Weinrieb said he thought that the grading and cuts would change from shifting the road.

Mr. Young commented that his water and gas line was somewhere up the banking.

Mr. Coronati said they would like the Board's input regarding the tangent length at the intersection of Downing Way and Shackford Lane that would not be met, and he thought they would need a waiver to make the right turn from Downing Way to Coleman Drive. Chair Hebert said he didn't think Coleman Drive residents would like right turns onto Coleman Drive. Mr. Coronati said they would need to redesign the intersection if the Board didn't grant the intersection. Mr. Krebs said he thought that few would use the second access on Coleman Drive.

Mr. Weinrieb asked for a wetlands update. Mr. Krebs said they were trying to schedule a meeting with DES to discuss relocating the prime wetland boundary. Mr. Garrepy replied that the prime wetlands had been based on aerial photography that did not coincide with their wetlands scientist, Jim Gove with Gove Environmental's wetlands delineations on the ground, so they were trying to get a consensus with the Town to update the map. Chair Hebert said his understanding was that Town wetlands consultant, Mark West with West Environmental needed to modify the map. Mr. Garrepy said they needed to follow criteria in redesignating prime wetlands, and then submit a formal wetland application for impacts before going to the Conservation Commission for their recommendation.

Mr. Garrepy said they would like to return in September.

Mr. Weinrieb said he would need information two weeks prior to a meeting so he could review, and provide a response to the Board the week before.

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Mr. Krebs said he would also need to renote all the abutters before the meeting, and would need a letter requesting an extension to November 29, 2021, to which Mr. Garrepy and Attorney Phoenix both agreed.

Erika Mantz moved to continue the Lot Line Adjustment, Subdivision and Conditional Use Permit Applications(s) by Nimble Hill Realty Investments, LLC for Tax Map 6/Lot 1; Tax Map 11/Lots 2 and 3; and Tax Map 12/Lots 4, 6 and 9 to Monday, September 27, 2021. Chris Cross seconded the motion, and all were in favor.

B) Site Plan Review for **Subcom Cable Systems, LLC** to expand an existing "creel storage building by 44,400 square feet, three stories tall, totaling 132,900 square feet total, and includes parking, driveway and walkway modifications on property located at **100 Piscataqua Drive, Tax Map 27/Lot 1**

Justin Macek and Corey Caldwell, P.E. with TFMoran appeared before the Board with Mike Dumont, representative from Subcom.

Mr. Macek said they had presented a waiver request on June 18, 2021, and had met with the assistant fire chief, and building inspector, and received approval for parking.

Mr. Macek said they were proposing a warehouse addition for manufacturing and storage space as shown on the site plan with a 200-foot extension over the existing parking lot. Mr. Macek said they would also be adding parking, parking lot lights, paved sidewalk, and landscaping to the site plan.

Mr. Macek said they had plans for the drainage layout that included the underground treatment systems that lead to a perennial stream.

Mr. Macek said they also had an erosion control plan to prevent sedimentation and erosion with silt socks.

Mr. Macek said they received Mr. Krebs' and Mr. Weinrieb's reviews, and would meet Mr. Weinrieb on the following Wednesday to address his comments

Chair Hebert said the intent of tree planting was not only for aesthetics, but also to create a cooling effect in response to pavement. Chair Hebert said they had asked if they had an alternate solution for planting elsewhere, they weren't planting in the parking lot. Mr. Macek replied that they were concerned with planting in an area that they might expand parking in the future. Chair Hebert suggested that they have a plan for planting an island in the future.

Mr. Cross commented that parking islands were usually raised, and asked if they ever used indented islands as they did with the Sig Sauer parking lot. Mr. Weinrieb said the intent was a depression as a storm w, however, it had been his observation that many indented areas ended up being a catch area for salt and debris if not maintained. Mr. Krebs commented that they could create raised areas with a depression in the middle.

Mr. Macek stated that they had been thinking that they would rather request a waiver from the landscaped island, and plant outside the parking area instead so they wouldn't need to redesign the parking with underground drainage. Mr. Weinrieb noted

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that they had proposed lights in a middle of island that were also away from subsurface drainage areas.

Mr. Weiner said he thought it was important to put as much green as possible in the front for aesthetic reasons.

Mr. Caldwell said Subcom was contemplating another project that would need additional parking, and thought a curved island might be possible where the two parking lots met.

Chair Hebert asked if there were any other options for extended parking. Mr. Caldwell said there were a couple of other options.

Chair Hebert said he would like to see the radius, and perhaps plantings could be planted there, with an island on each end and one in the middle.

Chair Hebert also recommended planting trees that could withstand heat, drought, and salt in parking lots.

Mr. Krebs said there were concerns regarding emergency service vehicles maneuvering around the parking lot, and asked if they might consider landscaping the end caps. Mr. Macek said they could, but they wanted to be sure emergency vehicles could take the turn. Mr. Krebs agreed that he would be concerned with not clipping parked vehicles. Mr. Macek said the fire chief hadn't mentioned any major concerns, but they still needed to do further analysis.

Mr. Weinrieb asked how Eversource would drive their service truck to the second generator. Mr. Macek replied that Eversource had been to the site, and had a ten-foot front access path. Mr. Macek said they had talked about expanding the path or relocating the proposed transformer if necessary. Mr. Krebs suggested they do so because they would need reasonable access.

Chair Hebert asked how they would have emergency access down the alley to get to the oil filled transformer. Mr. Caldwell said the assistant fire chief said they wouldn't be able to get their fire truck down the alley, and asked them to place a fire hydrant at the corner of the parking lot. Mr. Weinrieb said he didn't think the fire department would want their fire truck in a tight space between two buildings, but they would want to get their hoses down the alley.

Chair Hebert asked how tall the building would be, and Mr. Macek said the first floor would be partially submerged underground with the grade, but it was roughly the same height as the existing building.

Mr. Krebs asked why there wasn't one access in and one out that would help the emergency vehicles. Mr. Macek said they could consider it. Chair Hebert said could gain six parking spaces, and Mr. Caldwell agreed.

Mr. Weinrieb said it looked as if the ADA access went straight to the stairs. Mr. Weinrieb asked if the elevator access to the building was for ADA, or deliveries only. Subcom representative, Mike Dumont said the elevator was for both. Mr. Macek said the only access point was internal. Mr. Weinrieb said it seemed like a long distance from the ADA parking spot to the elevator.

Chair Hebert asked if there were any jobs for the handicapped. Mr. Dumont said not on the third floor, but the ADA requirements weren't just for those that couldn't walk.

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Mr. Cross asked if there were enough plans in the application to accept it as substantially complete. Mr. Weinrieb said the only thing not included was the fire truck turning radius, but he thought the rest of the information was there.

Chair Hebert asked about fire suppression in the building. Mr. Dumont said there was a dry system for electronics, and a wet systems for the other area. Chair Hebert asked if there was sufficient water for fire suppression, and Mr. Dumont said the insurance company required sufficient pressure.

Mr. Macek said they would meet with the City of Portsmouth Water Department regarding moving the water lines that currently ran across the parking area.

Chris Cross moved to accept the application for Subcom Cable Systems, LLC to expand an existing "creel storage building by 44,400 square feet, three stories tall, totaling 132,900 square feet total, and includes parking, driveway and walkway modifications on property located at 100 Piscataqua Drive, Tax Map 27/Lot 1 applic as substantially complete, and to have the applicant return on September 27, 2021, with responses to issues raised. Erika Mantz seconded the motion, and all were in favor.

C) 5-Lot Subdivision of 21.26 acres in five (5) residential house lots with frontage on proposed road on property owned by **Joseph and Paula Akerley** located at **325 Fox Point Road, Tax Map 9/Lot 2**

Brandon Arsenault of 319 Fox Point Road, the applicant's son-in-law and abutter introduced Steve Haight and Doug LaRosa with Civil Works Engineering.

Mr. Haight said the Akerleys had a 21-acre lot with two houses that they wanted to subdivide into five lots so that the two houses would have been on their own lots.

Mr. Haight stated that access would be a conventional road at the existing grade where the shared driveway was with access off the cul-de-sac.

Mr. Haight stated that the applicant's two house currently had water service on the same line that supplied the home of their daughter, Amanda Murphy on Fox Point.

Mr. Haight stated that they had talked with the City of Portsmouth Water Department regarding water service connections on a six-inch stub to the newly proposed lots.

Mr. Weiner asked if there would be enough water, and discussion ensued regarding various connections, and pressure. Mr. Haight said they would tie into the existing line for the existing houses, and all other houses would have water from the roadway.

Mr. Haight stated that the test pits worked well for the existing and new lots.

Mr. Haight said each house lot would have access to the right-of-way on the new road, and the Zarah property (the former Knight property) would also be given an easement for access.

Mr. Krebs asked why the Akerley's son, Scott wanted a long drive for his lot. Mr. Haight replied that this wanted to keep a tree buffer between his house and the road.

Chair Hebert suggested that separating the two drives more could cost less. Mr. Haight said he would review the distance, while keeping the form factor.

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Mr. Krebs asked Ms. Murphy if she make the back of her lot more conforming, but Ms. Murphy said she didn't want to.

Mr. Cross asked if they would consider moving the bend in the road. Mr. Haight responded that they were trying to meet the radius and tangent requirements, as well as work with the ridge line.

Mr. Weinrieb asked about the overhead electric to Ms. Murphy's house that had been approved. Mr. Haight said Mr. Arsenault talked to Eversource, and all overhead

Mr. Krebs asked if they might extend the road more. Mr. Arsenault said they would make the road as long as they wanted. The applicant, Joe Akerley added that all his children would be given a lot after this subdivision.

Mr. Cross asked if the cul-de-sac island would be landscaped. Mr. Haight said water would drain into the cul-de-sac, and then out to the grass bioretention area.

Mr. Cross commented that he was trying to ensure that there would still be views of the water as private lots became developed, and he wondered if they might put benches in the cul-de-sac area to view Great Bay. Mr. Akerley said they might put in an observational area from their home, adding that they were trying to balance the quiet needs for wildlife, and privacy as his parents would have liked.

Mr. Haight stated that stormwater management maintenance would be part of the homeowner's association agreement.

Chair Hebert asked Mr. Weinrieb if he thought the application was substantially complete, and Mr. Weinrieb said he hadn't received a set of plans.

Peter Welch moved to accept the 5-Lot Subdivision of 21.26 acres in five (5) residential house lots with frontage on proposed road on property owned by Joseph and Paula Akerley located at 325 Fox Point Road, Tax Map 9/Lot 2 as substantially complete. Ben Johnson seconded the motion, and all were in favor.

Mr. Krebs said they needed to send a notice to the new abutter at the former Knight property. Mr. Krebs suggested that they meet again on Monday, September 13, 2021, at 7 p.m. if the Board's agenda was clear. Chair Hebert suggested that the Board do a site walk before the next meeting.

Minutes: Chris Cross made a motion to **approve** the Minutes of August 9, 2021, with corrections as discussed and to be sent to John Lamson. Ben Johnson seconded, and all were in favor.

Adjournment: *Erika Mantz moved to adjourn the meeting. Jim Weiner seconded the motion, and the meeting adjourned at 9:30 p.m.*

Next Meeting: Monday, September 13, 2021

Respectfully

Submitted by: Jane K. Kendall, Recording Secretary