

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, September 13, 2021

- Call to Order:** Chair Denis Hebert called the September 13, 2021 meeting at 6:00 p.m., followed by the pledge of allegiance.
- Present:** Chair Denis Hebert; Vice-Chair Erika Mantz; Board Members: 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
- Absent:** Russ Cooke
- Public Guests:** EDC members; Brandon Arsenault; Jill Boynton; Ted Connors; Mike Donahue; Jeff Hiatt; Ken Latchaw; Judy Miamis; Bob Raymond; Steve Haight with Civil Works Engineering; Joe and Paula Akerley; Brandon Hoben; John Ricci with Ricci Construction; Peter Beauregard; Erol Moe; Mark Phillips; Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering

I) **Discussions:** Newington Economic Development Committee

Ted Connors, Chair of the Economic Development Committee (EDC) introduced their members, Brandon Arsenault, Jill Boynton, Ted Connors, Mike Donahue, Jeff Hiatt, Judy Miamis, and Bob Raymond to the Board.

Mr. Connors said they were losing tax revenue from the power plants, and were looking for ideas on how they can help the Planning Board, planners, and developers in to encourage business in town.

EDC member, Mike Donahue replied that they were hosting business appreciation mixers for business survivors in the business community during the COVID pandemic, including home occupations, along with those that had thrived.

EDC member, Brandon Arsenault said they did monthly conference calls with New Hampshire Business and Economic Affairs, and they also benefited with having EDC member, Bob Raymond who served on the Seacoast Economic Development Committee.

EDC member, Jeff Hiatt added that they also wanted to continue with the Newington advantage, with consideration to an incentive program. Mr. Hiatt said looking at property tax abatements for new construction to allow provisions to allow improvements to properties as an incentive for a certain amt of time that could be adjusted.

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Mr. Donahue stated that there were opportunities for industrial and warehouse use, but economics was still a problem. Mr. Donahue said that Dover had the same problem, and they were offering tax abatement incentives.

Mr. Donahue commented that Newington used to sell itself by location as Town planners used to set areas aside, but reliance on the utility sector wouldn't last forever, and they needed to consider restructuring, and perhaps consider hydrogen.

Chair Hebert said technology was being fought by oil companies, but Germany was converting the high-power gas lines into hydrogen lines, so it might be an option if the power plants went away.

Board member, Chris Cross noted that transportation would be a plus where property, sewer, water, and utility costs were higher.

Mr. Donahue said residents paid part of sewer costs in other communities, but Newington didn't, and sewer use was down, so costs were higher right now.

Town Planner, John Krebs asked how the combination of higher sewer costs, but lower tax rates compared to other communities. Mr. Connors replied that the costs in Newington were lower.

(Ken Latchaw arrived at this point in the meeting at 6:20 p.m.)

Chair Hebert said the town had adjusted through up and down times, and he thought that many businesses were watching and waiting, and thought things would improve.

Chair Hebert said that Attorney Peter Laughlin said when he was a Board member for Pease Development Authority (PDA), that he ended up being glad that they worked on it somewhat slower to allow careful planning.

Mr. Hiatt said it was his opinion that there was a correlation between property values and the tax rate that would inevitably go up because of the loss of utility properties, and retail failures. Mr. Hiatt said residents and other businesses would have to pick up the difference that would raise taxes.

Board member, Chris Cross asked if they might consider attracting offshore wind farm companies that could work in the Waterfront Industrial Zone, or medical companies that were looking to leave Boston.

Mr. Donahue said Bob Raymond was working on an article on this topic. Mr. Raymond said big companies, and hospitals were swallowing up smaller medical centers, so he was surprised that the new eye surgery center on Shattuck Way.

Mr. Donahue said there was an offshore wind company that had shown interest and toured Newington's port. Mr. Donahue said there would be competition from Massachusetts and Maine, but Newington's Waterfront Industrial Zone could still provide support facilities.

Mr. Krebs said he had met their representative, but it would take time for them to identify what they wanted to do. Mr. Donahue agreed that that they were only in the preliminary stages.

EDC member, Ken Latchaw said another issue the Town would need to consider was regarding educational donor towns.

Mr. Donahue said it was public knowledge that the strip mall between The Crossings Mall, and the Fox Run Mall was under new ownership. Mr. Donohue said it was not certain how they would redevelop the new property, but he had heard that they had attracted a

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substantial developer with a track record that was comfortable with the current zoning, so he hoped that they would see new proposals that would generate more tax revenue than the current one-story businesses with large parking lots.

Alternate Board member, Jim Weiner asked how many new businesses the EDC had influenced into coming to town. Mr. Arsenault said they hadn't tracked them, so he couldn't say the EDC was responsible for any of new businesses that came to town.

Mr. Latchaw said another question might be how many businesses were retained because of interaction with Town officials.

Mr. Krebs stated that it would be good for the EDC to share information on perspective businesses with the Planning Board so that they could plan accordingly.

Chair Hebert commented that the Waterfront Industrial Zone was the deep-water port in the state, so they wanted to be sure that other uses wouldn't block access. Mr. Connors said the EDC agreed.

Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering said now was a good time to bring ordinance changes to the Planning Board to give them time for public hearings.

Mr. Cross added that there were seaports in Halifax, Canada, but Newington could still be an anchor point for Canadian businesses. Mr. Krebs said Littleton, New Hampshire capitalized on that by bringing Canadian businesses into their industrial park. Mr. Connors said they will pursue that.

Mr. Hiatt said this was what they were hoping to accomplish, and thanked the Board for sharing their ideas.

II) Public Hearings

- A) Continuation of 5-lot Residential Subdivision of 21.26 acres proposed by **Joseph and Paula Akerley** on property located at **325 Fox Point Road, Tax Map 9/Lot 2**.

Chair Hebert stated that the Board went on a site walk on Monday, August 30, 2021.

Chair Hebert noted that the Board had not received the plans in time to review them before the meeting.

Steve Haight, P.E. with Civil Works Engineering stated that they met with Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering after the site walk, and did updates in response to the site walk, and meeting.

Mr. Haight stated that the subdivision plans had been changed from five lots to four lots, pointing out that the 13-acre lot off the end of the cul-de-sac had been removed, and added to property owners, Joe and Paula Akerley's parcel.

Mr. Haight said they changed the access for the abutter shown as an easement, with drainage way

Mr. Haight informed the Board that they would be asking for a waiver from the 22-foot pavement width requirement to allow 18 feet with two-foot shoulders.

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Mr. Haight stated that the City of Portsmouth Water Department had done their initial analysis for the water system, but had made no recommendations, or provided a date yet.

Mr. Cross inquired on the area near Lot 2A that had been discussed as a walking path. Mr. Haight replied that they had reconfigured the area so that drainage wouldn't be on the Town's property. Chair Hebert responded that the area was effectively the same as a spite strip that no one could cross to get to the road. Mr. Haight replied that the abutter had said he had no need to get to the right-of-way.

Mr. Krebs suggested that they make it a variable width right-of-way. Mr. Haight said they could, but they had been asked to move the drainage out of right-of-way. Mr. Weinrieb suggested that the drainage be placed in the center of cul-de-sac. The property owner's son-in-law, and abutter, Brandon Arsenault said that someone told him during site walk couldn't have drainage in the right-of-way. Chair Hebert responded that it was important not to have extensive discussions during site walks, but they were now in a public hearing, and could clarify that they had been talking about the drainage structure. Mr. Krebs added that there would be no problem with a drainage swale.

Mr. Arsenault said it was a question of whether the Board would rather have the drainage on the right-of-way or private property. Chair Hebert said they weren't meeting the form factor that tried to avoid spite strips. Mr. Arsenault said he thought they met the form factor because they had more than 300 feet of frontage.

Mr. Haight asked if Mr. Akerley had to tell the abutter that he had to give up his property to the right-of-way. Mr. Krebs suggested that Mr. Akerley's daughter, Mandy Murphy give up a portion of her property. Mr. Arsenault responded that Ms. Murphy did not want to give up any of her property, and suggested that they create a variable distance right-of-way at the elbow.

Mr. Krebs asked if the abutter would agree to lot line adjustment. Mr. Akerley replied that the abutter wanted nothing to do with any of the project.

Chair Hebert pointed out that the Planning Board had a greater responsibility to the Town because they would be responsible for maintaining the roads.

Mr. Weinrieb noted that Lot 3 was bizarrely shaped, and appeared that it would be difficult to build on. Mr. Weinrieb asked if they could shift the road. Mr. Haight responded that they had no issue if the Board wanted to change the right-of-way, but they had already considered eight configurations for the lots.

Mr. Cross said he had noted that the abutter's septic system was nearby, but he was not interested in being on a corner lot where he would be required to have a 40-foot setback rather than a 15-foot side lot setback, but he would still get an easement for access, and would have to maintain the 200-foot frontage.

Mr. Haight stated that they didn't know how long it would be before Portsmouth Water Department responded to their inquiry on new water lines, but there was water service to the existing two homes, and one way or another, there would be water to the other lots, so their priority was to create frontage for the other two lots.

Discussion ensued regarding the existing water lines, and the stubs that would be needed for service to sell lots. Mr. Haight said that Portsmouth Water Department would need to return and close off other stubs once they brought new water lines in.

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Chair Hebert said he was concerned with the legality of approving a subdivision before water lines to the lots had been approved by Portsmouth Water Department, and that the lots without water connection could not be recorded for sale either. Mr. Krebs suggested that they could work with Town legal counsel on a condition that building permits would not be issued until the water line was extended. Mr. Haight said that would be fine. Mr. Arsenault said the infrastructure for water would be made, it was just a matter of how the connections were made.

Chair Hebert said he was also concerned that the road might never be built once the subdivision was approved. Mr. Krebs responded that the road design with lot frontages had to be approved by the Planning Board, bonded, built, and bonded for subdivision approval, but the risk was on the applicant because the Board of Selectmen did not have to accept the road as a Town road. Chair Hebert said the residents could petition the Town to accept the road so they could receive municipal services.

Mr. Akerley stated that they simply wanted to build a new house for their son and his family, and they could have built it on the same footprint as the former barn house, but then all this happened.

Mr. Arsenault stated that they had spent thousands on consultants at the request of the Portsmouth Water Department. Mr. Weinrieb asked when they last talked to the Portsmouth Water Department, and Mr. Haight replied that they last spoke six weeks ago. Mr. Weinrieb said Portsmouth Water Department was busy, and would be reviewed as soon as possible.

Board of Selectmen's representative, Bob Blonigan said he was confident that the water issue would be resolved, but suggested that the Board talk with Town counsel, Attorney John Ratigan because he had already been talking to the City of Portsmouth.

Mr. Blonigan said he had read the arguments to support the applicant's waiver request to reduce the 22-foot width requirement to 18 feet. Chair Hebert responded that the Board might want to consider if they needed to amend the Ordinance and Regulations because another applicant might ask why they couldn't put in an 18-foot-wide road. Mr. Krebs said it would require a month to post a notification to change the Ordinance, but they could easily grant a waiver.

Chair Hebert commented that they were asking for a 20% reduction of pavement that would lower the costs of maintenance and plowing. Chair Hebert said they could consider allowing narrower roads for smaller subdivision, or to allow a more rural look for subdivisions.

Mark Phillips of Hodgdon Farm Lane said that an 18-foot-wide road was referenced in the Master Plan for roads that had less than 200 trips a day. Mr. Cross added that the Master Plan referenced the Department of Transportation (DOT) regulations that they used on roadways.

Mr. Cross noted that a section of Fox Point Road, and Carter's Lane were all less than 22 feet wide. Mr. Cross commented that 18-foot-wide roadways on subdivisions would cost less to build, plow, maintain and rebuild, would reduce drainage flow from impervious surface, and would generate less heat. Mr. Cross said they could adjust the cul-de-sac size

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to be sure that it was adequate for turning plows and trucks. Chair Hebert said they also needed to consider the requirements of school buses.

Mr. Cross said they could consider expanding the gravel shoulder to allow walkability.

Chair Hebert stated the 22-foot-wide standard was established when Gundalow Landing was put in with a sidewalk, instead of the 24-foot width that was used on Mott Cove and appeared too wide. Chair Hebert said the Town decided they didn't want to replace the sidewalk on Gundalow Landing once it fell into disrepair.

Chair Hebert said the town had looked into building additional bike lanes or sidewalks in town recently, but were concerned that traffic speeds would increase as they tended to with wider road.

Mr. Blonigan commented that the Coleman Drive residents would probably like it if Downing Way on the Shackford lot subdivision was narrower as well.

Mr. Weinrieb asked that Mr. Haight provide turning templates showing the turning radius for buses, delivery, and fire trucks, and consider a five-foot shoulder. Mr. Haight asked if the cul-de-sac could be gravel or if it needed to be paved. Chair Hebert replied that it needed to be paved because it wouldn't get plowed if it was gravel.

Mr. Cross suggested that they look into riprap for the side of the steep road to prevent runoff onto Fox Point Road.

Mr. Weiner reminded the applicant that they needed to discuss their tree cutting and planting plan with the Conservation Commission to get their recommendations because many trees like blue spruce were experiencing a fungus, and white pine were troubled with needle cast disease.

Mr. Akerley said they would be thinning out their trees, and possibly transplanting some in different areas. Chair Hebert responded that transplanting trees from established locations shocked them, and recommended they get recommendations on suitable native species from a nursery and the Conservation Commission.

Chair Hebert reminded the applicant that this was the first time the Board had seen their plans, and that Mr. Weinrieb had asked for plans two weeks prior to the meeting so he could review, and prepare a report.

Mr. Krebs asked the applicant to provide a written request for the road width waiver.

Erika Mantz moved to continue the public hearing for the 5-lot Residential Subdivision of 21.26 acres proposed by Joseph and Paula Akerley on property located at 325 Fox Point Road, Tax Map 9/Lot 2 to September 27, 2021. Rick Stern seconded the motion, and all were in favor.

Mr. Krebs also informed the applicant that the Conservation Commission met on the second Thursday of each month, and would not meet again until October 7, 2021, but they could make the Conservation Commission's approval of their landscape plan a condition of the Planning Board's approval.

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- B) Conditional Use Permit to relocate an existing walkway from existing residence to existing dock on Great Bay as proposed by **Bombini Trust** on property located at 30 Gundalow Landing, Tax Map 22/ Lot 3.

The applicant was not present, so this item was delayed.

III) Preliminary Consultations:

- A) Discussion on proposal by **Stoneface Brewery** to contract a new brewery and tasting room on Shattuck Way, Tax Map 12, Lot 5-A.

John Ricci with Ricci Construction and Brandon Hoban, architect presented a preliminary plan to relocate Stoneface Brewery's operation with a new 23,000 square foot, two-story manufacturing facility with a loading dock at the back, a restaurant with outdoor seating, and 176 parking spaces on a 5-acre parcel on Shattuck Way and River Road.

Mr. Ricci said they intended to do sheet flow treatment utilizing the existing detention basin that had been installed by on the site when it was Eversource's laydown area.

Mr. Ricci said they already had done some brush hogging, survey, and wetlands delineation of the site.

Mr. Hoban presented a rendering of the proposed building, stating that they were considering a rustic, yet sophisticated building. With a variety of spaces and levels in the yard.

Mr. Hoban said there would be office space, a rentable space in the restaurant for functions, grain and malt silos for the brewing area, and a warehouse.

Stoneface Co-founder, Erol Moe stated that their current operation on Shattuck Way was efficient, but there were constraints with the residential water and sewer, and limited parking. Mr. Moe said they wanted to work on site development while they continued operation at their current location, so they transition to the new location in phases.

Chair Hebert asked if would be willing to demolish the cement building on the corner immediately. Mr. Ricci replied that they had a plan, but there were costs associated, and they didn't want to commit to demolition yet.

Mr. Weiner said he understood that demolition was an expense, but the Planning Board was trying to develop Shattuck Way, and they didn't want to see an eyesore on the corner of the lot with the abutting new medical building, so he thought they should remove the building.

Property owner, Mark Phillips responded that the cement block building had been on the site since World War II, and they were afraid that they would lose the grandfathered status of setbacks, and the footprint if they tore down the wooden addition on cement building. Chair Hebert stated that they would have two to three years to rebuild if they tore it down.

Mr. Moe said they were focusing on the brewery, and didn't know if they would sublet the building. Mr. Ricci added that they might want to use the building to store materials.

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Stoneface co-founder, Peter Beauregard commented that the building could generate income for them, so they wouldn't leave it to rot.

Mr. Ricci said they would probably go to the Zoning Board of Adjustment (ZBA) to request a variance from the side yard setback requirement for parking.

Mr. Krebs recommended that they also consider if they will want a variance for the signage setback at the same time. Mr. Cross agreed, and stated that he would be favorable on permitting the applicant to have a larger signage to gain visibility from the highway.

Mr. Cross noted that there was a large wetland separating the building from the rest of the lot. Mr. Ricci said they would survey the detention basin. Chair Hebert suggested that an amendment would go faster than a new Alteration of Terrain permit.

Mr. Krebs said he and Mr. Weinrieb thought there might be sufficient capacity in the existing detention pond. Chair Hebert said they didn't own the detention pond.

Mr. Weinrieb said requirement for parking islands. Chair Hebert said had discussed raised plantings better than sunken.

Chair Hebert asked about parking for employees and patrons. Mr. Moe said there would be 150 parking spaces for guests, and another 30-40 spaces for employees. Mr. Hoben said they would have to adjust the number of outdoor seating spaces if they couldn't get all the parking spaces they needed.

Chair Hebert suggested that they make the parking in the back conforming.

Mr. Krebs suggested that it might be a good idea to schedule the malt deliveries, but Mr. Moe said that would be a problem.

Mr. Weinrieb asked how many deliveries they expected each week, and Mr. Beauregard said they usually had three to five deliveries per week. Mr. Weinrieb suggested that they provide a traffic memo on traffic generation.

Mr. Ricci said they hoped to return in December 2021 after going to the ZBA. Chair Hebert asked that they return to the Board first in case they could avoid the variance. Mr. Ricci said he would try to meet with Mr. Krebs first.

(Mr. Weinrieb left at 9:08 p.m. at this point in the meeting.)

B) Discussion by **North and South Construction** to redevelop a parcel of land located on River Road, Tax Map 19/Lot 3

Ben Johnson with North and South Construction informed the Board that they had purchased the former veteran's center on River Road.

Mr. Johnson said they were proposing to demolish both buildings, and would then build a new building for vehicle storage. Mr. Johnson said Steve Haight, P.E. with Civil Works would do the work.

Chair Hebert remarked that heavy equipment was already being stored on the site that was in the Office Zone. Mr. Johnson replied that all vehicles were registered.

Chair Hebert said the Board had turned down other applicants because their use didn't mix in the Office Zone. Chair Hebert said he had also observed a Portsmouth Sign

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truck last winter, and the site regulations also required that businesses had parking to support their business on site.

Mr. Johnson said the site was in the middle of the Industrial Zone, with Custom Pools, and a roofing business nearby.

Mr. Johnson replied that their cranes were usually left on job sites, and they had already installed a garage door for some inside storage, but they also wanted to store 15 flatbed trailer trucks on site with a privacy fence to keep them out of sight.

Mr. Weiner asked if the use would be considered warehouse use, and Mr. Cross suggested that the use would be like Mainely Grass, but with storage.

Chair Hebert said he was trying to be consistent with applicants, and asked why Mr. Cross would accept the storage of trucks on this Office Zone site, but had pushed hard not to allow tractor trailer trucks stored at the back of the malls in the Commercial Zone. Mr. Cross replied that these trucks would bring in tax revenue to the Town because they were registered in town, and the other trucks had been left behind the mall for years. Mr. Stern recalled that the store owners were using 40-foot trailers behind the mall.

Mr. Cross added that this was different because the applicant went in and out on their jobs. Chair Hebert responded that they had denied another applicant that wanted equipment storage on the same lot.

Mr. Weiner asked how often trucks would be going in and out, and Mr. Johnson said daily.

Mr. Weiner said he thought it was a great location, but they would have to agree that equipment would be stored in the warehouse, and the other trucks would go out each a day.

Mr. Weiner said would need to build under cover, and suggested that they consider something like a rose arbor to disguise the truck storage. Mr. Johnson said he would consider a fenced in parking area at the back of the area.

Mr. Cross stated that there were economic changes that warranted a change of use from one thing to another over time.

Chair Hebert said Pease Development Authority (PDA) had the luxury of turning things down, so they could keep Pease Tradeport looking nice, so he had to ask where they drew the line for consistency. Chair Hebert said there was also an enforcement issue when they made approvals and conditions.

Chair Hebert said abutters felt that different uses diminished the appearance and worth of their property. Chair Hebert went on to say that a medical building was being built, and hopefully a brewery, and he already had a complaint.

Chair Hebert said he didn't think office users would appreciate a storage yard of trailer trucks, but perhaps they wouldn't care if the trucks were under cover.

Mr. Johnson said he would be parking 20-foot landscape trailers that were eight feet high. Board member, Peter Welch suggested that they build a 10-foot-high fence to keep them out of sight.

Mr. Krebs suggested waiting until the plans were presented, but noted that were narrow lots would need variances for setbacks.

Chair Hebert said they needed to look at the Tax map, to determine if the lot was connected to the Town lot that they might keep or sell for parking. Mr. Blonigan said State

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law required that they get an opinion from the Planning Board and Conservation Commission before going before the Town as a warrant article.

Mr. Cross commented that they also needed to be sure that the use of Mr. Phillip' lot was honoring the gas pipeline easement. Chair Hebert responded that the Town had a road that went over the easement, and the machine shop wanted to buy the lot for parking. Mr. Cross said there were easement issues, and they didn't need complications that encroached on those easements.

Mr. Blonigan said the Air Force jet fuel pipeline was also a big issue. Mr. Cross said they needed to consider access to utilities.

II) Public Hearing:

- A) Conditional Use Permit to relocate an existing walkway from existing residence to existing dock on Great Bay as proposed by **Bombini Trust** on property located at 30 Gundalow Landing, Tax Map 22/ Lot 3.

Chair Hebert recused himself as an abutter.

Mr. Krebs said the applicant wanted to relocate the abandoned existing set of stairs, and replace them with new steps that cross the slope at a better angle to prevent erosion.

Mr. Krebs said the Conservation Commission recommended the Expedited Minimum Impact application request.

Conservation Commissioner, Jane Kendall replied that the applicant's representative said they had also redesigned the stairs with landings for ease of accessibility.

Mr. Cross commented that the 10'x16' landings could support a screen porch. Mr. Krebs responded that DES wanted structures off the ground, but the applicant was only asking for a landing, not a structure.

Vice-Chair Mantz asked what the status of the DES application was, and Ms. Kendall said the Commission made recommendations, but had not heard that DES had approved the application, however, the Conditional Use Permit would be moot if DES didn't approve their Impact Permit. Mr. Krebs suggested that they could move to make a condition that there would be no structures built on the landings.

Peter Welch moved to approve the Conditional Use Permit to relocate an existing walkway from existing residence to existing dock on Great Bay as proposed by Bombini Trust on property located at 30 Gundalow Landing, Tax Map 22/ Lot 3 upon the condition that the Expedited Minimum Impact permit was approved by DES. Rick Stern seconded the motion, and all were in favor.

Minutes: *Chris Cross moved to approve the Minutes for the August 23, 2021, meeting with corrections as noted. Peter Welch seconded, and all were in favor.*

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*Erika Mantz moved to approve the Minutes for the August 30, 2021, meeting.
Ben Johnson seconded, and all were in favor.*

Adjournment: *Jim Weiner moved to adjourn the meeting. Peter Welch seconded the motion and the meeting adjourned at 10:26 p.m.*

Next Meeting: Monday, September 27, 2021

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