

**Town of Newington, NH**  
**PLANNING BOARD**

Meeting Minutes, Monday, May 9, 2016

**Call to Order:** Chair Denis Hebert called the May 9, 2016 meeting at 7:00 p.m.

**Present:** Chair Denis Hebert; Vice-Chair Christopher Cross; Board Members: Bernie Christopher; Jack Pare; Mark Phillips; Jim Weiner; Alternate Member: Ken Latchaw; Cosmas Iocovazzi, Board of Selectmen Representative; Interim Planner, Gerald Coogan and Jane Kendall, Recorder

**Absent:**

**Public Guests:** Dev Atma Khalsa

**1) Driveway Permit:** Proposal by Dev Atma Khalsa at 11 Old Post Road, Tax Map 21, Lot 1.

Dev Atma Khalsa of Old Post Road appeared before the Board to present his proposal for a driveway for a construction entrance. Chair Hebert said Mr. Khalsa's hand sketch in was included in the Board's packets. Mr. Khalsa replied that the sketch in the packets was not the same sketch that he had submitted a change to Town Hall Secretary, Eleanor Boy on draft paper to show a change in distance from the property lines to cover the 200 feet frontage requirement that would be 95 feet from the Frink property and Old Post Road.

Mr. Khalsa said he didn't know where the house and septic were going yet, but he needed access to excavate a cellar hole. Mr. Khalsa said he picked the location so he could determine what trees to keep.

Chair Hebert stated that a construction entrance was usually for trucks entering and exiting and the edge of the road pavement would often crack. Chair Hebert said he wanted to make sure no damage occurred to the Town road. Board of Selectmen's Representative, Cosmas Iocovazzi the applicant could cut and repair any damaged pavement when he put in his paved driveway.

Mr. Iocovazzi asked if Town Road Agent, Len Thomas had followed up with him and Mr. Khalsa said he had not.

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, May 9, 2016

Mr. Phillips asked if the existing nearest utility pole would be the same pole used for service to the property and Mr. Khalsa said it would.

Interim Planner, Gerald Coogan asked how much fill Mr. Khalsa was going to use and Mr. Khalsa replied that he didn't know the exact amount.

Chair Hebert asked if his contractors did compaction to avoid settling in the foundation. Mr. Khalsa said he wasn't sure, but he spoke with his contractor about it. Chair Hebert said compaction needed to occur in ten foot lifts or it would be settling for years. Mr. Khalsa said there was a drop off with a slope at the back and their intention was to use fill from the cellar hole to continue the slope and compact it more.

Alternate Board member, Ken Latchaw said he knew his contractor for the past 40 years and the contractor had a good reputation so he felt confident that he would dig the foundation and compact the soil properly.

Chair Hebert informed the applicant that he would need to return to the Board for final approval once he had his building design and utility plan, as well as the final driveway plan with adequate line of sight.

Vice-Chair Cross pointed out that it would be important for the driveway to have a depression so water not would back up on the road.

Chair Hebert added that he would be responsible for riprap and stone as well.

*Jack Pare moved to approve the driveway proposal by Dev Atma Khalsa at 11 Old Post Road, Tax Map 21, Lot 1. Bernie Christopher seconded the motion and all were in favor.*

**2) Preliminary Consultation:** Proposal by Georgia Pacific Gypsum at 170 Shattuck Way, Tax Map 20, Lot 20.

*No representative appeared before the Board and this item was postponed.*

**3) Municipal Utilities:** Proposal by Eversource to install utility poles.

*No representative appeared before the Board and this item was postponed.*

**5) Town Planner Report:** by Interim Planner, Gerald Coogan

**Fabyan Point Subdivision:** Mr. Coogan passed out a report dated May 9, 2016 from Town engineering consultant, Eric Weinrieb of Altus Engineering on the status of the Savinelli subdivision on Fabyan Point. Mr. Coogan said he and Mr. Weinrieb met with Jarrad Savinelli earlier in the day and Mr. Savinelli was pushing to complete the conditions because he wanted to sell the property.

Mr. Coogan said they had drawn up a development agreement with the conditions of approval and a security would be provided by the proposed buyer, Peter

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, May 9, 2016

Johnson the buyer on the day after the plan was recorded as approved by Town counsel, Attorney John Ratigan.

Board member, Mark Phillips commented that Mr. Johnson was familiar with the business and had a good reputation.

Discussion ensued regarding the condition to pave a parking space for a Fire Department tanker at Kennard Pond on Newington Road.

Chair Hebert said he had been told that the Fire Department would be purchasing a new tanker for that purpose, but instead they purchased a new fire engine truck. He asked why they were putting pavement in if there was no tanker. Mr. Locovozzi said the Fire Department told him that they could start fighting a fire with their trucks and tankers from other towns could park on the pavement to draw water from the pond. He said the Chief consulted the State Fire Marshall and was told that this would be okay

Mr. Locovozzi said the town needed a tanker, but regardless of what they did at the Fire Department, the Planning Board's conditions of approval were the right thing for the South Newington.

Board member, Jack Pare asked if the new engine could fill itself in the pond and Mr. Locovozzi said it could.

Mr. Weiner asked if the City of Portsmouth Water Department had any liability for providing sufficient water pressure to the South Newington and Mr. Locovozzi said they were not liable.

Mr. Locovozzi asked when the Mylar would be ready and Mr. Coogan said it could be ready that week. Chair Hebert said he wouldn't sign it until he got the go ahead from Altus Engineering and Attorney Ratigan that the agreement, bond and security were all in place. Mr. Coogan clarified that he thought it would be a letter of credit.

**The Crossings Mall:** Mr. Coogan said the Crossings had informed the Town that they wanted to raze the Sullivan Tire building. and replace it with a PetSmart. He said the building was an accessory to the old Bradley's building, there were wetland issues and they would abut the setback from the ring road so it appeared they would need a variance. Mr. Coogan said would appear before the Planning Board for a conceptual review before going before the Zoning Board of Adjustment (ZBA).

Mr. Pare commented that PetSmart would also be adding a loading dock and wall to the north side of the building. Vice-Chair Cross wondered if the ZBA was made aware of the implications of their variance request to expand a non-conforming building.

Mr. Phillips asked what happened to the Sullivan Tire business and Chair Hebert replied that they wanted to stay, but their lease was not renewed.

**D'Lorenzo Proposal:** Mr. Coogan said informed the Board that Attorney Roberts had sent a memorandum that developer, Anthony D'Lorenzo was also scheduled to appear before the Board for a conceptual presentation for their proposal for revisions to

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, May 9, 2016

Key Auto and a hotel and restaurant at the Great Bay site before they went before the ZBA for a zoning variance.

Vice-Chair Cross asked if the Board should seek legal review to consider rezoning. Chair Hebert replied that they were on the lower end of the Waterfront Industrial zone, and even though they were not on the water, they would still need a variance. He reminded the Board that the Planning Board was a land use board and not a judicial board to grant ordinance, use or zone variances. He said the applicant had to show they had a hardship and so the ZBA could determine for themselves if the applicant met the five criteria rather than accepting the applicant's word for it. Mr. Iocovozzi said as Mr. Phillips said some zones antiquated.

**ShoGun:** Mr. Coogan passed out information on ShoGun restaurant, a grandfathered use in the industrial zone after the building inspector sent a letter regarding permissible uses for functions in the zone that did not include late night karaoke. He said they also wanted outside dining that would require a variance as well.

Chair Hebert said the Asia restaurant that had been there before MamaD's went in used to run a karaoke bar but ShoGun was proposing to include intense cage fighting as well as a not for profit casino, but neither were permitted uses.

Chair Hebert said the interior of the restaurant was very nice and the owners were simply trying to expand their business to make it more viable. Mr. Iocovozzi agreed that it would be nice if the business could diversify so they could continue. Chair Hebert replied that the Board would consider something that didn't involve police oversight. Chair Hebert said the Board was pro-business, but they still needed to maintain control of ordinances.

Mr. Phillips noted that the business was some distance from the nearest residence. Mr. Iocovozzi replied that there was a house next door, but it was owned by Mo Wong, the ShoGun property owner.

Chair Hebert noted that Vice-Chair Cross had previously suggested changing the zone for that area. Mr. Pare added that the issue of Stoneface Brewing expanding their use down the street where Sperry Tent was currently located, or the former Bloody Point Depot was also another example of a business operation in the designated Industrial Waterfront Zone that was not really near the waterfront, which would be a good reason to consider changing the zoning. Mr. Iocovozzi asked what they would call the zone and Vice-Chair Cross had suggested calling it the Highway Transitional zone.

Chair Hebert said it was too early to put the discussion on the docket, but perhaps they could discuss it further in August.

**COAST:** Chair Hebert said COAST had suggested that a Board member attend their meetings, but it was not possible for Mr. Coogan, who was part-time to devote an entire morning, so he asked them to email a report to the Town.

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, May 9, 2016

Chair Hebert commented that Mr. Coogan was putting together a package on rules of engagement for the Board. He said so long as discussions did not include opinions on Board business, Board members could share data and information with one another, but it was thought to be a safer practice to channel information through the planner to avoid the potential for recusal.

### **Additional Discussions:**

**Gosling Road:** Chair Hebert informed the Board that he and Town Administrator, Martha Roy had met with the City of Portsmouth regarding the grant they received for a bus stop, crosswalks, a bike lane and sidewalk improvements to Gosling Road.

Chair Hebert said they wanted the sidewalk to go to bridge, but there was not enough room under bridge to go to Pease. He said the City had told them that the improvements were mainly for Gosling Meadows residents, which he said was fine so long as Newington tax revenues weren't used to support their residents.

Chair Hebert said he informed them that the Board of Selectmen had no issue with the improvements so long as there was no cost, liability or maintenance to the Town of Newington.

Mr. Latchaw said he hoped an agreement would be documented so Newington wouldn't see a bill fifteen years later. Chair Hebert said it had been documented by the legal department.

Vice-Chair Cross asked if a sidewalk was necessary on the Newington side with a cross walk at one corner and again at the other end. Mr. Pare said there were still jaywalkers in between. Chair Hebert said they wanted a bus stop on both sides and were proposing to put in a wall to prevent jaywalkers and a crosswalk with a crossing light. He said Ms. Roy had the plan in her office.

Vice-Chair Cross said he was concerned with industrial trucks trying to access the highway and pedestrian safety. He asked why the bus stop needed to be on Woodbury Avenue and why they couldn't make a deal with Jared Jewelers to place the bus stop at their entrance. Chair Hebert replied that he brought up the issue of the industrial traffic during the meeting. He said this plan was trying to address the issue of people jaywalking and it was State law that traffic had to stop for pedestrian traffic going to the malls. Chair Hebert said the grant was limited and they wanted to put the bus stop where the buses went. Vice-Chair Cross commented that he was concerned with an 18-wheeler full of woodchips being able to stop.

Chair Hebert said Cumberland Farms had given Newington funds toward a COAST bus stop when they redeveloped a couple of years ago, but COAST didn't want to go forward with the bus stop so they had to return the money to Cumberland Farms.

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, May 9, 2016

Mr. Iocovozzi said the Portsmouth Housing Authority received the improvement grant and the City was utilizing the opportunity. He said Gosling Road was owned half and half by both Portsmouth and Newington, but Portsmouth was good enough to plow. Chair Hebert added said Cumberland farms needed storm drainage behind and did legal document that Portsmouth could maintain if needed.

Chair Hebert said they needed to appear before the Board of Selectmen and the Planning Board. He said he informed Portsmouth during the meeting that he was not there to represent the Planning Board.

**Cell Towers:** Chair Hebert said the Town appraiser walked through the Industrial zone and found cell towers that had not been appraised, which would need to be addressed.

A brief discussion regarding cell towers ensued. Mr. Phillips said the Telecommunication Act of 1976 took power away from municipalities. Mr. Coogan replied that municipalities could not deny cell towers, but they did have review authority to look at aesthetics and visuals. Chair Hebert added that Newington had been successful with recommending cell towers be placed on the cement silos in the Industrial zone as an alternate. Mr. Phillips asked Mr. Coogan to look into the RSA further.

**Wilcox Way:** Mr. Iocovozzi said the Board of Selectmen would be discussing the continuation of Shattuck Way onto Wilcox Way with the intent to eventually connect to Gosling Road at their next meeting.

Chair Hebert said he never saw the most recent plans, but thought Town engineering consultant, Eric Weinrieb must have seen them.

**Fox Run Mall:** Chair Hebert commented that the Fox Run Mall was using an older business model that was outdated and they may be in trouble. He said they needed to be open minded for other uses in the future and the Board needed to consider updating the Master Plan for other uses. He said he had invited the owners to talk with the Board.

Mr. Phillips replied that Pease had become very successful with 7,000 jobs. He said there were only eight acres left to lease through Pease Development. He said Wilcox Industries purchased Matrix because they needed to own their own property. He went on to say office use could go to the Fox Run Mall to be competitive with Pease.

**Eversource Seacoast “Reliability” Project:** Chair Hebert said they were meeting with Eversource regarding a land swap easement so the lines could go around to the left of the skating pond. He said they would go down to 25’ feet and cut out 50’ of forest and trees that would probably repopulate.

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, May 9, 2016

Chair Hebert said a letter went out to the Pickering family to determine if they wanted the lines to run below or above ground on their property. He said Lulu Pickering attended the May 5, 2016 Conservation Commission meeting and expressed concerns that underground lines might interfere with the potential for future development. Chair Hebert noted that the Pickering property was eligible to be included on National Historic Register like the Frink Farm property. Speaking as a Conservation Commissioner, Jane Kendall noted for the record that John Frink also attended the May 5, 2016 Conservation Commission meeting and stated that the agricultural easement that was obtained with a Federal grant, required that Eversource acquire approval from the Attorney General and the USDA for the power lines to go through the property, and show that the construction would not disturb and further distribute the PFA contamination that had been found in the wetlands. Chair Hebert agreed that was correct and added that Rockingham County Conservation District would go along with the Frinks' decision.

Chair Hebert said Eversource would accept whatever the property owners decided, but they only had a month to decide and whether the lines were above or below on the Frink Farm would determine whether they went above or below ground through Hannah Lane.

**Residential Water:** Mr. Latchaw asked how old the agreement between the City of Portsmouth Water Department and Newington was. Mr. Iocovozzi said the water lines had been routed through town from Madbury since 1965.

Mr. Latchaw asked how long since they had been reviewed and Chair Hebert said the Town had reminded Portsmouth of the agreement recently. He said they needed to address the issue of water availability because some residents wanted to put wells in and that was a concern because many areas had been contaminated by the PFA's used on the runways when Pease Air Force Base was active.

Mr. Iocovozzi said it was up to the Air Force to clean the contamination up. Chair Hebert agreed and said the Air Force should replace water lines. Mr. Iocovozzi said they already replaced the lines on Airport Road.

Mr. Iocovozzi agreed that the whole town should be on Portsmouth water, but said they wouldn't put lines in unless the Town covered the cost. He added that the lines put in to improve pressure in the Historic District for the Langdon Library cost \$30,000 which was the same cost as a cistern.

Mr. Weiner suggested that residents might have a well in addition to Portsmouth water and Chair Hebert replied that Portsmouth Water Department said they could not because they were concerned with water backing up and contaminating their lines.

**Minutes:**

**Town of Newington, NH**  
**PLANNING BOARD**

Meeting Minutes, Monday, May 9, 2016

Chair Hebert passed out an addendum to the November 16, 2015 Minutes that he wrote. He said it had been brought to his attention that a comment made by Board of Selectmen Iocovozzi at the end of the November 16, 2015 meeting had not been included in the Minutes because it was not on the agenda and the Board was adjourning. He said he talked with Town counsel who agreed that the Planning Board could approve the addendum to the Minutes

*Chris Cross moved to amend the November 16, 2015 Minutes with the addendum. Mark Phillips seconded the motion and all were in favor.*

Chair Hebert commented that the "Right to Know" RSA required that draft minutes of public meetings had to be available to the public, but he would like to review them before they were put on the Town website.

Recording Secretary Jane Kendall stated that the Conservation Commission had recently made a motion to clarify that they would like their draft minutes to be posted on the website right away for public information rather than wait until they were approved at the next month's meeting. Chair Hebert said he had been told that it was the Board of Selectmen and Planning Board's policy to wait until the minutes had been approved before posting them on the web for public viewing.

*Chris Cross moved to approve the Minutes for the April 25, 2016 meeting with corrections as noted. Jim Weiner seconded, and all were in favor.*

**Adjournment:** *Coz Iocovozzi moved to adjourn the meeting. Jim Weiner seconded the motion and the meeting adjourned at 8:50 p.m.*

**Next Meeting:** Monday, May 23, 2016 at 6:30 p.m.

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

*These Minutes were approved and adopted at the May 23, 2016 Planning Board Meeting.*