

Town of Newington, NH
PLANNING BOARD

Meeting Minutes, Monday, January 22, 2018

- Call to Order:** Chair Denis Hebert called the January 22, 2018 meeting at 6:30 p.m., followed by the pledge of allegiance.
- Present:** Chair Denis Hebert; Vice-Chair Christopher Cross; Board Member: Jim Weiner; Alternate Members: Rick Stern and Peter Welch; Board of Selectmen's Representative, Mike Marconi; Planner, Gerald Coogan and Jane Kendall, Recorder
- Absent:** Bernie Christopher and Ken Latchaw
- Public Guests:** Town engineering consultant, Eric Weinrieb with Altus Engineering; Newington Waster Water System Manager, Denis Messier; Mark Phillips with Storage Barn, LLC; John Lorden, PE with MSC; Alexandra Jacuch; Brian Short and Tory Bianci with Custom Pools; Attorney Steven Roberts; Anthony DiLorenzo

1) Public Hearings:

- A) Site Review of a proposal by **Storage Barn, LLC** for a self-storage facility with an on-site residence for a manager on property located at 2211 Woodbury Avenue, Tax Map 19, Lots 9-1 and 12.

Town Planner, Gerald Coogan passed out copies of a letter he had received from Town engineering consultant, Eric Weinrieb with Altus Engineering late Friday that had been sent out via email earlier.

Mr. Weinrieb stated that the applicant met with the Technical Review Committee (TRC) in December. He went on to say that the applicant's engineer reviewed and responded and this was his response for further discussion and to determine how the Board felt.

Chair Hebert asked Mr. Weinrieb to review items that were not addressed.

Mr. Weinrieb commented that the applicant was proposing some plantings and was staying back from the property line, but Haugh Storage appeared to have developed right up to the line. He said he didn't think the applicant should be penalized because the other didn't have a vegetation buffer.

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Questions were asked about planting vegetation buffer along between Shattuck Way. Chair Hebert asked if the applicant had appeared before the Conservation Commission. Board member, and Conservation Co-Chair Jim Weiner replied that they discussed landscaping the front entrance from Woodbury Avenue. Mr. Coogan commented that the Commission's landscape review didn't focus on Shattuck Way. Alternate Conservation Commissioner, Jane Kendall added that they weren't aware that trees were being cut along Shattuck Way.

Mr. Phillips stated that they were thinking of planting low and spreading junipers that would hold banking. Chair Hebert commented that juniper only lasted 10-15 years. Mr. Weiner asked if they would consider adding a couple of additional ornamental trees, such as a hardy dogwood or Japanese maple.

Plantings and the stone wall along the Beane Farm property line was also discussed. Vice Chair Cross reiterated the importance of maintaining the historic wall and stones. Mr. Weinrieb noted that they were limited because of the Beane Farm's view easement. Mr. Lorden added that they were not allowed to disturb anything along the 20-foot Eversource easement where sumac would remain.

Mr. Weinrieb suggested that he would like to see an additional tree planted along the storage unit toward Woodbury Avenue. Ms. Kendall suggested that they consider planting the same kind of low-growing evergreen tree that the Conservation Commission approved for Pease Development Authority where they cleared the runway off McIntyre Road.

Discussion ensued regarding trimming the lower branches of the Norway spruce that was overhanging the access drive and the proposal for a gravel shoulder to shift oncoming traffic. Chair Hebert expressed concern for icing because of shade and dripping from the trees so close to the road. He suggested that they consider removing every other tree to allow the sun in or replace them with deciduous trees. Vice Chair Cross suggested that they review the effectiveness of the gravel shoulder after a year. Chair Hebert asked Mr. Phillips if he would consider thinning the trees and paving as condition of approval if there was a problem after a year or more.

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Discussion ensued regarding the rights of use and responsibility for maintenance of the accessory road. Chair Hebert suggested that Mr. Phillips review the deed carefully.

Chair Hebert reminded the applicant that he needed to be sure that the lots were merged and recorded at Rockingham Registry of Deeds.

Mike Marconi moved to accept the Storage Barn, LLC's waiver request from Section 13-C for onsite pedestrian traffic at their proposed self-storage facility on property located at 2211 Woodbury Avenue, tax Map 19, Lots 9-1 and 12. Peter Welch seconded the motion.

Vice Chair Cross spoke in favor of expanding the 24-foot drive to 27 feet to accommodate a three-foot walkway to the handicapped parking space to office.

Mr. Weiner replied that he didn't think a walkway would be used and therefore didn't think there would be any gain in additional pavement expanding the drive to 27 feet. Mr. Weinrieb, Alternate Board member, Rick Stern and Board of Selectmen's representative, Mike Marconi also agreed. Chair Hebert added that 24 feet was standard and included an area for walking.

Mr. Phillips added that the Town didn't have a sidewalk plow so the sidewalk along Woodbury Avenue would not be passable during snow season anyhow.

All were in favor of the waiver request and the motion passed.

Mr. Lorden explained that their reason for their second waiver from lighting specification was that they were only trying to light doorways and were not exceeding specifications outside of doorways.

Mike Marconi moved to accept the Storage Barn, LLC's waiver request from Section 9-G: Lighting Specification at their proposed self-storage facility on property located at 2211 Woodbury Avenue, tax Map 19, Lots 9-1 and 12. Rick Stern seconded the motion, and all were in favor.

Chris Cross moved to accept the Storage Barn, LLC's waiver request from Section 9-H: Lighting Hours at their proposed self-storage facility on property located at 2211 Woodbury Avenue, tax Map 19, Lots 9-1 and 12 for security purposes. Mike Marconi seconded the motion, and all were in favor.

Mr. Weinrieb continued his review of outstanding items including concerns with drainage onto the abutters' property from the cross culvert at the throat of the drive. Chair Hebert asked for a recommendation of another solution. Mr. Weinrieb suggested a swale parallel to the driveway if necessary.

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Chair Hebert recommended adding a review in one to two years as a condition of approval before an occupancy permit was granted.

Vice Chair Cross brought up concerns with drainage toward Sponge Jet. Mr. Lorden said the topography didn't depict the gentle swale and the berm that would protect the abutter from drainage toward Sponge Jet. Mr. Weinrieb added that the flow was from the existing parking lot and they were not increasing the flow, but they could consider making a deeper depression to decrease the flow just the same. He suggested come up with an inlet structure before finalizing. Mr. Lorden replied that they were somewhat limited because near property line.

Mr. Coogan asked about the private sewage easement that Mr. Phillips was granted and suggested that the Newington Sewer and New England Medical sign off. Chair Hebert replied that it was not a good design, but it was a civil matter. Mr. Weinrieb commented that there would be light septic use. Chair Hebert replied that the concern would be with maintenance.

Newington Sewer Manager, Denis Messier stated that it was determined that a parallel pipe should be installed alongside the existing private line should there be a failure, but he was not concerned.

Mr. Stern asked how old the pipe was and Mr. Messier replied that the private line was put into Beane's Farm before he arrived 35 years ago. Mr. Messier stated that they videotaped the pipe and didn't believe there was any infiltration into their lines, but it would need to be repaired if a crack developed. Mr. Weinrieb added that PVC pipe lasted a long time.

Vice Chair Cross commented that the owners of Lot 19-9 should have made their own connection through their property to connect to the Town line when the lot was subdivided, and Mr. Phillips should not have been burdened because of an oversight of the Newington Planning Board, noting that Mr. Phillips was a member of the Board at that time.

Mr. Messier noted that the line had always been connected to Shattuck Way, but the applicant and New England Medical would be charged according to the water they used, and a lien could be put on New England Medical's property if they didn't pay for their use.

Vice Chair Cross suggested an agreement between Mr. Phillips and the owner of Lot 19-9 that the owner would be required to install their own sewer connection to Shattuck Way if they redeveloped or sold their lot as a condition of approval.

Chair Hebert asked if the applicant would be willing to grant an easement connecting to River Road or around their buildings to get to the other manhole to connect one manhole to the other. Mr. Lorden replied that he was trying to define a solution on the plan, but they would have to work out another easement to accommodate New England Medical if there was a failure.

Chair Hebert suggested that they consider running the line down the access road. Vice Chair Cross noted that the access driveway was someone else's property.,

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however. Chair Hebert replied that the deed required that the owners of Beane Farm have access if there was any issue.

Alternate Board member, Peter Welch noted that an eight-inch pipe on a minimum slope could take a million gallons a day, so the sewer line would still be more than adequate. Mr. Messier and Mr. Weinrieb also agreed.

Mr. Weinrieb noted that their stormwater management plan should be recorded at Rockingham Registry of Deeds as a condition of approval as well.

Discussion ensued regarding the stormwater treatment tank technology. Mr. Lorden explained that this ACF system pretreated flow through engineered hardwood bark mulch, which then went into a treatment tank and percolated down. Chair Hebert asked what would happen if the system failed and Mr. Lorden replied that ponding would be observed and new material would be brought in to replace the material. He said they were constrained by size and area. He said they would also have some treatment swales and some sum basins for additional runoff.

Mr. Weinrieb commented that it was an expensive and highly engineered system, which was a remarkable investment with a limited warranty of one year, but it allowed maximum development of the area. to max dev area. Chair Hebert expressed concern with the expense of replacing the system if it failed.

Chair Hebert expressed concern about runoff freezing the mulch and plugging the system during the winter and asked if there was another system that wasn't so new. Mr. Lorden replied that this was what the Department of Environmental Services suggested this system as an option in response to their Alteration of Terrain (AoT) Permit. Mr. Weinrieb commented that the same concern applied to rain gardens so they were built with a storage capacity along with an overflow grade to allow water to get past the frost layer during heavy rains after a deep freeze.

Mr. Marconi asked the applicant to send the Town a copy of the annual inspections.

Vice Chair Cross also suggested putting their DOT permit on file with the Town. Mr. Coogan replied that they had not submitted their AoT Permit because they were resolving drainage issues.

Vice Chair Cross suggested making the removal of the electrical service conduit to the Beane Farm signs be a condition of approval. Chair Hebert added that it was a safety issue and Mr. Phillips should get a letter from New England Medical saying it would be removed.

Vice Chair Cross wondered if the connection to the light at the entrance on River Road be placed underground.

Vice Chair Cross said variance re greater than 30% impervious. Chair Hebert suggested that the applicant request a waiver, rather than a variance for the impervious surface over 30%.

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Chair Hebert stated that he wanted to be sure the residency goes away if the business was sold. Mr. Phillips replied that it was already on record as a condition of approval when the ZBA had established it as caretaker for business.

Discussion ensued regarding the establishment of a construction bond. Chair Hebert asked Mr. Weinrieb to make recommendation and get back to Mr. Coogan.

Chair Hebert continued the hearing to February 12, 2018. Mr. Coogan reminded the Mr. Lorden that he would need to provide updates by February 5, 2018.

- B) Proposal by **2061 Woodbury Ave, LLC** for a 100-room hotel on property located at 2061 Woodbury Avenue, Tax Map 27, Lot 2

This item was delayed to hear the following item next.

C) **Proposed 2018 Zoning Amendment Petition**

Amendment #8 – Petition proposal to Newington Building Code, Section 9, Swimming Pools, to add the following language:

“...or a swimming pool with a power safety cover complying with ASTM F 1346 as an authorized exception.”

This item was taken out of order.

Mr. Coogan passed out an email from Tory Bianchi with Custom Pools that included links to information on their safety pool cover.

Mr. Bianchi stated that he had confirmed that California and Indiana had approved the covers as state law, but many other communities had approved them individually.

Mr. Coogan informed that if approved, there would be an amendment to the building code this would be an alternative to a four-foot fence that was required with a gate that was to be locked at all times.

Mr. Marconi asked if any of those states had seen an increase in child drownings. Mr. Bianchi replied that he didn't know for certain but stated that it was impossible to get into a pool with the cover over it.

Alexandra Jaruch of Little Bay Road and author of the petition stated that she didn't have exact figures, but she recalled reading that drowning deaths had gone down. She also didn't recall reading about anyone drowning from leaving a cover open.

Mr. Bianchi agreed that news of drownings would have finished the sale of the covers. He added that he had a four-year-old who was drawn to water and the cover removed water from sight, whereas a fence didn't, especially within homeowner's lot.

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Brian Short, owner of Custom Pools stated that Custom Pools had installed a thousand safety covers and not had one child had drown in a pool where he installed a cover. Mr. Marconi said that was good, but no solid statistics and suggested that they gather facts and figures to verify their claim.

Mr. Weiner commented that he had pools his whole life and had owned covers, but as a Board member, he was concerned with the Town's liability because legislative law hadn't been accepted by the State yet. Mr. Stern stated that he felt the same and wanted to see what the State did first.

Chair Hebert said he liked that it was secure once it was closed, but he didn't like that the pool would be wide open if someone forgot to close it; whereas a fence didn't get forgotten and a four-foot fence was difficult for an unknowing toddler to climb.

Mr. Short stated that he was familiar with most of the pools in Newington that had wooden gates that could be left open or break from fallen trees.

Mr. Bianchi added that the Town Ordinance didn't require self-closing gates. Chair Hebert replied that there was nothing to say that people would close their covers either. Mr. Coogan commented that the Town building inspector could require homeowners to install self-closing gates.

Ms. Jaruch stated that they hadn't invested in the cover, but she was investing a lot for security.

Mr. Weiner suggested that pool owners consider placing fence poles in slots that could be removed if the State approved of the legislation.

Mr. Marconi stated that despite being a conscientious pool homeowner he was guilty of leaving his gate open on occasion and so he thought that automatic closure was a good idea. He added that he had a six-foot fence because he didn't think a four-foot fence was high enough.

Chair Hebert informed the Board that they were voting to recommend or not recommend voting in the petition.

Jim Weiner moved to recommend the petition proposal to Newington Building Code, Section 9, Swimming Pools, to add the following language:

"...or a swimming pool with a power safety cover complying with ASTM F 1346 as an authorized exception."

Mike Marconi seconded the motion. The motion passed 3-2 with Chris Cross, Denis Hebert, and Peter Welch in favor and Jim Weiner and Rick Stern opposing.

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- D) Proposal by **2061 Woodbury Ave, LLC** for a 100-room hotel on property located at 2061 Woodbury Avenue, Tax Map 27, Lot 2

This item was delayed to hear the previous item first.

Attorney Steve Roberts appeared before the Board with his client Anthony DiLorenzo and John Lorden with MSC Engineering. Attorney Roberts said the proposal to develop the northern half of the lot did not require any variances.

Chair Hebert stated that the applicant had presented a preliminary proposal on May 22, 2017 to place a marker so that they would not be subject to any changes to Town Ordinances within a certain amount of time.

Mr. Lorden presented their proposal to develop 3.5 acres of the 7.4-acre lot that was formerly owned by Great Bay Services. He said they were not proposing any development of the remaining 3.8 acres at this time.

Mr. Lorden reviewed their proposal for the development of a Grand Holiday Inn Express on the corner of Woodbury Avenue and Piscataqua Drive with access from Piscataqua Drive and a right in and right out only curb cut from Woodbury Avenue.

Extensive discussion ensued regarding the proposal for a curb cut on Woodbury Avenue with Mr. Weiner, Chair Hebert and Vice Chair Cross stating that the Town was making a concerted effort to limit the number of curb cuts off Woodbury Avenue.

Mr. Lorden stated that the New Hampshire Department of Transportation (DOT) currently controlled Woodbury Avenue and the lot was sold with three curb cuts, of which they were proposing to utilize two for a right in and right out.

Mr. Lorden stated that Bob Duval was not to present, but he would review the Woodbury Avenue traffic study that included six intersections with three traffic signals. He noted that the study showed 3,000 vehicles an hour traveling during peak hours and they projected that the hotel would have minimal impact for direct destination traffic.

Mr. Marconi asked if there would be a cross walk from the lights on the corner of Piscataqua drive to the Fox Run Mall. Mr. Weinrieb replied that DOT said they would put electronics on the traffic light, but they would not promote a cross walk without sidewalks.

Mr. Lorden reviewed drainage, landscaping, lighting, sewer and utilities.

Denis Messier, operator of Newington Waste Water Treatment said there was an existing sewer from the former Great Bay Services and they would be tying into a manhole. He said they would need to fill out an application, so they could determine the flow, but he estimated 30 gallons a day.

Mr. Messier stated that the existing sewer lines were not on Town property and TD Bank owned part of the property, so they would need to review easements. He said he believed a private line was put in by Key Auto to tie into the leach fields when the Town petitioned to build the treatment plant.

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Mr. Lorden confirmed that the survey crew determined that a sewer line ran at the back and through TD Bank's property to the waste water plant. Attorney Roberts agreed that there was a 25-foot easement, but he also believed that the sewer line service for the former Great Bay Services was private. Mr. Messier clarified that the Town owned the line between the bank and Key Auto.

Chair Hebert asked what kind of pipe the sewer lines were made of and Mr. Lorden replied that it was six-inch PVC pipe.

Mr. Messier stated that the line was installed 40 years earlier. Mr. Weinrieb recommended that it would be a good idea to have the lines scoped and replace the 24-inch diameter manhole with a standard cover.

Chair Hebert noted that the applicant had suggested that they would need an easement across the other lot when they discussed subdividing the two lots, but he said the Town would rather avoid easements. Attorney Roberts replied that he didn't see any issue to the same owner of both lots having an easement. Chair Hebert replied that the Town was trying to avoid complications with easements when the lot was sold in the future.

Mr. Messier noted that the Sewer Commission was looking at doing a forced main on other side of the road in the Spring because the existing forced main was leaking.

Chair Hebert reminded the applicant that he had suggested that they consider an access road from Piscataqua Drive to the second lot for future development. He stated pointed out that their corner of the proposed building was on an easement and suggested that they slide the building forward to allow an access drive at the back.

Mr. Lorden replied that the building was placed where it was to avoid the Eversource easement at the back and that they had established access to the second lot through the hotel parking lot. Chair Hebert suggested that they could review the setbacks and reconsider access outside the parking lot. Mr. Lorden said building located because of Eversource easement. Mr. Lorden replied that they would then need to redesign drainage for the shift as well as increase pavement for an access drive near the easement.

Attorney Roberts commented that they addressed safety in their traffic study, and they didn't know what they were going to do with the second lot, so access was not germane to this proposal. Chair Hebert replied that his concern was about their proposal for a curb cut in front of the hotel. He added that he had a letter from DOT that they would abide by the Town's wishes. Mr. Lorden replied that DOT's letter was in regard to the applicant's earlier proposal requesting a variance for an auto dealership on the site, but not this use.

Attorney Roberts added that adding an access road would require another easement, but Chair Hebert had told them that the Town didn't want more easements. Chair Hebert replied that the suggestion of an access road was to avoid traffic safety issues on Woodbury Avenue. Attorney Roberts replied that a right in and right out with a

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medium strip in the middle wasn't a safety issue, but they would welcome a peer traffic review.

Chair Hebert replied that the Board didn't want to grant a subdivision without a thorough review that would consider whether a hardship would be created for either of the lots.

Vice Chair Cross stated that he had come up with the suggestion for a connecting road during the preliminary discussion, but he understood that if that it considered and if that's where it stopped, then that's was all there was too it. Vice Chair Cross said he was more concerned with traffic on Woodbury Avenue and the Board would want to look at the impacts of DOT's construction on Woodbury Avenue before it was transferred to the Town when considering additional impacts from the business and curb cut.

Mr. Weinrieb suggested that the State Historic Preservation Office might want to review the existing house that was on the lot that was more than 50 years to be sure there were no restrictions on demolition. Chair Hebert commented that they only needed to do some documentation, but he didn't think the Board could issue any mandates on the demolition of the building. Attorney Roberts said they had already started the SHIPO process.

Mr. Coogan said the Newington Historic Commission had expressed an interest in going through the house to take inventory before it was demolished. Vice Chair Cross added that it had also been suggested that the owner consider relocating the building, but apparently there had been no takers. He suggested that the HDC get into the building quickly.

Mr. Weinrieb asked about the existing tree specimens and Mr. Lorden replied that their landscape architect determined that the trees were too old and not worth saving.

Mr. Weinrieb said he assumed the project would be large enough for a TRC review. Mr. Coogan replied that once the Board accepted the application as substantially complete, they could move forward with the traffic study and TRC review.

Chair Hebert noted that Mr. Coogan had suggested that they bring in a conceptual of the project for discussion first, but they chose to bring in a fully developed proposal instead. Mr. Lorden replied that was due to the scheduling of the applicant's discussion with the Holiday Inn franchise.

Chair Hebert asked Mr. Weinrieb if he could begin reviewing the proposal. Mr. Weinrieb replied that it would be a waste of effort, time and money for everyone if the applicant was required to change the building placement and drainage because the Board was against the plan, however he could do a preliminary review. Attorney Roberts agreed that there would be no problem with a precursory review.

Mr. Coogan asked if the Board was dissatisfied with the proposal and Vice Chair Cross replied that he was not satisfied with issues regarding Woodbury Avenue. Chair Hebert repeated his suggestion on moving the location of the hotel down to provide

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more room for an access road at the back. Attorney Roberts replied that they had designed the plan to meet DOT regulations, pre-existing curb cuts and Town Ordinances without variances. Attorney Roberts replied that putting in an access road would require a setback variance and there was no guarantee it would be granted.

Chair Hebert asked if they would cover the costs of obtaining the International Traffic Engineer's review and Attorney Roberts said they would.

Rick Stern moved to accept the proposal by 2061 Woodbury Ave, LLC for a 100-room hotel on property located at 2061 Woodbury Avenue, Tax Map 27, Lot 2 as substantially complete. Mike Marconi second the motion and all were in favor.

Chair Hebert continued the hearing to February 26, 2018.

12) Other Business:

Chair Hebert announced the DOT was holding a public meeting on January 30, 2018 at 6:30 p.m. at the Dover Auditorium on whether to retain or dismantle the General Sullivan Bridge.

A) Master Plan: Update

Vice Chair Cross informed the Board that there were no updates.

B) Appointments to the Planning Board:

Chair Hebert excused the alternates, Rick Stern and Peter Welch from the room so that full Board members could do a ballot vote for the two open seats could be taken.

Jane Kendall collected the ballots and there were four votes for Peter Welch, three votes for Rick Stern and one vote for Ken Latchaw.

Mr. Marconi commented that he wished the Board had allowed the vote to go to the Town in March instead. Chair Hebert replied that the RSA allowed the Board to vote on an appointment and he had grown tired of getting grief for not filling the empty seats before the election.

Minutes: *Mike Marconi moved to approve the Minutes for the January 8, 2018 meeting with corrections as noted. Peter Welch seconded the motion, and all were in favor.*

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Adjournment: *Chris Cross moved to adjourn the meeting. Jim Weiner seconded the motion and the meeting adjourned at 10:28 p.m.*

Next Meeting: Monday, February 12, 2018

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

These Minutes were approved and adopted at the February 12, 2018 Planning Board Meeting.