

Town of Newington, NH
PLANNING BOARD

Meeting Minutes, April 24, 2017

- Call to Order:** Chair Denis Hebert called the April 24, 2017 meeting at 6:34 p.m., followed by the pledge of allegiance.
- Present:** Chair Denis Hebert; Board Members: Jack Pare; Mark Phillips; Jim Weiner; Alternate Member, Peter Welch; Planner, Gerald Coogan and Jane Kendall, Recorder
- Absent:** Vice-Chair Christopher Cross; Board members, Bernie Christopher and Ken Latchaw; Board of Selectmen's Representative, Mike Marconi
- Public Guests:** Anthony DiLorenzo; Attorney Steven Roberts; John Lorden with TF Moran's MSC Engineering; Attorney Bernie Pelech; Michael Berounsky; Josh Blaisdell; Chris and Laura Rogers; Constantine Routetski

1) **Preliminary Site Plan Review:** Proposal by Anthony DiLorenzo for a two-lot subdivision and hotel located at 2061 Woodbury Avenue, Tax Map 27, Lot 2.

Board member, Mark Phillips disclosed that he had a previously proposed a potential hotel off Route 16, Spaulding Turnpike Exit 4 and had used the same survey firm as the applicant on another project. Chair Hebert asked Mr. Phillips he was pursuing another other hotel projects or had any other conflicts of interest and Mr. Phillips stated that he did not. Chair Hebert replied that he saw no reason for Mr. Phillips to recuse himself.

Town Planner, Gerald Coogan informed the Board that this was a preliminary consultation with a design review. Mr. Coogan went on to say that the State subdivision statutes allowed that an applicant's proposal could become vested from ordinance changes for one year from the time the Chair closed the meeting. He noted that the Town recently changed the height restriction of hotels to 45 feet at the last Town meeting and it would be important to get board's comment on record.

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The applicant's counsel, Attorney Steven Roberts said they were aware of the Ordinance changes and wanted to do a design review before anything else changed. Chair Hebert said had no problem with putting a stake on the ground for a hotel.

John Lorden, with MSC Engineering appeared before the Board on behalf of the applicant, Anthony DiLorenzo to present a preliminary proposal to subdivide little over seven acres of the former Great Bay Services lot in the Office District on the corner of Piscataqua Drive and Woodbury Avenue, and build a four-story hotel with 100-120 rooms on the lot nearest to Piscataqua Drive.

Mr. Lorden said they were looking at underground or bioretention surrounded by small plants for drainage. He added that they had not made a lighting plan yet, but there would be 120 parking spaces.

Mr. Lorden stated that it was only possible to take a right turn into the lot from Woodbury Avenue and it was not possible to take a left in or out so they were waiting for a curb cut approval from the Department of Transportation (DOT). He added that they also might move their existing curb cut on Piscataqua Drive.

Chair Hebert went on to say that he had heard from Jim Hewitt with DOT who told him he didn't support a curb cut on Woodbury Avenue and that the curb cut should be put on Piscataqua Drive as the Board had recommended in a previous consultation. He added that there had been another hotel had been approved further up the road where the applicant was asked to move their curb cut off Woodbury Avenue as well and that the Board had been consistent in that ruling. He said they should consider access for both lots off Piscataqua Drive.

Mr. Lorden replied that DOT had allowed three curb cuts on the lot in 1971 and there were still three curb cuts. Chair Hebert replied that those curb cuts were approved at another time and one of the access points off Woodbury Avenue had been used for truck access to Great Bay Services until Piscataqua Road had become a public road and then it was closed off with a gate. He said the Board had to consider current traffic conditions for the safety of others.

Attorney Roberts said he understood the Board's and Mr. Hewitt's concerns with traffic, but hotels generated the least intense traffic in the Office Zone. He added that the existing curb cuts were grandfathered and there was a barrier to prevent a left turn, but there could be design and safety issues if they had to use the hotel drive to get to the adjoining lot. Chair Hebert replied that traffic for a hotel was different than office use where workers were familiar with the area and roads, but hotel patrons were not.

Chair Hebert went on to say that the Board had established a precedent for safety concerns in the 1990's and he knew that they could both hire traffic safety experts that could disagree with one another, which would require time in court and no one wanted that. Mr. Lorden pointed out that they had sent in a traffic study for their initial preliminary consultation, but were told it wouldn't be considered until they received their variance, which they did not pursue. He said they sent alternative curb cut suggestions, but they hadn't heard back from DOT so this was their newest plan.

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Mr. Coogan asked if they would need to upgrade the traffic light for left turns and Attorney Roberts replied that hotel use was not an intense use for trip generation.

Chair Hebert asked if Town engineering consultant, Eric Weinrieb with Altus Engineering had reviewed the proposal. Mr. Coogan replied that the proposal was only in the preliminary stages and it was too early.

Chair Hebert said he thought they should know what Mr. Weinrieb thought before they proceeded. He asked if they would return with a formal site plan if he closed the meeting. Mr. Lorden said they proposed to meet with Mr. Weinrieb, but were told not to. Mr. Coogan stated that he advised them to wait until the Board determined which direction they should proceed.

Attorney Roberts added that they met with Mr. Weinrieb a year earlier when they were proposing to move the Key Auto operation on the lot and Mr. Weinrieb had advised them to flip flop with the hotel, which they had done. He said there was still a possibility to seek a variance for Key Auto to move to the Office Zone lot, but they understood that was not viewed favorably by the Town so they were focusing on the hotel. Chair Hebert replied that the Board had discussed allowing hotels in the Commercial Zone and he wondered if it would be better having the hotel on the other lot, but there was a history of limiting curb cuts on Woodbury Avenue.

Mr. DiLorenzo commented that he had come before the Board two years earlier and would have preferred to develop both lots at once, but was not able to because of changes to the zoning. He said his intent was to get vested with this application so they would have time to work with Town and different users for the other lot. Chair Hebert said understand concerns with changes to the ordinances, but clarifying a height restriction for hotels seemed like a reasonable and necessary change.

Board member, Jim Weiner commented that a curb cut on Piscataqua Drive would be ideal, but he suggested putting in a curb cut on the second lot past the medium strip to allow traffic that missed the left turn on Piscataqua Drive to have another ingress. Mr. Weiner suggested that a sign or marquee to direct hotel patrons to the Piscataqua Drive entrance would be advantageous. Attorney Roberts stated that left turns were currently allowed into other businesses on Woodbury Avenue.

Mr. Phillips commented that the address of the lot and hotel was on Woodbury Avenue and he did not see a curb cut as affecting traffic or safety. He went on to say that he didn't know of any major hotel chain that was off the main drag and the applicant would need an identifying flag. Chair Hebert replied that he had encountered numerous hotels and motels off main thoroughfares.

Chair Hebert said he liked the idea of a hotel in the area and would like to be open minded, but there was twenty years of not having curb cuts off Woodbury Avenue. He said there were a couple of curb cuts that had been allowed further down on Woodbury Avenue, but the curb cut went away for another hotel. He said board

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members changed, but they needed to determine if they were going to change their policy midstream.

Mr. Phillips commented that the lot further down on Woodbury Avenue had been approved for a hotel five years earlier, but it still hadn't been sold. Chair Hebert replied that he didn't know if that was the reason. He said the Board had a practice of encouraging businesses to use Piscataqua Drive and Shattuck Way so perhaps a hotel wasn't a good use for that area so close to the Industrial Zone.

Board member, Jack Pare asked if the applicant would be willing to consider reversing the layout of the building and having a curb cut where there was no median strip so there would be access to both lots and then connect to the existing curb cut on Piscataqua Drive. He said in doing so they would decrease the number of curb cuts on Woodbury Avenue, especially where traffic tended to accelerate away from the shopping center lights.

Alternate Board member, Peter Welch agreed that reorienting the building and moving the existing driveway over would allow them to eliminate the additional entrance. Attorney Roberts said could move south a little but couldn't intrude on easement.

Attorney Roberts added that he didn't see why the Town was concerned with reducing curb cuts as traffic wouldn't change with or without the curb cuts. Chair Hebert said over time the road had become busier so the Board decided to eliminate curb cuts wherever possible twenty years ago. Mr. Pare added that the shopping center area was especially busy from Black Friday through the holiday shopping season. Mr. DiLorenzo replied that even though he owned a business there, he avoided the area at that time because it was so busy. Mr. DiLorenzo added that DOT would make the determination on the curb cuts.

Mr. Phillips noted that the gas easement appeared to be hanging over the lot line and Chair Hebert agreed that it appeared to go over a tiny corner. Chair Hebert went on to say there were lots of easements and in and around the property, but they were difficult to see on the drawings and asked that they be enhanced with color. Attorney Roberts replied that they were having ongoing conversations with Eversource for a joint agreement, but the power lines ran along the margins of the lot so they were not concerned with the building being directly below. Chair Hebert commented that someone had been electrocuted twenty years before so he wanted to be careful.

Chair Hebert asked that the right-of-way for the electric, gas, sewer and waterline easements be shown as well. Mr. Lorden replied that he would define better. Chair Hebert commented that Maine Maritime seemed difficult to work with when they wanted to put in a bus stop and asked Mr. Lorden if they had talked with Maine Maritime. Mr. Lorden replied that they were not trying to put anything in their easement.

Mr. Coogan noted that Vice-Chair Cross could not be present, but he provided a list of comments to share for items that were not covered. Vice-Chair Cross had said it

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was important to consider what kinds of business would be financially feasible and successful at the site.

Chair Hebert commented that he was not sure if the approved hotel proposal further down the road was grandfathered, but to date the developer hadn't gone forward with the proposal. Mr. DiLorenzo replied that he owned several hotels and would own this hotel and not sell it if the proposal was approved. Mr. Phillips commented that he was familiar with the quality and success of Mr. DiLorenzo's hotels.

Mr. Coogan went on Vice-Chair Cross' memo that asked if the deRochemont building formerly used by Great Bay Services could be preserved. Mr. deRochemont stated that he owned and restored the Louis deRochemont building on Shattuck Way and was not aware that the building on the corner of Piscataqua and Woodbury Avenue was also a deRochemont house. Mr. Coogan replied that he thought it was owned by a cousin of Louis deRochemont. Mr. DiLorenzo said he would not be able to use the building as part of his development, but he would consider the possibility of preserving the building.

Mr. Coogan said Vice-Chair Cross had also pointed out the importance of clarifying the easements, acknowledging that Woodbury Avenue was a major travel corridor and to consider pedestrian access with sidewalks. Mr. DiLorenzo commented that he rode his bike from Portsmouth to his car dealership and agreed that biking and pedestrian safety was a problem.

Mr. Coogan commented that there might be an interest in considering a shared parking lot with Wilcox Industries. Attorney Roberts said they were considering accessory use for overflow parking used by Wilcox during the day and hotel during day. Chair Hebert replied that page Z16 in the Newington Zoning and Ordinance book stated that no one could take someone else's space for their development parking requirement. Mr. DiLorenzo said he understood and considered ancillary parking near TD Bank. Mr. DiLorenzo said he needed to determine the curb cuts and orientation of the building to determine the parking grid.

Chair Hebert asked if they knew what they were going to do with the second lot. Mr. DiLorenzo said he was open to suggestions for the second lot. Chair Hebert said whatever they did with it, he thought they should enter further from the intersection. He said they also might consider a right in only and two way in and out on Piscataqua Drive.

Chair Hebert asked what they planned on doing with the existing Key Auto business and Mr. DiLorenzo said he wanted to improve the lot, but he didn't want to shut it down for redevelopment. Chair Hebert suggested he talk with Mr. Coogan about a preliminary proposal. He said the Board was previously concerned with them expanding the business in a nonconforming zone without a plan.

Chair Hebert suggested they also consider building a secondary road run behind the hotel from Piscataqua Drive that would also connect to the second lot, behind the

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bank and to auto dealership, which would help all the businesses get off Woodbury Avenue.

Mr. Lorden noted would be hesitant to put parking that would back out onto road. Mr. Coogan suggested they consider putting the parking toward the front along Woodbury Avenue. Mr. DiLorenzo replied that they would have to grant an easement to make that work. Chair Hebert commented that a variance would be required and he was not sure of the ramifications, but those were some possibilities.

Discussion ensued regarding termination of the design review phase. Chair Hebert stated that there were no plans to post any new Ordinance changes and suggested a continuation to allow more time for revisions, but cautioned them against putting a lot of time and money into new plans until they discussed possibilities further with the Board. He said they still needed to resolve the curb cut for both lots before they could approve the subdivision.

Mr. Lorden said he would need a couple of weeks to come up with an alternate plan. It was agreed that the preliminary review would continue to Monday, May 22, 2017.

2) **Review** of October 13, 2015 **Curb Cut Request** by Chris and Laura Rogers' for their property at 26 Swan Island Lane, Tax Map 53, Lot 16.

Chair Hebert announced that this item in the agenda had been advertised incorrectly and it was not a continuation of Michael Berounsky's subdivision proposal for his property at 30 Swan Island Lane, which had been continued to May 22, 2017.

Chair Hebert opened the discussion regarding the extension of Chris and Laura Rogers' driveway to connect to Michael Berounsky's proposed cul-de-sac design to creating sufficient frontage for his subdivision proposal.

Chair Hebert said Mr. Berounsky brought up the condition of approval for the Rogers' curb cut that said they had to build their driveway out to whenever if the cul-de-sac was rebuilt.

The applicant's counsel, Bernie Pelech commented that the language of the October 2015 motion clearly stated that the applicant would be responsible for paving to their lot line if the cul-de-sac changed and that was why Mr. Berounsky raised the objection to their demand for \$50,000 if he went forward with a proposal to move the cul-de-sac.

Attorney Pelech said he discussed Mr. Berounsky's subdivision requirements further with the Rogers' counsel, Attorney Tom Keen who told him that his clients would be happy to go back to the peanut-shaped cul-de-sac proposal that the Planning Board had recommended, but the Town's engineering consultant, Eric Weinrieb with Altus Engineering didn't like it. Chair Hebert reminded Attorney Pelech that he was going into subdivision details and this was not a public hearing for the applicant.

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Chair Hebert said Town counsel, Attorney John Ratigan reviewed the Minutes and concluded that the Rogers built their driveway out to the cul-de-sac and met the requirement to build to the public road at that time.

Mr. Coogan gave the applicant's counsel, Attorney Bernie Pelech a copy of Attorney Ratigan's interpretation.

Chair Hebert said the Board thought the cul-de-sac might be moved before the Rogers built their driveway, but instead the Rogers put their drive first, which met the conditions of approval.

Mr. Coogan agreed that the condition was not open ended and pertained to when the Rogers started and was completed their house and driveway.

Mr. Weiner added that Attorney Ratigan's interpretation would be the same for any abutter.

Jim Weiner moved in agreement with Attorney Ratigan's April 13, 2017 memorandum to the Newington Planning Board that it was reasonable for the Board to conclude that the Chris and Laura Rogers of 26 Swan Island Lane, Tax Map, Lot met the conditions of approval for their curb cut when they completed their driveway connection to the existing Swan Island Lane cul-de-sac and there was no relation to whom should bear the expense of an alteration of the cul-de-sac at a later date. Jack Pare seconded the motion. The motion passed with Denis Hebert, Jack Pare, Mark Phillips and Jim Weiner voting in favor. Peter Welch abstained.

Mr. Berounsky stated that he didn't want to encroach on his abutters' properties and asked if he could create a private turn around that the Town didn't have to maintain. Chair Hebert replied that Mr. Berounsky needed to meet the frontage requirements on a public road for subdivision approval, but the Board was bound by law not to discuss the application until they were in a public hearing that had been continued to a date certain of Monday, May 22, 2017. He informed Mr. Berounsky that he could still meet with Mr. Coogan to discuss alternative solutions, however.

3) Newington Master Plan:

Mr. Coogan passed out a memo from Glenn Greenwood, Assistant Director at Rockingham Planning Commission (RPC) updating the Board on their application for New Hampshire Coastal Program technical assistance funds to implement climate adaptation strategies and increase awareness of coastal flood risks and hazards.

Mr. Coogan said they had talked with Julie Labranch regarding a grant for public outreach areas that are affected by climate change and so they wanted to have a public meeting with property owners and businesses along the waterfront.

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Mr. Greenwood said a draft of a citizen's survey should be ready by May 22, 2017 and a series of public forums could be held in the fall. He said a draft of the chapter on transportation should be ready by July.

Mr. Coogan said they also might want to consider additional uses of the waterfront and industrial zones in the future as well.

4) **Correspondence and Status Report** by Town Planner

Mr. Coogan updated the Board on items that were slated to be added to upcoming agendas including a proposal for a small coffee roasting operation with just three employees at the Mooney building on Shattuck Way. He noted that they were not proposing retail sales on the site.

Mr. Coogan noted that the site was going from waterfront to industrial to commercial use. Mr. Pare replied that there seemed to be a natural development toward commercial use on either end of the Industrial Zone where a lot of office space was not being used. Chair Hebert agreed, but noted that many of the commercial proposals were reverting to smaller boutique like shops instead of the larger shopping centers.

Chair Hebert went on to say that the Board needed to emphasize in the conditions of approval that the applicant would return to the Planning Board for approval any time there was a change of use at a site. He said Stoneface Brewing was told to return to the Board if they had any problems with their use and it was clear that the small lot was not meeting their needs because their patrons were not only filling the side parking lot, but were also filling the back and front. He added that sometimes a business was a victim of their own success, but it was up to them to manage.

Chair Hebert noted that he hadn't been to Stoneface because he thought it was an ongoing case and he didn't go in. Mr. Weiner asked when the case would be considered inactive and Chair Hebert said everyone else could go in, but he didn't think the Chair should go in.

Mr. Coogan commented that Stoneface met their parking requirements and now they just had to resurface and repave the back. He said they were supposed to put "no parking" signs on Shattuck Way.

Mr. Pare suggested they consider coop time sharing of parking after Rockingham Electric business closed, which was opposite from when Stoneface was in operation. Chair Hebert replied that a business would have to change their entire parking lot whenever the other business changed and the Town would have difficulty overseeing the changes to each business.

Chair Hebert add that page Z16, Article 4, Section 3 of the Zoning Ordinance stated that yard space could only serve one lot and it had been enforced many times to prevent a property owner from borrowing someone else's' frontage.

Mr. Coogan announced that RPC was presenting a planning session on Thursday, May 11, 2017 from 6:30 p.m. to 9:30 p.m. at the Brentwood Community

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Center. Chair Hebert commented that Newington was often in its own little world and encouraged Board members to attend to reconnect and learn how other communities did things.

Mr. Pare presented an offsite backup drive for Mr. Coogan and the Town that he had done for all the GIS flood maps and masters for the Master Plan he had developed with former Town Planner, Tom Morgan.

5) **Other Business and Discussions:**

Chair Hebert stated that Town Administrator, Martha Roy had informed him that alternate Board members were appointed for three terms.

Chair Hebert added that he met with the Board of Selectmen the previous week to discuss the yearly appointment of the Planning Board's Zoning Board of Adjustment representative and was told that the original charter for the Town could be interpreted two ways, that either the Board of Selectmen could choose a representative from the Planning Board or if the Planning Board could select someone, but he wanted to give everyone on the Board an opportunity to serve.

Mark Phillips moved to recommend Peter Welch and Ken Latchaw as alternates for three years. Jim Weiner seconded the motion and all were in favor.

Mark Phillips moved to nominate Jim Weiner as the Planning Board representative to the Zoning Board of Adjustment. Jack Pare seconded the motion and all were in favor.

Chair Hebert noted that the nominees needed to be sworn in by the Town Clerk or the Board of Selectmen.

Chair Hebert said he took on a position on the COAST board to vote, but he didn't want to continue and was looking for a Planning Board member replacement to attend the one meeting a month. He said there was a good article about the service in CPAST last week and it was a very important service to the community and one of the few things the Town did to assist with a service that enable the disabled in the region to get to get to their places of employment and medical appointments. He said it would never be a money maker, but it didn't cost anyone very much to support.

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Minutes: *Jim Weiner moved to approve the Minutes for the April 10, 2017 meeting. Mark Phillips seconded, and all were in favor.*

Adjournment: *Jack Pare moved to adjourn the meeting. Mark Phillips seconded the motion and the meeting adjourned at 8:45 p.m.*

Next Meeting: Monday, May 8, 2017

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

These Minutes were approved and adopted at the May 22, 2017 Planning Board Meeting.