

NEWTON PLANNING BOARD PUBLIC MEETING MINUTES
December 8, 2020

The Newton Planning Board public meeting was called to order at: 7:00 PM

Chairman Hamel read the following statement: As Chair of the Newton Planning Board, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, and most recently extended by Executive Order 2020-23 this public body is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I am confirming that:

We are utilizing the Zoom platform for this electronic meeting. All members of the Board have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting telephonically, or by going to the Zoom website.

We previously gave notice to the public of the necessary information for accessing the meeting, including how to access the meeting telephonically. Instructions have also been provided on the Town website.

If anyone has a problem, they should email the Planning Board Office at: PlanningBoard@newtonnh.net.

In the event the public is unable to access the meeting, the meeting will be rescheduled and adjourned.

Please note that all votes that are taken during this meeting shall be done by roll call vote.

Also, in accordance with the Governor's Emergency Order #23 pursuant to Executive Order 2020-04, and most recently extended by Executive Order 2020-23 the Planning Board is relieved from the statutory and local requirement to meet on a particular schedule or a certain number of times within a given time frame. The Planning Board is also relieved from complying with statutory or local deadlines for accepting, hearing and acting on planning board applications.

Note: As an attendee of the meeting, your microphone and/or phone will be muted. The Board Chair will specify when the public comment period is open for an application. Town staff will be in attendance at the meetings to manage the public comment process.

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If you are participating online with the Zoom program, click on the hand icon at the bottom of the screen. This will “Raise Your Hand” so that the moderator knows that you wish to speak. If you are participating by phone, press *9. This will indicate to the moderator that you wish to speak. When it is your turn, the moderator will unmute you and let you know that you can share your comments.

When speaking during the meeting, please announce your name so the Administrative Assistant can know who is speaking as he takes the minutes.

Mr. Hamel – Present and alone	Mr. White – Present and not alone
Ms. Estabrook – Present and alone	Mr. Andrews – Present and alone
Ms. Collyer – Present and alone	Mr. Foote – Present
Mr. Crnolic Present and not alone	

Also Present:

Ms. White -Alternate– Present and not alone Mr. Zalenski –Alternate– Present and alone

James Doggett –PBAA– Present and alone Ms. Rowden -Circuit Rider–Present and alone

Mr. Hamel recused himself from the following Public Hearing.

1. Vice-Chairman Estabrook appointed Mr. Zalenski as a voting member in place of Mr. Hamel. She then called the Public Hearing to order at: 7:06 PM and read:

A continuation of 125 Development NH Corp of Plaistow, NH’s request for a public hearing on a Major Non-Residential Site Plan on Puzzle Lane, Newton, NH. The property is referenced as Tax Map 14, Block 1, Lot 27-7.

When speaking during the meeting, please announce your name so the Administrative Assistant can know who is speaking as he takes the minutes.

Ms. Estabrook reminded the Board that it had taken Jurisdiction of this application and that it was for a 6,000 square foot building. She asked Ms. Rowden for her input on Completeness of the application and any issues that need to be addressed.

Ms. Rowden reminded the Board that a waiver had been submitted regarding the elevations and architectural drawings and that the Board had taken no position on the waiver based on the applicant’s offer to supply the additional necessary information. Since the applicant had supplied manufacturing specification sheets for the proposed building the Board needed to determine whether these drawing met the requirements or if the waiver was necessary to satisfy the regulations.

Ms. Estabrook stated that the drawings were not supplied in the Board packets but had been available on the Planning Board’s website. She was unable to open the file on the

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website. She asked A.A. Doggett to share the files so everyone could see them, which he did.

Ms. Rowden reminded the Board of the exact language to be waived:

SITE PLAN REGULATIONS

7.1.5 Specific Plan Information - Proposed Site Conditions

- C. The shape, size, height, and location of all proposed structures, including expansion of existing structures on the site, first floor elevation(s), building elevation(s), and a rendering of the proposed structure(s).

She stated that the applicant had the ability to rescind his waiver request or that the Board could vote the waiver was not necessary. If the Board decided the waiver was necessary, the Board could make that determination and vote on the waiver. She further stated that the information supplied does give the elevations and does give the height of the building, these being 2 main items that has not yet been supplied. She stated that the Board needs to decide if they need more details.

Ms. Estabrook stated that at the previous meeting the Board had requested the dimensions of the footprint and the height of the building.

Ms. Rowden suggested that the applicant might be able to answer any questions Board members might have.

Mr. McDonough stated that they had submitted the building plans as supplied by their usual distributor, and that this building would use the same color scheme as on their previous buildings. Only once had he been asked to supply a rendering but never since. He stated that the buildings were built with either split-faced blocks or cultured stone. He discussed the building designs, their landscaping ideas, and the awnings. He detailed their preferred maintenance routine and tenant upkeep requirements. He asked that the Board accept the supplied drawings as meeting the requirements of Site Plan Regulation 7.1.5:C. If not, he would request the waiver be approved.

Mr. Andrews stated that he sees a basic elevation, but he wanted to know if there were any drawing of what he would see if he drove past the building.

Mr. McDonough invited Mr. Andrews to drive through the development and see what has already been built. He reiterated his maintenance routine.

Mr. Andrews commented that he had seen the development. He opined that the buildings looked good, however the regulations required an elevation not a schematic drawing.

Mr. McDonough stated that the elevations are on the site plan. The levels of elevation are all over the site plan, the elevation of the building, the elevation of the parking lot are shown.

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Mr. Andrews reiterated that he was looking for the building elevation – what the building will look like.

Mr. Gregsak stated that what was supplied are the structural construction plans. They show an elevation of each exterior wall with length, width, and height for each side with doorways and windows also being shown.

Ms. Rowden stated that the drawings as supplied meet the basic requirements of the site plan regulations.

Mr. Crnolic asked what the fire protection would be as well as the type of industry that would be using the building.

Mr. McDonough stated that the building was being built for Interstate Rigging. This business would be moving from another building in the development. Interstate Rigging will be buying this building and was anxious for it to be built. He discussed Interstate Rigging's business and plans.

Mr. Crnolic asked, again, about fire protection and flammables stored in the building.

Mr. McDonough stated that no flammables would be store inside the building.

Mr. Lekborg added that this building had been designed for this specific client and would allow indoor loading of stored equipment. The building would have overhead doors that would allow for trucks to pull in, load and exit without turning around. He stated that the client had hoped the building would be ready to occupy very soon. He stated that Interstate Rigging uses forklifts to load and unload their trucks.

Ms. Estabrook asked the Board if they wished to vote on whether the supplied drawings satisfied the requirements of the regulation of if the waiver was still needed.

Ms. Rowden stated that the Board could either move to approve the waiver request or a motion could be made that there is insufficient information, and that additional, specific information was needed.

Mr. Foote **MOVED** to grant the waiver from:

SITE PLAN REGULATIONS

7.1.5 Specific Plan Information - Proposed Site Conditions

- C. The shape, size, height, and location of all proposed structures, including expansion of existing structures on the site, first floor elevation(s), building elevation(s), and a rendering of the proposed structure(s).

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Mr. Crnolic seconded the motion.

Mr. Andrews stated that since the applicant had supplied the necessary information no waiver was required.

Ms. Rowden stated it was a moot point, but it would be cleaner to approve the waiver.

Ms. Estabrook stated that the vote and information would become part of the record.

Ms. Estabrook asked Administrative Assistant Doggett to call the roll:

Mr. Zalenski – aye Mr. Crnolic – aye Mr. Andrews - aye Mr. White - aye
Mr. Foote – aye Ms. Collyer – aye Ms. Estabrook – aye **Passed Unanimously**

Mr. Foot asked if it was time for a motion to accept the site plan.

Ms. Rowden informed the Board that it was now time to open the public hearing on the application.

Ms. Estabrook stated that they had not actually discussed the plan in much depth and there were some notes from engineer and the circuit rider on the general plan.

Ms. Rowden went through her notes on the plan. She started with the fact that the proposed use for this building was not actually included with the application. She went on to state that because this site is over one of Newton's aquifers, for any proposed use it should be discussed. Commercial uses have some restrictions in your aquifer district and should be discussed regarding potential impacts. While this business may have no issues that should be documented. There are some outstanding comments from the town engineer's letter of July 27th she thinks most of them have been taken care of. There are a couple of things that she thinks remain and suggested the applicant's engineer may want to speak to some of them. Items like the lack of detail on the handicapped parking are still outstanding. She suggests that a clean letter from the town engineer could be acceptable. Because this lot does not yet legally exist the Board would need to have as a condition of any approval that the plan and that the lot as depicted on this plan become a legal lot of record and also that any required relief from Newton's Zoning Ordinance be obtained. That would effectively include the variances that were not granted by the zoning board but there are other means that those could potentially be legally granted.

Mr. McDonough stated that he has always looked for the most white-collar, low traffic tenants in the development. He believes the issues would be handled as part of the occupancy permit process. He further stated that this application had been before the Board for well over a year and that his client was getting anxious to occupy the building.

He stated that installing the stone bounds was in process. He stated that he understood the possible conditions and asked the Board to vote for a conditional approval.

Mr. Gregsak stated that the remaining points in the Town Engineer's letter were relatively minor, and that the one major concern was the size of the driveway opening. He suggested that they could put in a small radius thus making the opening a little smaller. He stated that he would have no problem meeting the Town Engineer's requirements.

Ms. Estabrook noted that there was now a dumpster on the plan.

Ms. Rowden stated that yes, the dumpster had been added as had the lighting.

Ms. Estabrook has concerns on page 3. She asked if the plan was showing 3 loading docks in the front of the building and what is the "S" tank next to those potential loading docks.

Mr. Gregsak stated that those were parking spaces.

Ms. Estabrook stated they were labeled H-20 Loading.

Mr. Gregsak informed her that the "S" tank was the septic tank, and the H-20 was for the septic field, referred to the weight it could support driving over it.

MS. Estabrook asked for the location of the loading docks and where the building entrance would be. She asked further questions about the radius of the curb and how that would work.

Mr. Gregsak explained that the plan was to have trucks swing in to the right side of the building, enter through one door, be loaded and exit the building via the doorway at the upper left side of the building.

Ms. Estabrook asked about impervious surface coverage and how well this plan met those regulations.

Ms. Rowden stated that this plan shows well below the 20% maximum allowed.

Ms. Estabrook ask the Board for other input.

Ms. Rowden opined that if the board continued this to its next meeting the applicant might be able to correct what was needs and the condition of a "clean Letter" from the Town Engineer would not be necessary.

Mr. Andrews stated he agreed with Ms. Rowden on preferring not having the “Clean Letter” as a condition. He is uncomfortable not being able to see the changes brought about by the review letter.

Mr. Crnolic **MOVED** to go forward with the site plan. Mr. Foote seconded the motion.

Ms. Estabrook asked for clarification on what Mr. Crnolic meant.

Mr. Foote stated that they wanted to accept it with a clean letter from the Town Engineer.

Ms. Rowden stated that while the Board had accepted Jurisdiction that the Board still needed to open the public hearing on the application. After the public hearing, the Board can deny, conditionally approve or move to fully approve the application. If the Board wants more information, they can ask for it now.

Mr. Crnolic stated he was ready to conditionally approve the application.

Mr. Foote agreed with Mr. Crnolic.

Ms. Rowden asked what the conditions Mr. Crnolic was proposing.

Ms. Estabrook asked about the locations of the overhead doors, the vehicle parking, the stormwater management plan.

Mr. Gregsak stated that they had submitted a Stormwater Management Plan. He stated that since only a few people would be working in the building there were only a few parking spaces. The building elevations that were presented earlier show how the trucks enter and exit the building and why there is a large pavement area to the right of the building, allowing trucks to swing around to go into the right side of the building can do their loading and or unloading and then they exit the left side of the building.

Ms. Estabrook stated her concerns about parking large trucks in the aquifer district.

Mr. Crnolic asked if one of the conditions could be answering Ms. Estabrook’s concerns or would it be better to continue the public hearing to the next meeting.

Mr. McDonough stated that he is taken back that Ms. Estabrook is looking at parking spaces and asphalt when, he claimed, that the application had been submitted more than a year prior. (A.A. Doggett shared the original application document showing it had been submitted on June 18th, 2020) He reiterated that his client has been waiting for over a year to get to this building built. He asked that the Board approve the application with the 3 conditions he listed:

1. The recording of the 4-lot subdivision.

2. The “Clean Letter” from the Town Engineer.
3. The necessary variances from the ZBA.

Ms. Rowden stated that the Board had yet to open the Public Hearing to the public for input. She brought up that Mr. Crnolic’s motion was still on the table.

Ms. Collyer asked Mr. Crnolic to withdraw his motion to enable the Public Hearing to proceed.

Mr. Crnolic withdrew his motion.

Ms. Estabrook opened the floor for public comment.

Mr. Hamel had a question regarding whether the applicant can do anything with the lot before all conditions had been met, in terms of starting to build the building.

Ms. Rowden stated that the answer to Mr. Hamel’s question was no.

Mr. Hamel would like that point to be made extremely clear.

Ms. Estabrook stated she had the same question that nothing could be done until it became a legal lot.

Mr. Jim Baker asked if the plan had been before the Board for a year. He asked if the parking and wetlands had been reviewed as part of another plan. Lastly, he asked why the plan was not being conditionally approved if nothing could be done until the conditions had been met.

Ms. Rowden stated that the application had been filed on June 18th, 2020, so it had not been before the Planning Board for very long, and that most of that time had been due to continuations requested by the applicant. It was reviewed by Ms. Rowden as the Circuit Rider and by the Town Engineer in July, and again in August by herself. Things like wetlands have been considered. Things like parking have been considered. She acknowledges that they are being discussed at this meeting because the board was not able to take jurisdiction, that means all the requirements for a site plan application were not met, on this application until the meeting of November 24th, 2020. Because of that the board did not have the time to discuss the merits of this application until they took jurisdiction. That is why some of those items are coming up this evening. As for conditions of approval, the application could be approved tonight with the conditions of approval that have been spoken to already; it could be approved with either more or less conditions. That is at the jurisdiction of the Board. When the Planning Board accepts jurisdiction in normal times (not COVID-19 times) they would have 65 days in which to make that decision, during COVID-19 that 65-day Clock has been suspended.

Mr. Baker thanked her for the explanation.

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Ms. Collyer stated that the wetlands would be covered by a ZBA variance so that would be covered by the ZBA variance condition.

Ms. Rowden offered draft language for conditions:

Lot 27-7 as depicted on the site plan is recorded as a legal lot of record at the Rockingham County Registry of Deeds.

All required relief from Newton's Zoning Ordinance are obtained, including but not limited to structural setbacks, wetlands setbacks, and roadway centerline.

A clean letter be obtained from the town engineer.

All federal, state, and local permits are obtained.

No building permit may be issued until all conditions of approval are met.

Mr. Crnolic **MOVED** to conditionally approve the application with the following conditions:

1. All federal, state, and local permits are obtained.
2. Lot 27-7 as depicted on the site plan is recorded as a legal lot of record at the Rockingham County Registry of Deeds.
3. All required relief from Newton's Zoning Ordinance are obtained, including but not limited to structural setbacks, wetlands setbacks, and roadway centerline.
4. A clean letter be obtained from the town engineer.
5. No building permit may be issued until all conditions of approval are met.

Mr. Foote seconded the motion.

A.A. Doggett suggested that one further condition be added: That the Board of Selectmen must approve the building permit due to it being on a private road.

Mr. Crnolic agreed to add that condition.

Mr. McDonough stated that he does not believe that that condition is true.

Ms. Rowden stated that the select board must sign off on the liability of a building not having frontage on a town road, which this lot would not have. It is not the issuance of the building permits but a liability waiver. It is a state law. She offered to share the citation.

Ms. Collyer opined that if it is a state law it would fall under "All federal, state and local permits are obtained."

Mr. Andrews commented sometimes the Planning Board put conditions on that maybe could be folded into a broader one because they are not always recognized as such and sometimes the applicant can miss them, so they are put on to make it clearer for everybody. He further stated his issue with a condition being a clean engineer's letter.

Ms. Estabrook asked Administrative Assistant Doggett to call the roll:

Mr. Zalenski – aye Mr. Crnolic – aye Mr. Andrews - nay Mr. White - aye
Mr. Foote – aye Ms. Collyer – aye Ms. Estabrook – nay **Passed 5 to 2**

Ms. Estabrook closed the Public Hearing at 8:06 PM

Mr. Hamel returned to the Board.

2. Mr. Hamel called the Public Hearing to order at: 8:06PM and read:

Bijal Realty, LLC of Newton, NH Requests a Conditional Use Permit - Condominium Conversion of their property at 21 S. Main Street. The property is referenced as Tax Map 11, Block 5, Lot 20.

Mr. Hamel invited the applicant to present his application

Mr. Peloquin made his presentation of the conversion of the property into 4 separate condominium units. He described the process and the parts of the application package. He went over the existing conditions plan, the condominium floor plans, the condominium rules, condominium by-laws, and condominium declaration. He discussed the 4 units and how they will be occupied or used.

Mr. Hamel asked Ms. Rowden for her input on Completeness of the application.

Ms. Rowden offered her opinion that the applicant has supplied everything that is required by the Condominium Conversion Checklist in the zoning ordinances. There are 2 items on that list which the Planning Board must determine:

6. Proposed conversion to condominium ownership shall not adversely affect surrounding properties
7. Proposed conversion to condominium ownership must be found to be in the public interest

Mr. Foote asked if the applicant needed to file with the State to separate the buildings into condos. He did not find any state paperwork in the member's packet.

Ms. Rowden replied that because they are business condos they do not require State approval, unlike residential condominiums.

Mr. Foots stated he thought there was residential space in one of the buildings.

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Ms. Rowden informed him that they are still commercial condominiums as opposed to being a collection of residential units.

Mr. Peloquin informed the Board that both the applicant's attorney and Town Council agree with Ms. Rowden on this point.

Mr. Hamel asked if any member wished to make a motion on the completeness and to take jurisdiction.

Ms. Estabrook **MOVED** to accept the application as being complete and take jurisdiction; Mr. Crnolic seconded the motion.

Ms. Estabrook asked about item D. on the checklist:

- D. The responsibility for maintenance, operation, replacement and protection of the water supply and sewage disposal systems shall be clearly established as that of the Declarant or Association of unit owners or, in default of such obligation by the Declarant or Association, then by the individual owners subject to reimbursement from the Association or the Declarant as the case may be, and a statement to this effect shall appear in the condominium Declaration. The deed to each condominium unit shall be subject to the declaration containing these restrictions. In the case of an Association of land owners, a copy of the Articles of Association shall be submitted to the Board.

She did not see this language in any of the documents.

Mr. Hamel informed her it was covered by the last paragraph of the Condominium Declaration. He informed the Board that Town Council had asked for this language to be copied verbatim into the declaration.

Mr. Hamel asked Administrative Assistant Doggett to call the roll:

Mr. Crnolic - aye	Mr. Andrews - aye	Ms. Estabrook – aye	Mr. Foote – aye
Mr. White – aye	Ms. Collyer – aye	Mr. Hamel - aye	Unanimous Vote

Mr. Hamel called on Planning Board to ask questions or comments on the application itself.

Ms. Estabrook had a question about snow removal and how it related to site plan storm removal requirements. She stated that since there are designated wetlands on the property does the Board need to know where the snow will be stored.

Mr. Peloquin stated that note #8 states that there are no wetlands observed or delineated on the property.

Ms. Rowden stated that this is a condominium conversion approval and not a site plan so certain aspects of a site plan will not be found on these plans. She stated that this is basically a change in how the lot is divided on paper for individual ownership.

Ms. Estabrook asked if this plan overrides the previous site plan or if those items were still in effect.

Ms. Rowden informed her all prior site plan requirements were still in effect, it does not change what is allowed on the property.

Mr. Hamel asked about dedicated parking spaces which he could not find on the plan.

Mr. Peloquin stated that the parking is more general in nature within the common areas.

Mr. Foote asked if this site's recent minor site plan approval's parking areas carried over to the condo usage.

Mr. Hamel stated that it does.

Ms. Rowden stated that it is not a requirement. if there were spaced out and lined parking spaces on the property they would have to be shown on the plan and designated, but since there were none, it was not.

Mr. Hamel asked for the location of the gas storage tanks.

Mr. Peloquin informed him where they were believed to be and read the language that covered their perpetual use. The tanks will be designated on the Mylars to be recorded.

Mr. Andrews asked what the planned uses of unit D were.

Mr. Peloquin stated that that building was to be used for storage by the proposed buyer of units C & D.

Mr. Crnolic asked if the lot's division would be visibly delineated.

Mr. Peloquin stated that no there would be no discernable delineation on the lot.

Mr. Crnolic asked if there would be anything blocking vehicles from moving about the lot.

Mr. Peloquin stated that it would be all open space between the units.

Ms. Rowden stated that this is not a residential condominium development. No new residential units were being developed; it was limited to the existing buildings and their present uses.

Ms. Estabrook asked what would happen if the owner wished to change the use of building D. Would it still come before the planning Board for a Site Plan approval?

Ms. Rowden stated it might be a change of use application or an amended site plan if the building were to be reconfigured. Any changes would have to follow the Site Plan Regulations of the Town.

Mr. Peloquin agreed with Ms. Rowden on her interpretation of the future process for changes to anything on the lot.

Mr. Hamel asked for further comments or questions from the Board or from the public. There were no further questions or comments. He then asked if any member wished to make a motion.

Ms. Estabrook **MOVED** to approve the application for the condominium conversion; Mr. Crnolic seconded the motion.

A.A. Doggett reminded the Board that they still needed to make decisions of finding on the two items from the condominium checklist:

6. Proposed conversion to condominium ownership shall not adversely affect surrounding properties
7. Proposed conversion to condominium ownership must be found to be in the public interest

He asked if the Board wished to add these items to the motion.

A discussion of conditions ensued. The following were determined to be the Conditions Precedent for the notice of Decision:

1. Obtain all Federal, State, and local permits.
2. Supply recordable Mylars, Declaration, By-laws, and Rules
3. Meet the requirements on the Checklist for Condominium Conversion on page 54 of the 2020 Zoning Ordinance Manual.

Mr. Hamel asked Administrative Assistant Doggett to call the roll:

Mr. Crnolic - aye	Mr. Andrews - aye	Ms. Estabrook – aye	Mr. Foote – aye
Mr. White – aye	Ms. Collyer – aye	Mr. Hamel - aye	Unanimous Vote

Mr. Hamel closed the public hearing at 8:33 PM.

3. COMMITTEES

A discussion of the proposed addition on Committees to the Rules of procedure was held.

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Ms. Collyer MOVED to adopt the proposed amendment to the Rules of Procedure as presented; Mr. White Seconded the motion.

Mr. Hamel asked Administrative Assistant Doggett to call the roll:

Mr. Crnolic - aye	Mr. Andrews - aye	Ms. Estabrook – aye	Mr. Foote – aye
Mr. White – aye	Ms. Collyer – aye	Mr. Hamel - aye	Unanimous Vote

Ms. Collyer offered to chair a committee to review the Master Plan and suggest changes.

Ms. White offered to chair a committee to review the Land Use Application and suggest changes.

Both were asked to submit a proposal for the Board to review at the December 24th meeting.

4. Board Business and Correspondence

A. NPREA Manifest there was none

B. Acceptance of minutes of the 11/24/20 meeting

Ms. Collyer **MOVED** to accept the minutes of 11/24/2020. Mr. Crnolic seconded the motion.

Mr. Hamel asked Administrative Assistant Doggett to call the roll:

Ms. Estabrook -Yes	Mr. Andrews - Yes	Mr. Hamel -Yes	Mr. Foote -Yes
Mr. White -Yes	Ms. Collyer -Yes	Mr. Crnolic -Yes	Unanimous vote

5. Mr. Hamel adjourned the meeting at 8:46 PM

Respectfully Submitted,

James L. Doggett, AA
Newton Planning Board