

NEWTON PLANNING BOARD PUBLIC MEETING MINUTES

August 11th, 2020

Chairman Hamel called the Public Meeting to order at 7:04pm and 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 2020-16 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 2020-16 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. 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

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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 asked Administrative Assistant Doggett to call the roll:

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

Also Present:

Ms. Allen - Alternate – Present and alone	Ms. White - Alternate – Present and not alone
Robert Zalenski – Alternate and alone	

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

The following Public Hearings were held:

Chairman Hamel recused himself for the next two Public Hearings.

Mr. Andrews asked for a Point-of-Order as he had had a concern. He stated that a warning flag went up (for him) when the apology letter from Jace Cucharale came through Ms. Collyer. He wanted to know if there were any other meetings or communications between any Board members and the applicant and if so, should there be a request to recuse themselves.

Ms. Estabrook inquired what letter he was referring to.

Mr. Andrews explained the apology letter.

Ms. Collyer questioned how email was handled by the Planning Board office. She stated she was copied on that letter and she shared it with the rest of the Planning Board members.

Ms. Rowden gave the criteria for email as a public record, all email received by the Planning Board office, other than legal and personnel issues is public record. She acknowledged that most of the emails are of a logistical nature and would not typically be shared with Board members. She also discussed that if any Planning Board member receives any information from an applicant outside of a public meeting that information needs to be disclosed. It is a personal decision whether a Board member recuses themselves; while the Board may vote to request it, the Board cannot compel them to do so.

Ms. Estabrook asked if the Board had a policy concerning how email is handled.

Ms. Rowden stated that the Board's Policy & Procedures manual is not specific.

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Mr. Andrews stated that the email he was referring to was sent to the entire Board by Ms. Collyer and CC'ed to the Select board. He stated that his prior experience on boards had caused this to be a red flag for him. He asked Ms. Collyer if she had anything she needed to recuse herself about.

Ms. Collyer stated there was nothing she needed to recuse herself for. She feels confident that she can give uncolluded input.

Ms. Collyer stated that she feels it is reasonable to be included on any and all email between the Planning Board, applicants and any of their advisors. That if members chose not to review their email that was their choice.

Mr. Crnolic stated that he agreed with Ms. Collyer and noted that there was a site walk on August 1st that he had no knowledge of. He would like to be included in receiving all emails received by the Planning Board office.

Ms. Estabrook informed him that the site walk was conducted by the ZBA and not by the Planning Board.

A.A. Doggett stated that the majority of emails are administrative in nature, that all Application information is collected, scanned and put on the website in a timely manner. He stated that it could be confusing for members as with some applications there are multiple iterations of the plans; he only sends out the most currant set of plans with the Board's packets.

Mr. Foote asked that this be moved to the end of the meeting and that the Board return to the agenda items.

Ms. Estabrook agreed

Mr. Foote asked if an Alternate needed to be made a voting member in place of the recused Mr. Hamel.

Ms. Estabrook appointed Mr. Zalenski as a voting member in Mr. Hamel's place.

Ms. Collyer suggested Mr. Sforza be appointed instead. (Mr. Sforza's entrance was not recorded, and he was not present for the rollcall at the beginning of the meeting).

1. Vice-Chairman Estabrook called the Public Hearing to order at: 7:15PM and read:

125 Development NH Corp of Plaistow, NH requests a public hearing for a 4 lot Subdivision at 6 Puzzle Lane, Newton, NH. The property is referenced as Tax Map 14, Block 1, Lot 27-3.

Ms. Estabrook noted that this is the 3rd continuance of the Public Hearing from July 28th, 2020.

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Ms. Estabrook asked Ms. Rowden to present her review of the latest set of plans.

Ms. Rowden stated that on August 5th the applicant submitted an updated plan and that before the meeting she had emailed the Board members and the applicant her updated review letter. She stated that as of the afternoon of this meeting no new waiver request had been received, however after 4:00 PM that afternoon the applicant had submitted a list of new waivers and she would present her review verbally:

There were previous waiver requests from the requirements of a high intensity soil survey and application fees

A majority of the items: for survey requirements, for topographic contour, for man-made features, for utilities, and for plan scale, (all items related to the largest proposed lot where only limited information had been submitted) should be addressed by the applicant.

Item number 9: a waiver for test pits: Test-pit information had previously been submitted for proposed lot 14-1-(27-7); however no information has been provided for the remaining 3 lots.

The one item Ms. Rowden still has concern about is the frontage for the remainder lot 14-1-(27-3). Although she understands the applicant had the lot resurveyed and found a previous subdivision plan that referenced the distance as 50.07 feet, she still recommends that the width needs to be 60 feet as necessitated by the proposed road use. The lot does now meet the 50-foot requirement. She recommends that the Planning Board require the Licensed Land Surveyor, who did the work, re-date and sign the application to verify his findings.

Ms. Rowden further suggested that Planning Board members read Subdivision Regulation section X.1,D on page 34 regarding the criteria for granting waivers:

- a) Strict conformity would pose an unnecessary hardship to the applicant; and
- b) The granting of the waiver would not be contrary to the spirit and intent of the ordinance.

She opined that the Board should use these criteria when considering each waiver.

In continuing she offered that she felt that the application was complete enough to take jurisdiction though more information may be required by the Board if any waiver is denied.

Mr. Gregsak feels any discussion about or waivers for the roadway in the right-of-way is part of the next step for his client.

Ms. Rowden agrees that the 50-foot frontage for the roadway cannot be handled with a waiver but any discussion about roadway waivers need to be part of a lot-specific application. The

Board can request a roadway intersection design as part of the subdivision application if they wish.

Mr. Gregsak sees no problem designing the roadway with its associated drainage etc. in the 50-foot Right-of-Way.

Ms. Estabrook commented on the ZBA variances that had been granted for this subdivision.

Ms. Collyer asked if the updating of the application by the surveyor's information would require another revision.

Ms. Rowden explained that it would require the surveyor to update his stamp on the plan and re-sign it. That this is a typical requirement.

Ms. Estabrook asked about the existing roadway and its configuration and how that would affect the lot, also owned by the applicant, at the end of that roadway.

Mr. Gregsak explained that there was a Right-of-Way granted to each of the lots.

Ms. Estabrook asked who would maintain that roadway.

Mr. McDonough offered that that issue would be covered by a road maintenance agreement with the Town.

Ms. Estabrook asked if the roadway in question is an official road and if it had been accepted by the Town.

Mr. McDonough replied that it was not a road, it is a driveway. He hopes that the Town will enter into a Maintenance Agreement to cover grass cutting and snow plowing of that driveway.

Mr. McDonough went on to state that when the ZBA granted the variances for the lots in this subdivision they created them as lots and that anything that happens on the lots is a moot point for the Planning Board. He stressed that these lots were approved by the ZBA as depicted.

Ms. Rowden commented that these lots are not Legal Lots of Record until the Planning Board approves the subdivision. All variances that have been issued only allow the Planning Board to approve the subdivision but until it has been approved by the Newton Planning Board and the Plaistow Planning Board, then recorded at the Registry of Deeds, they are not Legal Lots of Record.

Ms. Collyer asked Ms. Rowden to go through the waiver requests one-by-one to briefly explain which ones do or do not apply, in her opinion.

A.A. Doggett put Ms. Rowden's review letter on the Shared Screen and Ms. Rowden reiterated her opinion on each waiver:

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Item #1 to have the variances listed on the cover sheet, this has been completed.

Item #2 approval by the Plaistow Planning Board: The plans need signature boxes for the Plaistow Planning Board.

Ms. Collyer asked why Plaistow needed to approve the plan.

Ms. Rowden informed her that part of the property being subdivided was in the Town of Plaistow and that under NH State Law they must approve the subdivision.

Item #3 the waivers: At the time Ms. Rowden wrote her letter there were only 2 waivers applied for; neither had been granted.

Item #4 the survey requirements: As she had explained earlier the new survey information needs to be added to the plan with stamp and signature by the licensed land surveyor. At this time, a new waiver has been submitted for relief from this requirement.

Item #5 the topographic contours: Only some Topographical details are shown. At this time, a new waiver has been submitted for relief from this requirement.

Item #6 the man-made features: At this time, a new waiver has been submitted for relief from this requirement.

Item #7 utilities: there are no details of the utilities along Route 108 for the largest proposed lot. At this time, a new waiver has been submitted for relief from this requirement.

Item #8 the plan scale: The plan is not to the scale required by Newton Zoning et alia, at this time, a new waiver has been submitted for relief from this requirement.

Item #9 Test Pits locations: some are shown and at this time, a new waiver has been submitted for relief from this requirement.

Item #10 was not discussed.

Ms. Rowden offered that all the missing information is now covered by requests for waivers.

Ms. Collyer **MOVED** to take jurisdiction of the application. Mr. Foote seconded the motion.

Ms. Estabrook asked if the Board takes jurisdiction how the waivers would be handled as people did not have them in advance to review.

Ms. Rowden suggested that the Board could take jurisdiction and discuss the waivers; or take jurisdiction and continue the Public Hearing, allowing members to review them, or not take jurisdiction and continue the Public hearing.

Ms. White reminded the Board it was not customary for the to accept new paperwork at a meeting as Board members would not have time to review and research the requests and/or information.

Ms. Collyer withdrew her motion to take jurisdiction.

Ms. Collyer **MOVED** to discuss and act on the waivers at this meeting after taking jurisdiction. There was no second.

There was a discussion of the concept of waivers and timelines.

Mr. Gregsak went over the waiver requests. He stated that most of the waivers concern the largest remaining proposed lot.

Mr. Andrews is struggling with facts surrounding the waivers. He would like to see all man-made features shown on the plans.

There was a discussion about NPREA accounting.

Mr. Zalenski commented that as these were standard waivers the Board should just accept them and move forward.

Ms. Rowden corrected that while the waivers had been received, she had not offered her opinion about them. Only some of them are commonly seen, others were not.

Ms. Collyer **MOVED** to continue the public hearing to the meeting on August 25th, 2020. Ms. Estabrook seconded the motion.

Mr. Andrews offered that while these waivers are before the Board there is more happening with this land than a simple subdivision. He asked for additional information on the man-made features, possibly a digital photograph.

Ms. Collyer commented that she feels that the remarks about the surveyor's stamp and signature need to be cleared up in the next two weeks.

Mr. Gregsak would like the Board to take jurisdiction at this time and he would supply additional information at the next meeting.

Mr. McDonough commented that this application has been before the Planning Board for over a year and it is getting old.

Ms. Collyer opined that taking jurisdiction at this point would not be helpful to any party.

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

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Ms. Estabrook - yes	Ms. Collyer - yes	Mr. Foote – no	Mr. White - yes
Mr. Andrews - yes	Mr. Crnolic – no	Mr. Zalenski - yes	Vote Passed 5 to 2

2. Vice-Chairman Estabrook called the Public Hearing to order at: 8:24PM and read:

125 Development NH Corp of Plaistow, NH requests 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.

Ms. Estabrook noted that this is a continuance of the Public Hearing from July 28th, 2020.

Ms. Rowden presented her review. No use has been specified for the site. There are 4 variances currently before the BoA for this site. The plan needs to show and reference the gas-line easement on the lot. Building details have not been supplied. Parking delineations have not been shown. Landscaping detail is not shown. Lighting detail is not shown. Snow storage is shown as being beside the wetlands. There are no easement requirements shown nor sound devices shown. She stated that while the application is still incomplete it is closer than it was in its last iteration.

Mr. Gregsak commented that there were several steps to go before they could complete the application.

Mr. Gregsak requested a continuance of the Public Hearing.

Ms. Collyer **MOVED** to continue the public hearing to the meeting on September 22nd, 2020. Mr. Andrews seconded the motion.

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

Ms. Estabrook - yes	Ms. Collyer - yes	Mr. Foote – yes	Mr. White - yes
Mr. Andrews - yes	Mr. Crnolic – yes	Mr. Zalenski - yes	Unanimous vote

A discussion of vote was held. No additional action was taken.

Chairman Hamel returned to the Board.

Vice-Chair Estabrook recused herself from the following Public Hearing. Chairman Hamel appointed Mr. Zalenski to be a voting member in her place.

3. Mr. Hamel called the Public Hearing to order at: 8:35PM and read:

John Kelleher of Newton, NH requests a public hearing on a Minor Site Plan (Village District) at 1 S. Main St., Newton, NH. The property is referenced as Tax Map 11, Block 6, Lot 7.

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Mr. Hamel invited Mr. Kelleher to present his application.

Mr. Kelleher read a prepared statement (see attached) discussing details of his site plan, questions in general and replying to abutter concerns.

Ms. Rowden asked the applicant to explain exactly what he was looking to do.

Mr. Kelleher explained using the picture A.A. Doggett shared with all participants. He explained the location of the cart and the parking area that would hold 4 cars. He expects to have no more than 2-3 customers per hour. He explained that the plan had changed slightly.

Ms. Rowden offered her opinion that the plan is based on the original proposal. It does appear to fit into the parameters of the Village District's approved uses. The Board needs to determine if the impact is qualifying for a minor site plan. However, it would need to acquire a new NH-DoT driveway permit, needs to show parking, show location of trash receptacles, any food prep or clean-up that impacts the septic system would need to be disclosed and planned for, no signage was proposed and if there is to be any, even temporary, it needs to be shown, the Board needs to discuss the hours of operation.

Mr. Kelleher responded to the comments.

Mr. Hamel asked about parking referring to the zoning requirements that all parking be to the rear or side of the dwelling unit. He stated that the proposed parking is in the front of the building.

Mr. Kelleher replied to his question.

Ms. Collyer has concerns about storage of outdoor equipment that is prohibited. She needs to see more specific plans.

Mr. Kelleher replied to her concerns.

Mr. Andrews also would like to see a more complete plan.

Ms. Rowden suggested that before taking jurisdiction the board needed to determine if this proposed use fit into the minor site plan specifications.

Ms. Collyer **MOVED** that this application as fitting a minor site plan application. Mr. White seconded the motion.

A discussion about what constitutes a minor site plan.

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

Mr. Hamel - yes	Ms. Collyer - yes	Mr. Foote – no	Mr. White - yes
Mr. Andrews - no	Mr. Crnolic – yes	Mr. Zalenski - no	Vote Passed 4 to 3

Mr. Hamel asked that a better plan be submitted and that the Road Agent be asked to give input.

Mr. Andrews offered that the drawing be better and the hours more concrete.

Ms. Avhad informed the Board of her ability to assist the applicant in completing his application.

Ms. Collyer **MOVED** to continue the public hearing to the meeting on August 25th, 2020.
Mr. White seconded the motion.

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

Mr. Hamel - yes	Ms. Collyer - yes	Mr. Foote – yes	Mr. White - yes
Mr. Andrews - yes	Mr. Crnolic – yes	Mr. Zalenski - yes	Unanimous vote

There was a discussion of in person meetings versus virtual meetings.

Ms. Rowden asked that the applicant be informed when paperwork would need to be in the office for the next meeting.

A.A. Doggett informed everyone that paperwork was due in the office by 1:00 on August 20th, 2020 to be included for the next Board meeting.

4. Board Business and Correspondence

a. Costs of Town Engineer to do a review of the Design Review Plans for Lot 1-14-(27-3)

A.A. Doggett explained that there were no funds in the NPREA account to cover the costs for the Town Engineer to do a review of the Design Review Plans for Lot 1-14-(27-3)

Ms. Collyer **MOVED** that A.A. Doggett find out the cost for the Town Engineer to do the review and bill the applicant before the work is done. Mr. Crnolic seconded the motion.

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

Mr. Hamel – abstained	Ms. Collyer – yes	Mr. Foote – yes	Mr. White – yes
Mr. Andrews – yes	Mr. Crnolic – yes	Ms. Estabrook – no	Vote Passed 5 to 1 With 1 abstention

b. NPREA Manifest

Ms. Collyer **MOVED** to approve the August 11th NPREA Manifest in the amount of \$584.17, Mr. White seconded the motion.

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

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

c. Acceptance of minutes of the 7/28/20 Public Meeting

Mr. Andrews **MOVED** to accept the minutes. Ms. Collyer seconded the motion. Ms. Collyer offered the following correction: To add on page 9, during the Meola Public Hearing, that the Board took jurisdiction.

A.A. Doggett informed the Board that they did not take jurisdiction of this application.

Ms. Rowden suggested that the Board could do a retroactive vote to take jurisdiction and to amend the minutes.

Ms. Collyer **MOVED** to add a note to the minutes of 7/28/20 to read that while the Board did not take jurisdiction the intent of the Board was to take jurisdiction of the Meola application. Mr. Andrews seconded the motion.

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

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

On the motion to accept the minutes as amended: Mr. Hamel asked Administrative Assistant Doggett to call the roll:

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

d. Correspondence -

A notice from the NH-DoT was sent out concerning a virtual Public Hearing regarding the Rows Corner Reconfiguration on 8/13/20

e. Public meetings in person -

Mr. Foote commented on his feelings that the Board should resume in-person public meeting at Town Hall. He stated that the Board was just spinning its wheels and continuing every application.

Mr. Hamel stated that he felt that, though cumbersome, the Zoom meeting allows all participants equal access as opposed to the Town Hall limit of 26 people. He went on to state that he felt that the Board was making very good progress though the meeting were going longer.

Mr. Andrews stated that if applicants would get paperwork to the office by the required timeline then things would go smoother and possibly continuances would happen less often. He suggested that a better application packet might be helpful for those who are coming before the Board pro se versus those who have engineers as agents.

A.A. Doggett explained how the process currently works.

Ms. Collyer suggested that putting the current process in writing might be helpful and suggested that Board members give input to the creation of a new application packet.

A.A. Doggett reminded the Board that Ms. White had offered several possible alternate applications to the Board, however with the Corvid crisis those had be put on hold.

Ms. Collyer suggested that those on the Board who had vast experience with the application process should come up with questions and answers that could be compiled for the future applicants.

Ms. White offered her resources of alternate applications as a starting point for the Board's efforts.

Ms. Estabrook commented on how very few fill out their application completely, though a recent application was very well filled out being a noteworthy exception.

Chairman Hamel brought the conversation back to the original discussion of the Board meeting in person at Town Hall.

Mr. Crnolic **MOVED** go to the Board of Selectmen to set up the Planning Board meeting in-person instead of meeting on Zoom. Mr. Foote seconded the motion.

Ms. Estabrook asked how many people would be allowed in Town Hall

Mr. Foote stated that before Covid the limit was 49 people without a fire-watch. He feels that 90% of the Planning Board meeting would have less than 25 people in the hall, but he feels the Board needs to try to get back to normal meetings.

Mr. Andrews informed the Board that as he had survived Covid-19 it was not something he wanted anyone else to experience, therefore rushing to get back to in-person meeting was not a good thing until a cure is found.

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

Mr. Hamel - no	Ms. Estabrook - no	Ms. Collyer - no	Mr. Foote - yes
Mr. White – no	Mr. Andrews - no	Ms. Crnolic – yes	Vote Failed 2 to 5

A.A. Doggett asked if he should start making the abutter notices point to a Zoom meeting instead of an in-person as they do presently. He was directed to do so until further notice.

5. Adjourn: Chairman Hamel adjourned the meeting at: 10:20pm

Respectfully Submitted,

James L. Doggett, AA
Newton Planning Board