



Newton Planning Board

Public Meeting Minutes

November 9th, 2022



The Newton Planning Board public meeting was called to order at: 7:01PM

Present were members: Mr. Moran, Mr. Marchand, Mr. Guide, Ms. Collyer and Mr. Piper
Also, James Doggett – PB AA and Ms. Rowden - Circuit Rider.

Via Zoom were Members Ms. White and Mr. LaVoie.

Chairman Moran led the salute to the Flag.

1. Public Hearing

Chairman Moran called the Public Hearing to order at: 7:02PM and read:

- 1. A continuation of 125 Development NH Corp of Plaistow, NH's request for a public hearing for a 4-building condominium site plan off S. Main Street, in Newton NH. The property is referenced as Tax Map 14, Block 1, Lot 27- 3.**

Mr. Moran noted that the developer has requested a continuance to December 13th, 2022.

Mr. Moran asked Circuit Rider Rowden for her input

Ms. Rowden stated that at this point the Board has three choices, you can deny the application, you can accept the continuance request that the applicant has put in, or you can approve it with whatever conditions. I would not recommend approval at this point but those are your decisions. Just for clarification, I did ask, the request says to continue to the next planning board meeting, I had a small email exchange with Barry just to confirm that December 9th is actually the meeting date they are requesting not the 29th of November that you guys had discussed having the meeting.

Mr. Moran said, just for clarification this is for the parcel of the project to the south that we have requested a revised existing conditions plan and a few other things. Mr. Gier did send over a request for continuation.

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Mr. Tom Lekborg (agent for the applicant) stated we've had discussions with the DOT with our district and it is been favorable so we are just waiting for the letter, We also had a favorable ZBA meeting, last I think it is looking fairly good for that so, I think our next meeting we are for a vote and since we have reduced all our variances to only be into the entry roadway not on the construction of the rest of the process I think that we should do okay and we built some new buffer zones and I think we can get this done and leave our lane alone and with a very way where we got from you on the on the fire lane so I think the whole package is complete package we come back we submit after ZBA at that point and then we there should be no more movement of any of anything on the on the plants and that would be our last redraw with that and if there was anything that needed to be fixed we'll fix that and then we come to you and then we'll work and finish it up okay I think that is the best way because I think it just save everybody much time. I know everything you're looking for will be provided

Mr. Moran stated that the Board's next hearing is on meeting is December 13th .

Mr. Lekborg stated that it just makes sense at this point, where we are at.

Ms. White added that she was concerned with the time that has lapsed since the last noticing for this matter. She stated that is the 3rd or 4th continuation. She asked when the last notices went out on this matter. She was informed it was for the second meeting in September. She believes a new notice should be sent out to the abutters before this meeting on December 13th.

Mr. Marchand **MOVED** to grant the continuance to December 13th and that a non-certified notice be sent to the abutters. Mr. Guide seconded the motion.

Mr. Lekborg stated if we need to replenish the NPREA account please let me know at the meeting before I leave, and we appreciate it.

Ms. Rowden stated that because of the known level of change coming in with this revised application having more than just the Thursday before the meeting for my review. if we could have a little bit more time, if you can get them to us as soon as you can or at least the bulk of it as soon as you can, it allows us to be timelier with our reviews for everything to move forward so, that Thursday the 8th of December, if we could have it before then but it is a lot easier for everybody.

Mr. Lekborg replied okay, I will let Barry Gier know because he's the one that handles that.

Ms. Rowden stated that Mr. Gier knows how to contact her and if she thinks something is missing, she will try to flag it as fast as she can.

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Mr. Moran asked A.A. Doggett to call the roll.

Mr. Moran - Aye Ms. White - Aye Mr. Piper - Aye Mr. LaVoie - Aye Mr. Guide - Aye
Mr. Marchand - Aye The **VOTE** was: **UNANIMOUS**

Mr. Moran asked A.A. Doggett about the NPREA account because the applicant would like to know if they need to put money into that account.

A.A. Doggett replied that he would have to check the spreadsheet.

Chairman Moran recessed the public hearing at 7:11PM

2. A continuation of 125 Development NH Corp of Plaistow, NH's, request for a public hearing for an Amended Site Plan at 3, 5, 7, & 9 Puzzle Lane, Newton NH. The property is referenced as Tax Map 14, Block 1, Lot 27-4.

Mr. Moran stated that the applicant provided a new revised drawing which are stamped I believe they're stamped As Builts for the parcel that I just referenced. Ms. Rowden has had the opportunity to review that she provided us a letter last night I believe the end of the day yesterday with a couple of potential issues as well as procedural issues that in

Ms. Rowden added that the basis is that, because this is an amended site plan with the purpose of having what is out there approved and recorded, so that they can move on with the sales of the properties that they're intending to do. The amended site plan is intended to show an As Built of what is actually out there on the ground more or less today. So, without actually having the town engineer go out with that As Built and Confirming everything I wouldn't recommend you move forward because you want to know that what is out there is accurate. There are some things that are inconsistent with the current approved site plan versus what is on the ground. Trying to have everything be on the same page I think you need Mike Vignale to go out there and review its similarly to the inspection he did back in September, I think it was mid-September, to write up a letter to identify any issues and might be there might be additional information you need because the site has changed in some ways. You don't know that until he's had the ability to go out and look at the site. That is my main recommendation for not having you accept jurisdiction in my letter. There are a few things that I flagged. Mr. McDonough just handed out a few things, so I don't know if it has been addressed, but they were just to raise potential issues. If Mike goes out there and he can take a look. We know what some of the issues could potentially be and some of the things I have listed may not be a problem, but I am not on the ground, no one has been on the ground with this new revised plan, the other issue is I just needed confirmation that the southern two smaller buildings, if they intended as part the original submission to be that As Built, or if that has changed in some way. I just needed confirmation of that from their surveyor that is the short version.

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Mr. Moran added that the circuit Riders recommendation is that we have the Planning Board conducted a site visit.

Ms. Rowden interjected that the Planning Board actually cannot on this application do a site visit because the Planning Board has not accepted jurisdiction if the Planning Board accepts jurisdiction, then the Planning Board can do a site visit. I don't know that that is necessarily warranted at this point but if it is up to the board and again the Planning Board cannot do it unless the Planning Board accepts jurisdiction.

Ms. White commented that these (buildings 3, 5, and 7) are actually on this same piece of property and we haven't gotten an As Built for those. We haven't gotten anything since the original in June where the second page of the plan was showing those other buildings and it is all part of that one lot so I believe that we should probably have an As Built of that portion too.

Mr. Moran opined that in looking at the plan for that was submitted on Thursday, there are according to the legend a concrete pad which I don't think is there, that is quite large on the northwest side that goes over the property line. So, I think the plan should be updated .

Ms. White asked to comment that there was a notation on Mike Vignale's report, and he was saying something about making sure nothing went into that 200-foot setback I don't know whether that potential concrete pad actually infringes on that 200-foot setback or not so that might be something he needs to check.

Mr. Moran stated that he thinks this is different.

Ms. Rowden added that this site, just for the board and anybody wants it, does have variances that were granted for a setback for structural placements, She would have to go back to look at the exact relief but the buildings themselves do not intrude into the setback they got zoning relief for them.

Mr. Moran (asked A.A. Doggett to put on the Hall screen a graphic he sent to the Planning Board office) continued, I shot this over this afternoon. I, have but not Barbara, nobody here has seen this. I had fun today, I guess. I overlaid what was approved with As Builts this afternoon. The red is the As Built, black is what was approved in 2015. I would agree that the building locations are where they were approved back in 2015 and at least in my opinion the buildings are in the same location. The parking lot configuration has changed slightly there is if he will zoom way in. The north or the top of the page, so that as far as my preliminary review and obviously the town engineer has not looked at this, but the septic system and the structures are not in the 200-foot setback and they're within the one on the east side. I couldn't quite tell where the 200

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feet is. I am wondering if the north arrow is correct on this drawing that was submitted to us. I was trying to orient myself because the North arrow on the plan is incorrect so the plan east side of the drawing that the variances are held, or it was just it is the same as what was approved back in 2015. I'm not sure that helps clarify anything but I think, reading the engineers memo from September there was, generally, I believe captured most of the inconsistencies or the deviations from what was approved to what's there now. Does anybody else have any other comments.

Mr. Lekborg stated, Mike Vignale came out, unbeknownst to us, we usually get notified, long story short, there are a few things in his report that are inaccurate too and as of the paving, the dimensions of the paving in the parking lot there are some changes, but we are not we are not paved any further over as he claims. Because we have done the tape measure on, as far as shots too so I don't think they're saying there are some changes up on the north part of the parking lot. The Planning Board knows for the fire lane, and I think that is where Dan picked up that we have a future possibility dumpster pad.

Mr. Moran stated, just to kind of step through some of the deviations the red is what was approved or what was built and right in here (pointing to the lower left-hand corner of the parking lot on the plan) the drawing says that this is a paved access way, correct, and this black drawing is what was approved. According to the As Built you have expanded beyond that

Mr. Lekborg interjected that in the lower part of the turn, a little bit right, there, maybe, like a foot.

Mr. Moran continued, the drawing that was provided to the board is 25 to 30 feet more.

Mr. Lekborg stated that no it wouldn't be. If you take the line of building at the back line of it that runs west to east and what it is that the something just come back up again the septic system that is sitting in the island is back in line with the stated variance area. The parking space that you are seeing in the triangle, they are not there, it is all the way up tight, because there are the garage doors coming on the Turner building, so I am saying is that area there is not down the other area is up.

Mr. Moran continued what I'm saying is this red line is what the As Built shows that is out there right now so either...

Mr. Lekborg interrupted saying we are not out as far as that.

Ms. Rowden stated that would mean that the As Built is not accurate.

Mr. Lekborg stated okay, I see what you're saying so this red is not accurate with that (the approved plan).

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Mr. Moran stated that he was not sure what is right or what is wrong, other than it is not consistent.

Ms. White asked to interject something, on this plan the red is where they have built out their parking lot, that black line at the angle is what was a on the approved plan. Because it moved the edge of the parking lot away from the wetlands down there and gave room, if you see that squiggly part that is for snow storage right now, they have paved it all the way practically to the edge. Any snow storage where they are going to punish any snow is going to go right down into the wetlands because they've left no margin of land for any of that snow to go onto.

Ms. Rowden said it is more general than that explicit comment. One of the reasons for having the As Built that was submitted and then having Mike Vignale go out. He needs an orientation point, he needs to see where things are, and to then confirm if the rest of the As Built is accurate. That is the reason for him doing the entire site inspection. Sure, you might find things that are not in conformance with the As Builts or what it is not showing what is on the ground or that it is showing what is on the ground and maybe that something that was mismeasured. That is the entire purpose of having the town engineer go out is to confirm the accuracy of the As Built and any deviations from it that might bring up other issues.

Mr. Lekborg interjected that he would guarantee the Planning Board it is by the black line it is not by the red line, It doesn't have that dog-turn. I missed that when I looked at this plan but so that is where we are by the black line.

Mr. Moran said that is kind of what why the Planning Board wants the engineer to view it now, to go out there because if we are looking at this it is a pretty high level with not actually going out on site and noticing some pretty significant deviations.

Ms. Rowden stated, in all honesty I hope it is built to the black line and that is perfect.

Mr. Lekborg interrupted to say we did it, is we are to the black line, it is built by GPS, I mean we didn't venture off the rigidness of the plans, what we are the outer collectors into that so we are not off that line, if he brought that red line out into where he has it that is not where we are and I miss that looking at the drawing we fixed a bunch of other stuff but that was the one I missed. That is not even close.

Ms. Rowden continued that this is an unusual, amended site plan because you're trying to correct what has already been built or get everything on the same literal page.

A.A. Doggett stated, just because it was brought up at the last meeting, the Storm Water Management areas that are on the northern end of the building, there are two that are

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no longer shown, I did research and those were not meant to be temporary those were meant to be permanent.

Mr. Lekborg stated that one is along here that is on two to one slope so they could never be installed I mean I'm sure Dennis you drove behind (the building) they looked at it as mathematically there are no way to do it. I thought they were temporary though, but if they are not, they are not on the on the next drawing.

Ms. Rowden stated if the storm water basins that were on the original approval were not installed but clearly there are other detention basins on the site one of the things Mike can also look at, is there a need for a revised drainage plan or is it built to a standard that what they did build can handle it that that is entirely possible. Without information on the ground verified as accurate you can't make those judgment calls if you need to.

Mr. Moran replied that with Ms. Rowden's comments, he thinks it is best for the board to reach out to Mike (Vignale) to see what his availability is to go out to the site. Hopefully he can get out there in the next week or two depending on how busy he is, provide comments to the board and the applicant, That then your engineer can survey or take a look at and provide a response to comments and then go from there.

Mr. Moran stated thank you for the list of changes. Obviously, we have an opportunity to take a look at it, you know we are trying to move this forward and close it out as quickly as possible because I know Mr. Turner...

Mr. Lekborg interrupted, was there anything else that was stuck out at you.

Ms. Collyer inquired that she had a question; we would want to check the the funds to make sure that there are enough to pay the engineer.

Mr. Moran informed her that he believed there are about \$450 no sorry \$600 and something dollars in the NPREA account for this project.

A.A. Doggett offered to check the NPREA spreadsheet for this application and the other before the board from the same applicant.

Mr. Lekborg stated, we can make sure that gets taken care of tomorrow.

Mr. Moran stated that he believed that at the last meeting on the 25th you were negative about 464 dollars, and you did provide a check for a thousand dollars

Mr. Lekborg said look if you tell me, it gets done. I mean we are not going anywhere so could you release Mike to let him talk to us again. Because, you know we have a relationship with him and all of a sudden, they get turned off.

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Mr. Moran stated I'm actually copied on all the emails he sends you. He doesn't necessarily need to talk to you, and he doesn't get paid to talk to you. I know you are paying him indirectly but, he works of the board.

Mr. Lekborg stated, I understand he does but what I'm saying to you is that we would like to. When we go out and do these things whether we'd like to do it we bring everything with us what we are doing if we got issues, we like to like work it out or whatever. we have a really good relationship and if we get an issue before we get back to the meeting, we will rectify what we need to do and because I I'm hoping that we can get this one done in one more meeting that would be helpful for Mr. Turner

Mr. Moran opined that not being in Mike's shoes, he can do whatever he wants, but it is my recommendation that any comments that he puts in writing and there is a paper trail because he could have you dig a basin 500 feet away, I'm just exaggerating this

Mr. Lekborg interrupted to say I understand this, but you know how this works right?

Mr. Moran stated I personally could not do that.

Ms. Rowden stated that she has a recommendation and I hope that this will help to move all of this along that if Mike goes out there and this could be communicated to him if he sees say the need for a revised drainage plan based on what he sees and he can put that in his comments letter and ideally maybe in the field if he is able to at least alert the applicant so that if a revised drainage plan it is going to be his recommendation Typically this board does take his recommendations that the applicant will know that ahead of time. I can't tell you to do it, the board can't tell you ahead of time to do it, but you at least know that that might be coming so it would at least provide an opportunity ahead of time to maybe tick some of those things off if it is warranted. I am not saying it is.

Mr. Lekborg stated previously in the history of the whole project that is how we have done it with them, we, who knows how you talk with them to understand what he's trying to point out through so the letters coming forth so we can get ready. We don't come to the meeting and then do another meeting because we get it for the meeting you know we could possibly get in time and get it as we provide something in and get it in to Jim and get it done.

Ms. Rowden replied I am recommending to the board that they ask that if the Town Engineer recommended further work beyond revisions to the plan that he provide that concept.

Mr. Marchand inquired if, when Mike sends the Planning Board the letter after he

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goes out and does his site plan and gives us his feedback do you not get a copy of that.

Mr. Lekborg replied that in the past we don't always get it, historically it is it is kind of like hitting a hit and miss. Or usually get the day of the meeting.

Mr. Guide stated if he sends it to them that is fine, and he thinks he don't need to see it before them or whatever but at the same time it is fine.

Mr. Moran stated as far as I'm aware and I could be wrong that most of the time your engineer or surveyor at the time gets copied I know Mr. Casey got the last one. I think it was Jen's letter she sent down last night he was Mr. Casey was copied and then I also forwarded it off to Mr. Coleman about an hour later right just so you had it.

Mr. Lekborg stated right, so this round we were trying to get Mike to come out before this meeting is what we are trying to do, but he wouldn't do it, he is not going to unless I understand that because you know where it is at.

Mr. Moran stated the Planning Board did not have the funds necessarily to pay him and we didn't know...

Mr. Lekborg interjected that we are more than happy to pay for it. If that makes sense, we will replenish the fund, fill the fund up.

Mr. Moran stated we as a board didn't have the opportunity to meet, we get the information on Thursday and the Planning Board didn't know if he needed to be out there today and I have no idea if he has the availability, I mean that gives him three business days, fairly quickly turn around, I understand that I think if it wasn't three days and it was two weeks, we probably would have done something a little bit sooner, we have an entire month until the next meeting and I think he could hopefully get out there.

Mr. Marchand **MOVED** grant the continuation to December 13th with these two conditions:

1. that there are enough money in the NPREA account to pay for Mike Vignale perform a site visit to verify the conditions shown on the As Built.
2. that when he issues his report that one gets sent immediately to the applicant so that they have the opportunity to address any issues that arise in it before the next meeting.

Ms. Collyer seconded the motion.

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The Board discussed the motion.

Mr. Piper suggested opening the floor for public comment.

A.A. Doggett stated that soon as he gets a report it usually goes to all of the Planning Board, the engineer for the project for the applicant and to Ms. Rowden.

Mr. Lekborg asked if it can go to the applicant too.

A.A. Doggett stated he would send it to Mr. Lekborg as well.

Ms. White asked if they are going to redo the plan if they could include the rest of 14-1-(27-4) on the plan please.

Mr. Moran asked for public input. There was none.

Mr. Moran asked A.A. Doggett to call the roll.

Mr. Moran - Aye Ms. White - Aye Mr. Piper - Aye Mr. LaVoie - Aye Mr. Guide - Aye
Mr. Marchand - Aye The **VOTE** was: **Unanimous**

Mr. Lekborg asked for the amount due.

A.A. Doggett stated the balance in that account was \$527.18 and he stated \$1500.00 would approximate the needed funds to cover the rest of the application's costs. He stated that the account for 14-1-(27-3) has \$2125.00.

Mr. McDonough stated that one of the last comments was from the bank's attorney, who has said that she feels that the residential piece that got put in with the total parcel is infecting the project and if that is the case, we are going to take out the residential piece. We are just going to take it off the plan because the bank's attorney feels that we might have to go

Ms. Rowden asked if the applicant means to take the zoning line off of the plan. Just to be clear this parcel is a whole parcel I understand there is residentially zoned on this parcel, there is one long sliver of residential, but it is not its own parcel it is attached. correct it is a lot 20 so you can't just take it away if you wanted to subdivide it off that is that is a whole other application, and we can talk about that, but you can't just take it away from this project. I mean if there needs clarification or Bank needs that the buildings are commercial buildings on the commercial portion yes part of it is zoned residential if that needs clarification that is something we can certainly put into a letter if that is helpful, but you can't just take it off of the parcel without some additional work.

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Mr. Roger Hamel (Abutter, 17 Juniper Lane) offered to bring some light to this question. Basically, that that residential area doesn't exist. The zoning on that parcel was changed at least 10 years ago when we went away from a zoning map and went to describing the zones in the zoning ordinance by Map-Block-Lot numbers, so in the appendix to the zoning ordinance that is the official Zoning for that entire parcel and the entirety of 14-1-(27-4) is in the light industrial commercial zone. So, basically the border of the residential to the light industrial is the property line not 100 or 150 deep inside of that line, basically, that that line should be taken off the plan because that is not the zone line. The zoning ordinance is very clear that the entire 27-4 is in the Light Industrial/ Commercial Zone

Mr. Marchand stated with that being said the town would be more than willing to supply a letter to explain to the bank what happened and took place and that that is now a piece of Light Industrial/ Commercial Zone.

Chairman Moran recessed the Public Hearing at 7:47PM.

2. Board Business

- a. Acceptance of minutes of the 10/11/22 meeting

Mr. Marchand **MOVED** to accept the minutes as printed; Mr. Piper seconded the motion.

Mr. Moran asked A.A. Doggett to call the roll.

Mr. Moran - Aye Ms. White - Aye Mr. Piper - Aye Ms. Collyer – Aye Mr. Guide – Aye
Mr. Marchand - Aye The **VOTE** was: **UNANIMOUS**

- b. NPREA Manifest there was no NPREA Manifest

- c. Updated on CIP

Mr. Lavoie updated the Board and stated that the Town Administrator was assisting in getting the necessary information to complete the plan. He further stated they committee was working on aligning the chapters to identify their work for 2023.

- d. Review of the Land Use Chapter of the Master Plan

Ms. Rowden discussed the new chapter with the Board and how the Land Use Survey has gone live. She discussed having it up through Thanksgiving and how to get things out to the public. The Board discussed to possible ways to get public participation.

- e. Updated on Grants

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Ms. Rowden explained the scopes-of-work for grants available through the HOP grants and informed the Board that she would be presenting it to the Town in mid-December.

d. Meeting and Hearing Dates

The Board will hold meeting on December 13th and December 27th. The Board members agreed to be certain there would be a quorum present in the Hall.

Ms. White commented about applicants handing out information at the meeting. She commented that this has never been allowed and one applicant has done it at the past 2 meetings, this prevents any members on Zoom from being able to view it. Any new paperwork needs to be delivered to the Planning Board office for proper distribution to members.

A.A. Doggett brought up public hearings for the Master Plan Chapters, a Policies and Procedures update, and a possible public petition warrant article. This will be discussed at the December 13th meeting.

Mr. Marchand spoke about cisterns and what the Planning Board may be able to do to make sure they become Town owned or that they have maintenance agreements in place to ensure their upkeep.

3. Adjourn.

Chairman Moran adjourned the meeting at 8:13PM.

Respectfully Submitted,

James L. Doggett, A.A.
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