



Newton Planning Board

Public Meeting Minutes

October 10th, 2023



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

Present were Mr. Moran, Ms. Eddy, Mr. Marchand, Mr. Eddy, Mr. Ryan, and Alternate Mr. Gibbons. Also Present: James Doggett – PB AA and Ms. Rowden - Circuit Rider

Present via Zoom, Ms. White

Chairman Moran led the salute to the Flag.

Chairman Moran seated Mr. Gibbons as a voting member for the excused Ms. Burke.

Public Hearings

- 1. Bijal Realty, LLC of Newton, NH requests a public hearing for an amended site plan to enlarge their retail space at 21 South Main Street. The property is referenced as Tax Map 11, Block 5, Lot 20.***

Mr. Moran asked Ms. Rowden for her comments and recommendations.

Ms. Rowden stated it is a fairly simple application. I think it is complete I think you can take jurisdiction this almost barely qualifies for needing your review. If there are some questions I will go into it, but I think you are all to take jurisdiction.

Mr. Tim Peloquin (LLS, Promised Land Survey, agent for the applicant.) Stated this is a condominium site plan, the property that has the store, the gas station, the old Feed Supply in the back right corner, and a large cable company that sells cables and manufactures some. They took over most of the property and it was it was done as a condominium, so the store could stay in business and whatnot so there is a Condominium Association. As part of your regulations you required us to come before you, so we came through the process with you received all the approvals, did declaration of a condominium, bylaws, and the like. Recently the General Store that exists there, coupled with the gas station, was looking to change part of their footprint within the building to basically replace a wall with glass move a door a little bit and create an additional retail area that was originally a declared storage area and an office it is a change of use. Inside there is a little

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bit more retail, no office, and no storage. That is the gist of it, as a result that there is an amended site plan. We are back before you with that. We have read through the bylaws, read through the condominium declaration, and the rules and regulations governing this particular condominium. It does not violate any of those ordinances within the condominium itself

Ms. Rowden stated, because I made the statement that this barely qualifies for your review it does need your review it is under Section 4.3 that basically a change within a structure dictates the planning board does a review. It is a change of use, but both uses that either were proposed or existing are permitted uses with within the district.

Mr. Marchand **MOVED** to find the application complete and to take jurisdiction, Ms. Eddy seconded the motion.

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

Ms. White -Aye Mr. Eddy – Aye Mr. Marchand – Aye Mr. Gibbons– Aye Ms. Eddy - Aye
Mr. Moran - Aye Mr. Ryan – Aye The vote was **UNANIMOUS**

Mr. Moran opened the public hearing at 7:19

Mr. Moran asked if the Board had any questions.

Mr. Marchand asked if this retail space is that going to be a different type of retail or is it going to be actually part of what is already the store.

Mr. Peloquin stated it will be part of what is already the store it is not a sub or anything like that. It is all part of what the store does and just a display area basically, expand the different products that they're going to be able to precisely and further I did not say this at the beginning but given my chance to speak right now I will tell you so these plans that you have in front of you which does show that revised floor plan area yeah in a Revision those plans would be re-recorded at the registry of deeds to reflect these changes.

Mr. Ryan asked, I have a question, so what are we looking out here is this one building all broken up or

Mr. Peloquin interjected these were the plans basically that you approved and This if you are looking at sheet two which is basically that is the store is unit A actually we would have to look at the front, the only thing changing you would see retail area at the very top with the 21feet 6inch in and the 27feet 1inch, in that area on the old plans would have showed an office and a storage area. It is being replaced with that use and because there is a slight change to the plan it was decided that we needed a very slight amended site plans the only thing that changes on the plan right there.

Mr. Ryan inquired e so how many units would this be, how many units are there in that

building in that building.

Mr. Peloquin replied in that building Unit A, what is approved, you have got the retail store, you have got the basement which is storage area and then you have a second floor which is the lower left corner of the plan which is an allowed use of two apartments above the store one 970 Square feet the other apartment's 1232 Square feet one is a one bedroom believe the other is a two bedroom yeah one is a studio type of apartment and that use is staying exactly like it is or is intended to so then Unit C is what the unit out back that is unit D and Unit C is the former Newton Grain and Feed Supply that is on the left behind the gas pumps.

Ms. White asked on your new plan for the retail area it says new emergency exit, on the other plan with that shows all the different buildings it shows that there is a propane gas tank right in the place where you are going to have that new emergency exit is that not going to be in the way.

Mr. Moran stated if I am looking at sheet one of two she is referring to there is a Concrete pad on the left of the building and appears to be in the vicinity of the new emergency exit.

Mr. Peloquin stated I will tell you on scale there are about 6 feet from that propane tank to the corner of the building so there would be ample room to put a 3-foot doorway, but if this board deemed to make it these plans approved subject to your building inspector's approval of an appropriate emergency exit something along that fashion would be a suggestion as pointed out astutely by your remote planning board member.

Mr. Ryan asked if there was any designated parking for tenants or residents

Mr. Peloquin stated not additional to what we originally had approved so there is nothing added nothing subtracted

Mr. Marchand opined that it was brought to my attention that the DOT did bring up the fact about Vehicles backing out onto Rte. 108 and they would like to see if we could kind of curb that. I do not know if it is one of the tenants or the owner himself, there is that alleyway to the right of the building as you are looking at it from 108, they tend to park in that alleyway, it would prevent cars if they pulled in to be able to back up just a little bit and then drive around the building to drive out. I mean I understand that the onus is really on the people driving the vehicles too because I myself tend to back in when I pull in there because I like to pull out to 108.

Mr. Peloquin stated I can certainly make mention of this but to put a little teeth to this I mean the board could also make a motion upon any approval that the owner is advised or and it the owner and its customers are advised not to back out into the state highway

Ms. Rowden stated I think the enforcement of any of the suggestion of not allowing

backing out on to 108 or your suggestion I think they are almost impossible to enforce and that is why I said advised.

Mr. Peloquin I understand as a as an alternative you could as a condition of approval require or request that the owner put up a sign of no backing.

Mr. Ryan stated they could also put the pre-cast BMS along there so that you cannot back out.

Mr. Rowden stated not without DOT's approval, it would be their right of away, their property as it relates to the road

Mr. Ryan replied I do not mean the tall ones just the ones you use in a parking lot.

Mr. Moran added I am just thinking where it is just asking for problems, my impression is that people are we are just going to drive over them.

Mr. Ryan replied they will only do that once.

Mr. Marchand **MOVED** The Newton Planning Board found, in fact:

- 1. That the plan falls within the scope of the applicable Zoning and Site Plan regulations for an Amended Site Plan.**
- 2. That Justice would be served by approving the application.**

and with the following conditions:

Conditions Precedent:

- 1. Obtain all Federal, State, and local permits.**
- 2. Meet all Public Health and Safety Codes.**
- 3. Supply recordable Mylars.**
- 4. A note on the recorded page(s) that this is an expansion of existing retail space and cannot be divided into a separate retail space without Planning Board approval.**

Ms. White seconded the motion.

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

Ms. White -Aye Mr. Eddy – Aye Mr. Marchand – Aye Mr. Gibbons– Aye Ms. Eddy - Aye
Mr. Moran - Aye Mr. Ryan – Aye The vote was **UNANIMOUS**

Mr. Gibbons recused himself before the start of the next public hearing.

- 2. A continuation of 125 Development NH Corp.'s request for a public hearing for a 44-unit Residential Development and Private Roadway for their land off**

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Puzzle Lane, in Newton NH. The properties are referenced as Tax Map 14, Block 1, Lots (1-1), 2 and (27-3)(27-6) & (27-7).

Mr. Moran asked Ms. Rowden for an update on the application.

Ms. Rowden stated I know the applicant provided the hydrogeological study, I did not have a chance to fully dive into it I do not believe your town engineer has either, so it was supplied it does appear that that triggers the need for the septic design. Anything other than that I did not have any new information, so my comments still remain.

Mr. Gier (engineer, Jones and Beach for the applicant) stated as you heard since the last meeting we completed a hydrogeological study and submitted it to the board the conclusion of which was that there was no adverse impacts or anticipated by the project we did supply it electronically, if you require hard copies be happy to provide whatever copies you would need. At the last meeting there was some discussion regarding the variances for the roadway the proposed roadway that is located on lot 27-3, which is the big parcel, will require variances where it is located closer than 200 feet from any otherwise zoned property. I say the roadway, but it includes any structures which are the retaining walls, guard rails, and drainage structures. We have several places where this includes those Plaistow lots that are part of common ownership for the project. When the project comes within 200 feet of those lots that are owned by the applicant but within 200 feet of those lots which are zoned residential we require a variance. It also includes the two locations where we enter the residential portion of their property that is in Newton, and exits that location, so just to go over this with you to clarify a little, this will work we currently have this is a Plaistow lot and this is a Plaistow lot they are both zoned residential the 40 the two lots from which the 44 units are located in Newton are also zoned residential so even though we own all of those lots when this road comes within 200 feet of them were required to obtain variances and for any of the structures that are that are involved. Because we do need the variances and after discussion we went and talked to the actual planner in Plaistow to discuss this the applicant decided to relocate a portion of what now we are calling the extension Road near Plaistow to be 200 feet from land in Plaistow that is not owned by the applicant. I brought some handouts just to share with the board. The first sheet is what we have previously proposed.

A.A. Doggett asked, can you send these electronically.

Mr. Gier continued, the first sheet is what I just showed you which is what we currently have submitted and if you turn to the next sheet you can see this is the plan and profile of what we are currently proposing or what you have in front of you I should say the pink line is the town line on the top of that would be is the Plaistow lots and this is The Newton lot so currently you can see the red line shown on your plans which is 200 feet from the external boundary. If you turn to the next sheet, what we are proposing to, and you do not have these in front of you yet but just for discussion's sake we intend to relocate the proposed extension road, so it is totally located on the town of Newton property but 200 feet from the lots that are the applicants Plaistow properties. If that makes sense. If you go to the last sheet which is the same profile you can see in pink at

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the top is the Plaistow / Newton Town Line and so we have relocated to be 200 feet from that external boundary, but we are 200 feet from our Newton or Plaistow properties which are zoned residential. So basically I will go down to that we need 12 variances from the zoning board for the roadway locations the drainage structure locations and the retaining wall and guard rail that are within 200 feet. Since the last meeting we worked diligently to re design that road and to submit the application to the ZBA. We were able to attend the ZBA last week at which point the ZBA is requiring that the applicant obtain information indication from the planning board that those variances are required. Part of my request tonight I am asking that the planning board provide a letter indicating that the applicant needs those variances, and I would be happy to work with the Planner on this if it pleased the board or however you want to do it.

Ms. Rowden stated I am certainly fine going through to identify to see if they have applied for every variance that I think that they may potentially need based on their new proposal I am just seeing this new proposal I mean I understand what you are going for but if the board is comfortable with me doing that that is fine.

Mr. Moran opined you just threw a lot at us. To summarize it you are pulling the project out of Plaistow keeping it 100% in Newton

Mr. Gier stated that was correct because Plaistow does have a requirement that any Development, road, building, anything, has to come from a road that is located in Plaistow. So to avoid the requirement that we go and seek variances there just for the road portion of it and to try to meet the intent of that regulation of the 200 feet from a residential unit we are pulling it back

Ms. Rowden added if you were to go and try to build a building in Plaistow that would likely trigger the need for additional variances from either Newton or Plaistow but that would be a future application.

A.A. Doggett reminded the Board that Ms. White, at the beginning of this, made a comment about the fact that nobody on Zoom is able to follow along. There is a board member who has no idea what is being discussed.

Mr. Moran commented that that is why I was trying to summarize it for the people online. Previously the roadway was in Plaistow, they are now proposing to move it out of Plaistow into Newton. That is generally what is happening or that was the intent the alignment of the roads changed, the basins changed, and for various reasons I think there are a few reasons why the applicant would want to do that. It just makes the project simpler for you to get approvals it is one less community to go to.

Mr. Gier stated it actually eats up some of the developable area in Newton, but I think it makes the project simpler and more approvable, if that is a word, overall. I think at the last hearing that the reason it did not we were not taken for jurisdiction was due to the hydrogeological study yep we have addressed that hopefully we can be accepted, and we

will have plans for the engineer to review within the week have we got any input about the beginning part of the roadway from New Hampshire I am calling it extension for the access to 108. NH DOT works at their own speed. We have been hitting them up and diligently hitting them up. There is only so far you can push them, but we do not have any update currently. We still have an Alteration of Terrain permit to obtain for phase two as well. We have answered all of their questions. They have indicated that they have Accepted all of our answers. I would I guess, and we are currently working with Fish and Game to resolve issues with potential turtles. Once we get Fish and Game to sign off, we have been told that our alteration of terrain permit will be signed.

Mr. Marchand posed, so I take it we need to take jurisdiction so that we can give them the letter that they are going to require for the ZBA.

Ms. Rowden stated you do not need to accept jurisdiction to give him a letter for the ZBA.

Mr. Moran stated because we cannot take jurisdiction of This.

Ms. Rowden opined we have seen it for five minutes. The main issue for me not recommending taking jurisdiction last time was the hydrogeologic report. There Are a number of other items including septic design, there are some things missing With some of the storm water, it is mainly not technical information it is inspection and maintenance there are some items for noting on existing conditions setbacks some of the proposed structures including some of the elevations, there are landscaping details that are missing there are lighting detail that is likely missing, snow storage information, so there are a number of small things. I do not recommend you approve anything without those small details. If you accept jurisdiction I think you just got information, You just got the hydrogeologic report, your town engineer has not had a chance to review it or at least I have not seen any updated review from him.

Mr. Moran asked, do you have any comment on us accepting jurisdiction on a set of drawings that we know 500 feet of the road is moved.

Ms. Rowden commented that I think that you just got the information and at least one of your members has not had a chance to see it. That is part of this discussion. I think it is up to the board but if you do not feel you have the basic information which is what accepting jurisdiction is, that they have supplied the basic information you need whether you agree with it or do not agree with it, if you do not feel that that threshold has been met do not accept jurisdiction. But if you do not accept jurisdiction Let us give you a list of the things that you want to see some of them maybe we have talked about.

Mr. Ryan added at the last meeting you mentioned a couple of them, we did make a request for some more details regarding the emergency egress windows and some of the stairways and the lighting and the overhang, the doorway protections.

Mr. Gier interjected I think those were more of details that would right pan out, but not Necessarily for accepting jurisdiction. It just gives you an overall view.

Mr. Ryan continued at the last meeting we did ask you to provide those I just thought maybe you would have them

Ms. White added, in the past it has not been the way that the planning board does business to take action on something that they just received that night that everybody has not had a chance to review, and I am just talking about the new thing he just handed out

Mr. Moran concurred I would agree and that is because I like to make a mental road map in my head, I would have to personally take jurisdiction of the previous set of drawings that have been reviewed by everybody and submitted correctly versus taking jurisdiction of a project that we are now being asked to acknowledge that the project has changed, but we are taking jurisdiction. What benefit of the to the board is it for us to take jurisdiction is the question I am having

Ms. Rowden suggested at this point, the applicant can request a continuance or if they do not want to do that you can take jurisdiction or you can deny as incomplete those are the basic options. But I will say to help move this along I am happy to work with them to help make sure that they've applied for all the variances that they need.

A.A. Doggett added I would be remissive if I did not remind, especially the newer members of the board, if you take jurisdiction the clock starts sticking. Also Ms. Jeffries had her hand up on Zoom.

Mr. Gier stated that if the board decides not to take jurisdiction we would ask for a continuance and it if it is causing the board a lot of heartbreak because of taking jurisdiction, I do not want to spend all night discussing that we can if there is any other issues that the board has and let us continue it and move on with the other discussions if the board has anything else.

Mr. Marchand added, I do not have a problem though with us giving him the letter so that he can go forward with the ZBA to get those then that way there that is just More that will already be addressed instead of prolonging that part of it I think that is more than reasonable.

Mr. Marchand MOVED to continue the public hearing to November 14th, 2023, Ms. White seconded the motion.

A.A. Doggett added that the ZBA is requesting three things, they are: the Planning Board's review, the Circuit Rider's review, and the Town Engineer's review.

Mr. Moran stated Mr. Marchand made a motion to continue the hearing until November 14th with the condition or with the suggestion that the planning board

Provides the list of waivers to the ZBA in a week is that enough time.

Mr. Gier stated it was.

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

Ms. White -Aye Mr. Eddy – Aye Mr. Marchand – Aye Mr. Gibbons– Aye Ms. Eddy - Aye
Mr. Moran - Aye Mr. Ryan – Aye The vote was **UNANIMOUS**

Mr. Moran asked Mr. Gier if he had any more items to bring up.

Mr. Gier stated nothing specific, obviously if the board had any other questions and we will address those especially the egress and the window and the ADA comments at the next meeting. We did kind of talk about phase two, the prior phase, a little bit. Like I said we are still working on AOT, we are really close. One of the things was the bonding for phase two.

Mr. Moran interrupted him stating that is actually next on the agenda as a separate item. He then invited Ms. Jeffries to speak.

Lynne Jeffries (Abutter, 12 Ridgewood Road, Plaistow) stated our concern continues to be, even with the proposed changes, that we obviously cannot see, the 200-foot setback is supposed to be between residential and light industrial. It should not be the two lots that he does not own it should be to the residential which is at the Newton / Plaistow line.

Mr. Moran stated I think it would be helpful maybe if you saw the updated drawings.

A.A. Doggett stated he would post them on the Planning Board website as soon as he received them in digital format.

Mr. Moran stated that the Board did receive a comment the previous week which he summarized. It was from an abutter, also in Plaistow, with concerns similar to Ms. Jeffries comments, that if the road is in Plaistow that the land is zoned LDR which is low density residential and it does not currently allow for any roadways and the size of the parcel would only allow for a single residential home and they point out the fact that they in their opinion would need some relief in the way of variances and that the low density residential thank you does not allow for a roadway to be constructed in support of commercial structures.

Mr. Moran recessed the public hearing at 7:41PM

125 Development NH Corp's request to speak to the Board about their Performance Guarantee.

Mr. Moran stated the next item on the agenda is a request Mr. Coleman McDonough To discuss 125 Development NH Corporation's performance guarantees / bond with the

board and I believe that this was in regard to phase two.

Mr. Gier stated, to give a synopsis, one of the requirements of our conditional approval which we are working on is to bond the property or the project and our understanding is that the intent is to is a revision erosion control bond. Because it is a private project That the only thing that would be impacted, if say for some reason he started the project and did not finish, if the town is not going to go in and finish the project, it is not a residential road where you are selling houses before the road is completed, so if something God forbid would happen before after he started construction that the bond Should cover the amount to revegetate what has already been impacted and to prevent any erosion. I believe that is the intent he believes, that is the intent, and we would be happy to work with the town engineer to determine what that number should be.

The Planning Board, the applicant and his engineer discussed performance guarantees. Chairman Moran brought up the fact that the conditional approval had expired in September and that no extension had been requested nor could one be requested after the expiration date. The applicant was told that he had the right to re-apply but it would be treated as a completely new application.

Board Business

- a. Acceptance of minutes of the 9/26/23 meeting

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

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

Ms. White -Aye Mr. Eddy – Aye Mr. Marchand – Aye Mr. Ryan – Abs Mr. Gibbons– Aye

Ms. Eddy - Aye Mr. Moran - Aye

The vote was **UNANIMOUS**.

- b. Invest NH Grant – Update

Ms. Rowden reminded the Board that the next meeting would be a work session to prepare language on Ground water protection and Floodplain ordinances for the ballot in March

3. Adjourn.

Chairman Moran adjourned the meeting at 8:09PM

Respectfully Submitted,

James L. Doggett, A.A.
Newton Planning Board

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