

NEWTON PLANNING BOARD PUBLIC MEETING MINUTES

September 22nd, 2020

The Newton Planning Board public meeting was called to order at: 7:02PM

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 2020-18 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 2020-18 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 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 and alone
Mr. Crnolic was absent	

Also, Present:

Ms. White - Alternate – Present and not alone

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

Chairman Hamel appointed Ms. White as a voting member in place of Mr. Crnolic

Chairman Hamel read the following statement:

At our August 25, 2020 meeting Alternate Mr. Sforza was named as a voting member. At that time, he had not been sworn in as a member of the Board.

I have spoken to Town Council concerning this procedural defect.

As of yesterday, I have been told that Mr. Sforza has been sworn in as an Alternate of the Planning Board.

In order to rectify the defect, I make a **MOTION** that the Board ratify all of the actions of the Board that Mr. Sforza participated in at the August 25, 2020 meeting.

Is there a second?

Ms. Collyer seconded the motion.

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

Mr. Hamel- yes	Ms. Estabrook-Yes	Mr. Andrews- Yes	Mr. Foote -Yes
Mr. White -Yes	Ms. Collyer -Yes	Ms. White -Yes	Passed Unanimous

The following Public Hearings were held:

Mr. Hamel recused himself from the next two public hearings.

1. Vice-Chairman Estabrook called the Public Hearing to order at: 7:12PM and read:

A continuation of 125 Development NH Corp of Plaistow, NH's requests for 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.

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

Vice-Chairman Estabrook asked Ms. Rowden for her input on the application.

Ms. Rowden commented on the waivers given at the meeting of August 25th, 2020 and the information that was required had been included on the documents delivered on September 17th, 2020. She suggested that the waivers be listed on the plan set as a condition of approval. She further recommended that the plan still needed approval by the Town of Plaistow Planning Board and a signature block needed to be added for Plaistow. Lastly, she recommended that the surveyor of the frontage for the remainder of lot 14-1-(27-3) as well as the wetlands scientist needed to sign and stamp the plans.

A.A. Doggett informed the board that the plans arrived after the cut-off time (1:00PM) on Thursday September 17th and were not included in the packets. He stated that he did not have them in digital format to share with the Board.

Ms. Rowden commented that the applicant had satisfied the requirements or had waivers for them and also had the variances needed for the Board to create the lots.

Ms. Estabrook commented on the site-walk held on September 13th, 2020 and she asked for input from the Board members who attended. She further commented that she after seeing the frontage on Route 108, she has concerns about the width and type of roadway that will be built.

Ms. Collyer stated that while she did not attend the site-walk she had been to the property on several occasions and if she is correct that the 50-foot frontage on Route 108 had nothing to do with the Planning Board decision.

Ms. Rowden stated that while true, one of the clauses in the subdivision regulations is that the Planning Board should consider future uses of the property. Her concerns about the frontage on Route 108 has been written in her reviews on several occasions

because of the publicly acknowledged proposed future use of the remainder of lot 14-1-(27-3). So, it should be a consideration though there is no road plan at this time.

Ms. Collyer asked if it could be noted that the roadway needs to be addressed on any future proposals for that lot.

Ms. Rowden replied that a note on the plan would be moot as any proposal would have to address the issue. She reminded the Board that once this subdivision is approved and recorded the remainder of lot 14-1-(27-3) will lose its frontage on Puzzle Lane.

Mr. Andrews asked if the variance regarding the frontage on Route 108 create a non-compliant lot.

Ms. Rowden corrected his statement that the variance allows for a non-compliant lot. The approval of the subdivision lies with the Planning Board. The lot does not legally exist until approved by the Planning Board no matter what variances have been granted.

Ms. White commented on her reactions to the site walk and thanked Mr. Lekborg for the information he provided.

Mr. Cucharale informed the Board that they had all the approvals from the ZBA and that the Planning Board was just drawing lines, like crayons on a map; creating lines. That they already had been approved by the ZBA.

Ms. Estabrook disagreed with his statement and asked Ms. Rowden for clarification.

Ms. Rowden stated that if the Planning Board does not approve the subdivision then they are not legal lots. While they have gotten all the variances required to create a non-conforming lot only the Planning Board can create a legal lot.

Ms. Collyer opined that since the future plans for the remainder of lot 14-1-(27-3) is a huge consideration and its own individual application that the Planning Board should defer discussing those items until that application is before the Board. She feels the Board should move forward with the subdivision so the applicant can have his lots and then proceed with the application for lot 14-1-(27-3).

Ms. Estabrook wants to discuss the fact that this subdivision would cut the large parcel off from its existing right-of-way and impact future development.

Mr. Andrews has a major issue with largest lot having only 50-feet of frontage; the limitation of that width (to being a local collector road); and how that could not allow the next phase of the plan to be developed. He stated that as long as the applicant knows of the potential limitations on future use and is satisfied that they know at least one

member of the Board considers it a major “sticking point” on the next phase of the applicant’s proposal he believes the Board can proceed with the vote.

Ms. Collyer asked the applicant to affirm that they are aware of the risk that existed with the Board’s action and that the Board is acting with the applicant’s full knowledge.

Mr. Lekborg informed the Board that they are fully aware of the consequences of their application and are willing to accept a future with the 50-foot frontage. They feel comfortable with what they have, and they will deal with that when they are ready.

Ms. Estabrook asked for Public Input.

Mr. Hamel (speaking as a member of the public) has concerns relating to the common driveway off Puzzle Lane, specifically Newton Subdivision Regulation 8.2.4(A)(1)(e)(i) and 8.2.4.A.4 He feels that these legal protections should be in place and on the recorded Mylars

Ms. Estabrook agreed that these instruments need to be in place.

Ms. Rowden stated that these should already be in place, but it would need to be expanded to allow use by the 2 newly created lots.

Ms. Collyer asked if amending the easement would cover both of the new lots off Puzzle Lane and if this would relieve the Town of both liability and road maintenance.

Ms. Rowden stated that the liability waiver should already be in the easement, but it would need to be amended to include the two new lots that would use it. This could be a condition of approval.

Mr. Hamel reiterated that this language needs to be on the Mylar.

Mr. Piterak asked if the denial of variances for lot 14-1-(27-7) causes it to be a non-buildable lot and if that would affect the 4-lot subdivision.

Ms. Rowden stated that the Variances that were denied do not apply to this application.

Mr. Hamel gave his observations from the ZBA meeting on September 21st, 2020 wherein all the requested variances for 125 Development NH Corp were denied.

Mr. McDonough offered that his attorney would supply a maintenance agreement.

Mr. Alberti asked about the 50-foot roadway requirement and that he understood it could need to be 60 feet wide. If so, how would that impact the Board’s decision?

Ms. Estabrook stated that that discussion would be part of the next step in future development of the remainder of lot 14-1-(27-3).

Mr. Andrews reiterated that that was why he brought up the issue as it will impact the next application for that lot. However, for the 4-lot subdivision it does not really matter.

Ms. Rowden reminded the Board that the 60-foot requirement is not a State regulation but is a Newton regulation.

Mr. Lekborg asked to clarify the matter of the entrance in that if it is 50-foot wide or 60-foot wide the pavement will be 26 feet wide.

Ms. Collyer **MOVED** to Approve the Application with the following conditions:

1. All Waivers and Variances must be listed on the first recorded page.
2. Approval by the Plaistow NH Planning Board.
3. Signature blocks for both Newton and Plaistow Planning Boards.
4. Must include all professional signatures and stamps.
5. Legal protections for the Town of Newton and liability waivers must be in place per Subdivision Regulations:

8.2.4 Driveway, Access, Road Design and Traffic Technical Design Standards

A. Driveways and Access Points

(e) 1. Access to Town Roads

As part of any waiver request, the applicant shall present language that releases the town from any liability for failure to access any site served by the common driveway with safety vehicles and equipment due to substandard construction, lack of maintenance, negligence on the part of any land owner served by the common driveway, and failure to maintain all season passability. Such language shall be placed on the recorded Mylar.

4. Private Roads

Private streets serving developments shall remain in private ownership and the developer shall provide legal instruments to insure their continued maintenance and ownership. All private roads shall comply with these and other town regulations relating to construction and maintenance.

6. Set the bounds.

Mr. Andrews seconded the motion.

Mr. Crnolic joined the Board.

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

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

Ms. Estabrook closed the Public Hearing at 7:51 PM

2. Vice-Chairman Estabrook appointed Ms. White as a voting member in place of Mr. Hamel. She then called the Public Hearing to order at: 7:52PM 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.

A.A. Doggett informed the Board that the applicant had requested this item and item 5 on this agenda be continued to the next regularly scheduled meeting.

Ms. Estabrook **MOVED** to continue items #2 and #5 on this agenda to October 13th, 2020. Ms. Collyer seconded.

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

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

Chairman Hamel returned to the Board

3. Chairman Hamel called the Public Hearing to order at: 7:55PM and read:

Jillian and Jacob Masterson of Newton, NH request a public hearing on a Minor Site Plan to build a horse barn at 41 W. Main St., Newton, NH. The property is referenced as Tax Map 7, Block 3, Lot 30.

Mr. Hamel invited Ms. Masterson to present her application

Ms. Masterson made her presentation for a horse barn on her property for her horses. She addressed parking, as this will be a private barn for her own personal use there would be no parking other than at her house. A gravel drive would lead to the barn for access. Manure would be composted in a newly developed system that would eliminate any odors and which would render the manure to a useful soil additive.

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

Ms. Rowden offered her opinion that the applicant had addressed the comments in her review letter. She stated that the application appeared to be complete and satisfied the Newton Site Plan requirements. She suggested that the applicant follow NH-DoA's Best Practices.

Mr. Andrews **MOVED** to accept the application as being complete, take jurisdiction and declare that this meets Newton's Minor Site Plan requirements. Ms. Collyer seconded the motion.

Ms. Estabrook asked why this plan came before the Planning Board, was it the size of the barn or some other reason

Ms. Rowden stated that because it was an expansion of a non-residential use it would need to be approved by the Planning Board.

Ms. Estabrook asked if it met all the setbacks.

Ms. Rowden assured her it did.

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

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

Mr. Hamel asked how far the barn would be from the road.

Ms. Masterson replied at least 300 feet and it would not be visible from the road.

A discussion about manure and the Best Practices ensued.

Ms. Estabrook asked about the two driveway cuts on the property.

Ms. Masterson informed her that they were pre-existing when she bought the property.

Mr. Andrews inquired if this was just for private use and about training.

Ms. Masterson replied that it was and explained her training of horses.

Mr. Hamel asked if horses would be boarded.

Ms. Masterson informed him that was not planned or anticipated.

Ms. Estabrook asked about the new well.

Ms. Masterson informed her that was to serve the barn and the water would also be used as a dust mitigating asset.

Ms. Estabrook asked about the well setback.

Ms. Rowden stated it was 75-feet.

Ms. Estabrook **MOVED** to Approve the Application with the following conditions:

1. The applicant is required to follow NH-DoA Best Practices.

2. That the use of this facility will be for personal use only (no boarding)

Mr. Crnolic seconded the motion.

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

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

Mr. Hamel closed the Public Hearing at 8:09 PM

4. Chairman Hamel called the Public Hearing to order at: 8:10PM and read:

Justin Prokocimer of Brentwood NH request a Minor Non-Residential Site Plan – Change of Use at 35 S. Main St., Newton, NH. The property is referenced as Tax Map 12, Block 1, Lot 11.

Mr. Hamel invited Mr. Prokocimer to present his application

Mr. Prokocimer made his presentation about moving his business, Preservation Werks, from Brentwood, NH to Newton. He specializes in Volkswagen and Porsche restorations. They do very specific mechanical repairs and body work.

Mr. Hamel asked if they owned the building or were in the process of purchase.

Mr. Prokocimer stated they were in the process of purchase.

Ms. Estabrook asked if the plan could be approved before he has purchased the property.

Mr. Prokocimer stated he had to get the approval prior to purchase.

Ms. Rowden informed the Board that as long as the Town (the seller) had given Mr. Prokocimer the right to bring it before the Planning Board, he could.

Mr. Melvin stated that the Sales and Purchase agreement was contingent upon Mr. Prokocimer getting Planning Board approval.

Mr. Foote asked when page 4 of the application was used. There was a discussion of page 4 and the application process.

Mr. Foote asked if the applicant was willing to give the Town an easement for the Seabrook Station Siren that is on the property.

Mr. Prokocimer stated he would.

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

Ms. Rowden offered her opinion the plan, being the approved lot-line adjustment, was a good basis, but some additional information needed to be added to it. More information about what would be happening inside the building, where customers would park, where staff parking would be, and where vehicles coming in for repair would be parked. Because this is a change of use from a fire station to a repair shop the DoT will require an amended driveway permit. She recommended this could be a condition of approval. The plan needs to show where would a dumpster be located and a list of any hazardous or flammable materials, their quantity and where stored needs to be supplied. Documentation about the septic system needs to be supplied, as well as the location of any signage being proposed, and hours of occupation needs to be supplied.

Mr. Hamel asked Planning Board members if they had questions or comments.

Mr. Andrews **MOVED** to accept the application as meeting Newton's Minor Site Plan requirements. Ms. Collyer seconded the motion.

Mr. Hamel asked Ms. Rowden what it would take to satisfy the concerns in her review letter.

Mr. Prokocimer stated he could supply all the information Ms. Rowden requested be added to the plan.

Mr. Hamel asked if the information could be provided before the next meeting.

Mr. Prokocimer stated he would.

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

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

Mr. Hamel stated that there was a list of information needed to bring the application to completeness. He asked if anyone had any other requests for information.

Ms. Estabrook asked that anything else the applicant can share should be put on the plan.

Ms. Collyer asked that any paint-booth be shown.

Ms. White asked about number of employees. What the number of cars (non-employee) that would be allowed on the property? What the maximum number of cars for display at

any one time? Will there be any additional outside lightening? She feels that a condition of approval should be that no outside storage of parts or materials should be allowed.

Mr. Hamel asked the applicant if he understood what the Planning Board was asking for.

Mr. Prokocimer stated he understood but asked for clarification on if the Board wanted a floorplan of the intended uses.

Ms. Rowden stated that a floorplan would answer a lot of questions.

Ms. Collyer **MOVED** to continue the public hearing to October 13th, 2020. Mr. White seconded the motion.

Ms. Estabrook asked why the Seabrook siren did not already have easement.

Selectman Melvin stated that no easement could be found.

Ms. Rowden suggested that the easement should be created before the property is sold to Mr. Prokocimer.

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

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

Mr. Foote lost his connection, he texted Mr. Crnolic that he was trying to get back into Zoom. Mr. Foote was ghosting in the meeting and A.A. Doggett received permission from the Board to remove him from the meeting. After A.A. Doggett removed Mr. Foote from the meeting he was able to log back in and the vote was held awaiting his return.

Mr. Foote -aye- **Passed Unanimous**

Mr. Hamel closed the Public Hearing at 8:38PM

6. Board Business and Correspondence

A. Future Board Meetings Virtual/In Person

Mr. Hamel stated that the Governor has continued the State-of-Emergency and that the Newton Board of Selectmen have opened Town Hall for in-person meetings. A discussion ensued.

Mr. Andrews **MOVED** to continue holding meetings via Zoom. Ms. Collyer seconded the motion

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

Mr. Crnolic – no Mr. Andrews - aye Mr. White - aye Mr. Foote – no
Mr. Hamel - aye Ms. Collyer – aye Ms. Estabrook – aye **Passed 5 to 2**

B. NPREA Manifest

Ms. Collyer **MOVED** to pay the manifest dated 9/22/2020 in the amount of **\$1,029.72**
Mr. White seconded the motion.

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

Mr. Crnolic – aye Mr. Andrews - aye Mr. White – aye Mr. Hamel - aye
Ms. Collyer – aye Ms. Estabrook – aye **Passed Unanimous**
Mr. Foote had left the meeting.

C. Acceptance of minutes of the 8/25/20 meeting

Ms. Collyer **MOVED** to accept the minutes of August 25th, 2020 with the following corrections: On Page 8 Paragraph 2 change the second sentence to: She feels that the Town has approved the land use; she wants to see the development take place for the tax benefits to Newton. However, recommends that the applicant needs to be very thorough with every single aspect of the plans.

Mr. White seconded the motion.

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

Mr. Crnolic – aye Mr. Andrews - aye Mr. White – aye Mr. Hamel - aye
Ms. Collyer – aye Ms. Estabrook – aye **Passed Unanimous**

Ms. Collyer **MOVED** to accept the minutes of September 13th, 2020; Mr. White seconded the motion.

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

Mr. Crnolic – aye Mr. Andrews - aye Mr. White – aye Mr. Hamel - aye
Ms. Collyer – aye Ms. Estabrook – aye **Passed Unanimous**

D. Transportation Advisory Committee

Ms. Estabrook **MOVED** to recommend that the Selectmen appoint Ms. Collyer as the Newton representative on the RPC Transportation Advisory Committee. Mr. Crnolic seconded the motion.

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

Mr. Crnolic – aye Mr. Andrews - aye Mr. White – aye Mr. Hamel - aye
Ms. Collyer – aye Ms. Estabrook – aye **Passed Unanimous**

E. NHMA Workshops

Mr. Andrews Moved to Approve Ms. Collyer attending the NHMA's Workshop "The Hard Road to Travel". Mr. Crnolic seconded the motion.

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

Mr. Crnolic – aye Mr. Andrews - aye Mr. White – aye Mr. Hamel - aye
Ms. Collyer – aye Ms. Estabrook – aye **Passed Unanimous**

F. (new item) Right-to-Know requests

Ms. Collyer brought up the most recent RTK request. A discussion on how they should be handled ensued.

Ms. Estabrook **MOVED** to Seek the input of Legal Counsel for directions on how they should be handled. Ms. Collyer seconded the motion.

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

Mr. Crnolic – aye Mr. Andrews - aye Mr. White – aye Mr. Hamel - aye
Ms. Collyer – aye Ms. Estabrook – aye **Passed Unanimous**

7. Motion to adjourn

Chairman Hamel adjourned the meeting at 9:21PM

Respectfully Submitted,

James L. Doggett, AA
Newton Planning Board