



**Town of Plaistow, NH
Office of the Planning Board
145 Main Street, Plaistow, NH 03865**

PLANNING BOARD MINUTES

December 5, 2018

Call to Order: The meeting was called to order at 6:31 PM

T. Moore introduced John Cashell, Planning Director.

ROLL CALL: Tim Moore, *Chair*
Lisa Lambert, *Vice Chair*
Laurie Milette
James Peck
Steve Ranlett, *Selectman's Rep, excused*
Geoffrey Adams, *Alternate*
Francine Hart, *Alternate Selectman's Rep*

Also present: John Cashell, Planning Director, Dee Voss, *Planning Board Administrative Assistant*, and P. Michael Dorman, *Chief Building Official*

Agenda Item 2: Review/Approval of November 7, 2018 Planning Board Meeting Minutes:

★ L. Lambert moved, second by L. Milette, to approve the minutes of the November 7, 2018 meeting. There was no discussion on the motion. The vote was 3-1-1 (L. Lambert opposed, J. Peck abstaining).

It was discussed that meeting minutes will no longer be included in the folders at the Board meetings.

Agenda Item 3: Public Hearings:

a. PB 18-24: Lot Line Adjustment - An application from Austin Reality Trust, LLC and Joseph Gesmundo, for a Lot Line Adjustment. The plan proposes to convey 0.15AC from 7 Massasoit Blvd, Tax Map 38, Lot 20, owned by Austin Reality Trust, LLC, to 9 Massasoit Blvd, Tax Map 38, Lot 19, owned by Joseph Gesmundo. Both parcels are located in the MDR district.

Charlie Zilch, SEC and Associates, was present for the application.

C. Zilch offered the following information about the application:

- 7 Massasoit Blvd. is owned by Austin Realty Trust
- 9 Massasoit Blvd is owned by Joseph Gesmundo.
- Intent of Lot Line Adjustment is to transfer 0.15A from 7 Massasoit to 9 Massasoit Blvd
- This is based upon a purchase agreement between both owners.
- There is a well radius easement proposed

C. Zilch offered that there is one (1) waiver request to waive Article I, Section 230-14.1.Z requiring topographic information to be provided on the submitted lot line adjustment plan.

T. Moore asked if the Board had any questions.

★ L. Lambert moved, second by J. Peck, to accept the application for the lot line adjustment of 7 & 9 Massasoit Blvd., Tax Map 38, Lots 19 & 20 as complete. There was no discussion on the motion. The vote was 5-0-0 (U/A).

★ L. Lambert moved, second by J. Peck, to grant the waiver of Article I, Section 230-14.1.Z requiring topographic information to be provided on the submitted lot line adjustment plan. There was no discussion on the motion. The vote was 5-0-0 (U/A).

★ L. Milette moved, second by F. Hart, to conditionally approve the Lot Line Adjustment Plan for 7 & 9 Massasoit Blvd., Tax Map 38, Lots 19 & 20 with the condition of the easement language for the well radius being included on the deed. There was no discussion on the motion. The vote was 4-0-1 (L. Lambert abstaining).

b. PB 18-25: Amended Site Plan: An application from LAPLUME NH NOMINEE TRUST for an Amended Site Plan. The amendment proposes to incorporate consolidated parcels for commercial/residential use and establish on-site storage areas for portable box trailers, building materials, and aggregate. The property is located at 117 Newton Rd, Tax Map 70, Lot 26 in the ICR district. The applicant is the property owner of record.

Charlie Zilch, SEC and Associates, and Ronald LaPlume and Susan LaPlume, property owners, were present for the application.

C. Zilch offered the following information regarding the application:

- R. LaPlume purchased land parcels in ICR District.
- In 2017 the Site Plan to consolidate the purchased parcels with 117 Newton Rd. was presented to the Board.
- There are individual wells for the house and the business.
- There is a shared septic system.
- There is an existing single-family home with its own access way.
- The purpose of the Amended Site Plan is to expand the use of the acquired land to include additional on-site storage of portable box trailers, building materials, and aggregates.

C. Zilch offered that he found out that there is a Zoning Ordinance that prohibits the activity proposed due to required structure setbacks. Therefore, a variance will need to be requested from the Zoning Board of Adjustment (ZBA).

It was discussed that the variance request must be submitted to the ZBA by December 18, 2018 to be presented at the ZBA meeting scheduled for January 3, 2018.

There was a discussion as to what will be stored in the storage containers. It was stated that stones, sand, loam, etc. will be stored in the containers.

M. Dorman offered that there is a storage shed on site that will have to be moved to a different location.

There was a discussion about the easement for the walking trail. It was stated that the easement language is existing and shown on the deed.

R. LaPlume offered pictures of the site, which were passed around to the members of the Board for review.

There was discussion about scheduling a Site Walk. It was decided that D. Voss will post a Site Walk for Saturday, December 15, 2018 at 10:00am. The PB will meet on-site.

★ L. Lambert moved, second by F. Hart, continue the application regarding the Amended Site Plan for 117 Newton Rd, Tax Map 70, Lot 26 until January 16, 2019 PB Meeting.

J. Cashell offered a discussion about the formal/defined process for application submittal, Public Hearings, motions, granting waivers, and the sharing of required information being submitted to the Board both electronically and in paper copy. It was discussed that no member of the Board should ever come to a meeting confused, and that the formal/defined process will ensure that every member of the Board feels comfortable making an informed decision.

★ L. Lambert moved, second by F. Hart, to withdraw the motion to continue the application regarding the Amended Site Plan for 117 Newton Rd, Tax Map 70, Lot 26 until January 16, 2019 PB Meeting. There was no further discussion on the motion. The vote was 5-0-0 (U/A)

★ L. Lambert moved, second by L. Milette, to approve the application for the Amended Site Plan for 117 Newton Rd, Tax Map 70, Lot 26 as complete. There was no discussion on the motion. The vote was 5-0-0 (U/A).

★ L. Lambert moved, second by J. Peck, to open a Public Hearing for the Amended Site Plan for 117 Newton Rd, Tax Map 70, Lot 26 on January 16, 2019. There was no discussion on the motion. The vote was 5-0-0 (U/A).

★ L. Lambert moved, second by L. Milette, to continue Public Hearing for the Amended Site Plan for 117 Newton Rd, Tax Map 70, Lot 26 on January 16, 2019. There was no discussion on the motion. The vote was 5-0-0 (U/A).

c. PB 18-26: A request from Hibbert Trees/Charles Hibbert for a Special Event permit, namely Christmas Tree Sales at 46 Plaistow Road, Tax Map 25, Lot 8 in the CI District. The property owner of record is Lynn C. Wall Revocable Trust.

Charles Hibbert, owner of Hibbert's Tree Farm, was present for the application.

There was discussion about C. Hibbert having to change the location for selling Christmas trees due to the purchase of the 127 Plaistow Rd. location being purchased by Exeter Med Real.

★ J. Peck moved, second by L. Lambert, to accept the application for the Special Event - Christmas Tree Sales as complete. There was no discussion on the motion. The vote was 5-0-0 (U/A).

★ L. Lambert moved, second by F. Hart, to open the Public Hearing for the Special Event - Christmas Tree Sales. There was no discussion on the motion. The vote was 5-0-0 (U/A).

There was discussion that due to the PB Meeting being canceled on November 21, 2018 C. Hibbert was not able to present his application to the Board. There was a decision made between D. Voss and T. Moore to allow C. Hibbert to start selling Christmas trees Thanksgiving weekend with the understanding that if the Board did not approve the new chosen location at the December 5, 2018 meeting it would be a one (1) time event and C. Hibbert would need to re-apply for a new location for future years.

★ L. Lambert moved, second by J. Peck, to approve the Special Event Permit for the Special Event - Christmas Tree Sales. There was no discussion on the motion. The vote was 5-0-0 (U/A).

F. Hart asked C. Hibbert if the current location at 46 Plaistow Rd. will work for him on an ongoing basis.

C. Hibbert responded that the property would work ongoing as long as the property is not rented out long term or sold.

J. Cashell offered to the Board that no one has the authority to allow a person to conduct business without the proper permits.

Agenda Item 4. Public Hearing for proposed Zoning Amendments:

There was a discussion on whether to open the Public Hearing to approve the Zoning Ordinance Amendments or to postpone the Public Hearing to allow the Board more time to review them.

J. Cashell offered that there is a very tight time frame available for approving the Zoning Board Amendments.

It was discussed that legal notice of the Public Hearing needs to be given ten (10) days in advance.

T. Moore offered that January 16, 2019 will be the date to finalize the Zoning Ordinance Amendments.

★ J. Peck moved, second by L. Lambert, to open the Public Hearing to discuss and approve the Zoning Board Amendments There was no discussion on the motion. The vote was 5-0-0 (U/A).

a. Amend the Zoning Ordinance, Section 220-57, Article VIII, Accessory Dwelling Units – ADUs, by adding language that clearly states ADUs are not permitted on multi-family dwelling units.

There was a discussion that it is not in the Board's best interest to add language into a Zoning Ordinance unless it is absolutely necessary.

T. Moore offered that the Board will not be moving forward with the amendment to the Zoning Ordinance, Section 220-57, Article VIII, Accessory Dwelling Units – ADUs, by adding language that clearly states ADUs are not permitted on multi-family dwelling units.

b. Add a new paragraph to the Zoning Ordinance, Section 220-2.1, Article III, General Provisions, that states any application for physical changes or changes of use to a lot that does not have an existing Site Plan of record, that is, on file with the Town of Plaistow and the Rockingham County Registry of Deeds, must include a Site Plan in the application that conforms to the Plaistow Zoning Ordinance and all Site Plan Review and Subdivision Regulations.

There was a discussion that the Ordinance that requires a Site Plan to be part of the application process should be in place as a standard.

It was discussed that Site Plan Review Regulations can be waived by the PB, as they are separate from Zoning Regulations. The PB has no authority to waive Zoning Regulations; only the ZBA has that authority.

There was a discussion that an applicant can request to come before the PB to discuss their proposal ahead of time to plan for the creation of the Site Plan. There does not need to be a completed Site Plan available for the applicant to come in for discussion.

It was decided that the discussion for adding a new paragraph to the Zoning Ordinance, Section 220-2.1, Article III, General Provisions will be continued at the December 19, 2018 meeting.

c. Add a new paragraph to the Zoning Ordinance, Section 220-2.2, Article III, General Provisions, that requires a paper or electronic copy of all septic system designs be submitted with all applications as appropriate.

There was discussion that the requirements for septic systems has changed on a State level and that the State no longer requires that the Town review the septic system design before issuing a permit.

It was decided that the discussion for adding a new paragraph to the Zoning Ordinance, Section 220-2.2, Article III, General Provisions will be continued at the December 19, 2018 meeting.

d. Add a new paragraph to the Zoning Ordinance, Section 220-15, Article III, General Provisions, that states no commercial or industrial use may occur on a site without site plan approval unless the Planning Board has granted temporary permission for such use.

It was discussed that this Zoning Ordinance Amendment will require that the owner of a property come before the Board and get approval before starting anything on site.

J. Cashell recommended that the Board schedule a workshop to review State Statutes so that the Board is fully informed on what the State will and will not allow. It is possible that there are State Statutes that allow certain things to be done on site even though it is against Town regulations.

It was decided that the discussion for adding a new paragraph to the Zoning Ordinance, Section 220-15, Article III, General Provisions will be continued at the December 19, 2018 meeting.

e. Add a new exemption to Article IX, §220-61 that would allow digital signs for Municipal and School uses.

There was discussion about the Library wanting to be able to have a digital sign. There was some advocating for the Library that the requested sign would just be a digital version of what they currently have in place.

D. Voss offered that she had consulted with New Hampshire Municipal Association (NHMA) and they advised that it wouldn't be necessary to propose a warrant article to allow municipal agencies to be able to have digital signs. There are allowances in the RSAs that provide an zoning exemption for municipal purposes.

T. Moore offered that the Board will not be moving forward with a new exemption to Article IX, §220-61 that would allow digital signs for Municipal and School uses.

f. Add new language for noise to Article III, §220-5 creating a maximum decibel level.

There was a discussion to review the proposed new language for noise to Article III, §220-5 creating a maximum decibel level.

T. Moore offered that the new language would need to be posted for discussion at a Public Hearing.

It was discussed that the new language is needed because the current Zoning Ordinance is not enforceable due to there being no parameters defined.

F. Hart reviewed information regarding a noise study that was conducted.

J. Cashell offered his experience with the Town of Hudson, NH as an example of where it is difficult to prove noise on a consistent basis that is louder than the typical ambient noise level of everyday traffic, etc. Significant documentation would need to be kept to make the Zoning Ordinance enforceable.

F. Hart asked if there is any other town with a similar Zoning Ordinance that could be used to provide a template.

J. Cashell offered that in Hudson, NH the ordinance is included in the Health Codes.

It was discussed that a threshold on the number of complaints would be needed as a basis for when the Town steps in and takes action.

It was discussed that in order for a case to be brought to court the appropriate authorities with the proper equipment would need to have documentation available.

J. Peck offered that if the Town is looking at noise, should they also be looking into odors?

J. Cashell offered that in most cases health issues are involved regarding odors. Whatever it is can usually be corrected on a State level by issuing fines.

F. Hart requested that the noise ordinance amendment be taken off the table until the language can be reworked.

F. Hart will work with J. Cashell and J. Peck to come up with the appropriate language for noise regarding Article III, §220-5.

It was decided that the discussion regarding the Zoning Ordinance in regard to noise would be continued until the January 2, 2019 PB Meeting.

★ L. Lambert moved, second by L. Milette, to continue the Public Hearing to discuss and approve the Zoning Board Amendments to the December 19, 2018 PB meeting. There was no discussion on the motion. The vote was 5-0-0 (U/A).

Agenda Item 5: Public Hearing to consider amendments to the Planning Board Fee Schedule.

★ J. Peck moved, second by F. Hart, to open the Public Hearing to discuss and approve the Planning Board Fee Schedule. There was no discussion on the motion. The vote was 5-0-0 (U/A).

D. Voss offered that the PB has seen and reviewed the proposed Planning Board Fee Schedule at least three (3) times. Impact Fees are based upon methodology while other fees are based upon actual figures.

It was discussed that there has been feedback from applicants and third parties that the old Planning Board Fee Schedule was confusing and hard to follow.

★ J. Peck moved, second by F. Hart, to approve the amended Planning Board Fee Schedule. There was no discussion on the motion. The vote was 5-0-0 (U/A).

L. Lambert moved, second by F. Hart, to close the Public Hearing regarding the Amended Planning Board Fee Schedule. There was no discussion on the motion. The vote was 5-0-0 (U/A).

Agenda Item 6: Public Hearing to consider an amendment to the Planning Board's Subdivision regulation, Section 235-32 Construction of Roads, Exhibit A, Roadway Profile.

J. Cashell asked the Board for a brief explanation of the proposed Roadway Profile.

T. Moore offered information regarding the proposed Roadway Profile.

There was a discussion that a side walk is not a requirement. It is optional and up to PB discretion.

It was discussed that the proposed Roadway Profile would provide a standard and if adopted, sidewalks are to be added unless the PB waives the requirement.

J. Cashell offered discussion regarding advocating for the narrowest roadway standard that still provides safety, as it helps cut down water run off issues. The goal is to try to remain as rural as possible. The additional paving adds to unnecessary flooding conditions. Sidewalks should be used to ensure safety in certain areas.

★ L. Lambert moved, second by F. Hart, to open the Public Hearing to discuss and approve the proposed amendment to the Planning Board's Subdivision regulation, Section 235-32 Construction of Roads, Exhibit A, Roadway Profile. There was no discussion on the motion. The vote was 5-0-0 (U/A).

T. Moore asked if the Board had any further comments or questions.

★ L. Millette moved, second by L. Lambert, to approve the proposed amendment to the Planning Board's Subdivision regulation, Section 235-32 Construction of Roads, Exhibit A, Roadway Profile. There was no discussion on the motion. The vote was 5-0-0 (U/A).

Agenda Item 7: Proposed amendments to the Planning Board's Rules of Procedure.

There was a review of the proposed changes to the Rules of Procedure. There was discussion that RSAs are very specific and that citing the specific RSA section instead of trying to re-word it may help to give clarification. It might prove beneficial to change the wording to point to the RSAs rather than the current wording that is provided, doing so would.

Agenda Item 8: Request for Release of Escrow Balance – Valley Field Townhouse Units 33A & 33B.

It was discussed that all invoices have been paid and there is a remaining balance of \$390.00 in the escrow account.

The staff is recommending that a motion be made to release the \$390.00 in the escrow account and that the account be closed.

★ F. Hart moved, second by J. Peck, to approve the release of all escrow monies being held for SEC Realty Trust relating to the project at 138 Newton Rd., Units 33A & 33B, and for the account to be closed. There was no discussion on the motion. The vote was 5-0-0 (U/A).

Agenda Item 9: Old Business:

a. Bond reduction for Eugenia Lane:

★ F. Hart moved, second by L. Lambert, to release the Construction Bond for Eugenia Lane to leave a balance of \$16,553.42 with the following conditions:

- *The \$16,553.42 shall be set as the Performance Bond for a two (2) year period from the Board of Selectmen's acceptance of the road (November 19, 2018).*
- *An amount of \$4,500 shall be withheld from the refunded amount for the New Road Impact Fee.*

There was no discussion on the motion. The vote was 5-0-0 (U/A).

b. Bond/Escrow Release for The Reserve at Snow's Brook:

★ L. Lambert moved, second by J. Peck, to release the letter of credit being held for the bond related to the project known as The Reserve at Snow's Brook. There was no discussion on the motion. The vote was 5-0-0 (U/A).

★ L. Lambert moved, second by J. Peck, to release the balance of the escrow, and close the escrow account related to the project known as The Reserve at Snow's Brook. There was no discussion on the motion. The vote was 5-0-0 (U/A).

c. 71 Plaistow Rd. Status Update:

M. Dorman offered that he has contacted the law firm that handled the auction of 71 Plaistow Rd. Matthew Carbone, Attorney wants to know when the Public Hearing to revoke the Site Plan will be held, and he is looking into the case to provide the PB with the information that they need to know such as who the new owners of the property are. Jay Davey is disputing ownership of Lot 69. Lot 71 and Lot 69 were previously merged into one (1) lot by the PB. However, the two (2) lots have two (2) different individual owners. It is understood that the PB needs to know who the owners are.

Agenda Item 10: New Business:

a. Discussion of proposed zoning amendment regarding ICR District boundaries.

T. Moore offered an introduction to open up the discussion.

D. Voss showed the zoning map with a line where the new district would be if the district line followed the rear property line of parcels that fronted on Route 108/Newton Road.

There was a discussion about the changing of the ICR District boundaries in regard to the Haverhill Country Club area. It was discussed that there could be unintended consequences to changing the boundary lines, such that it opens up the possibility of major future commercial development of the area.

b. Discussion of proposed zoning amendment regarding solar arrays on residential properties.

T. Moore offered an introduction to open up the discussion.

T. Moore has sent out a copy of the Proposed Solar Ordinance to the Board via e-mail. There was also a copy included in the PB Meeting packets.

It was discussed that the Solar Ordinance would prevent the building of solar farms.

The proposed Solar Ordinance will be on the December 19 agenda for discussion and posted to the January 2, 2019 agenda for public hearing.

Agenda Item 11: Communications, Updates, & Other Business:

*Planning Board Minutes
December 5, 2018*

There was a discussion regarding the Board petitioning to the BOS to change F. Hart to the BOS ex officio in place of S. Ranlett, due to his not being present at seven (7) consecutive PB Meetings.

There was a discussion that the Board will need to send a Letter of Recommendation to the BOS to request the change of representation and to assign a new alternate.

★ L. Lambert moved, second by J. Peck, to request that T. Moore, as PB Chair, draft a letter to the BOS requesting a change of representation and the assignment of a new alternate. There was no discussion on the motion. The vote was 5-0-0 (U/A).

F. Hart offered a review of the Rules of Procedure in regard to Attendance.

Town Report Committee:

L. Lambert offered that there will be a meeting of the Town Report Committee on December 17, 2018.

D. Voss offered that all Town Reports were due in by December 3, 2018. All reminders went out today.

There was no additional business before the Board and the meeting was adjourned at 9:30p.m.

Respectfully Submitted,
Samantha D. Cote
Recording Secretary