

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



PLANNING BOARD MINUTES
August 4, 2021

Call to Order: The meeting was called to order at 6:30 PM

1. ROLL CALL:

Tom Alberti, *Ch.* – Present at Town Hall
Tim Moore, *Vice Ch.* - Present at Town Hall
Laurie Milette - Present at Town Hall
Karen Robinson – Present at Town Hall
Greg Taillon, *Selectman's Rep.* Present at Town Hall
Maxann Dobson, Alternate – excused
Bill Coye, *Selectman's Alt.* - excused
John Cashell, *Planning Director* –Present at Town Hall (non-voting)

2. REVIEW/APPROVAL OF JULY 21, 2021 MINUTES:

Draft minutes of the July 21, 2021 Site Walk were included with the meeting materials. No corrections were made.

G. Taillon moved, second by T. Moore to approve the minutes of the July 21, 2021 Site Walk as written.

The motion to approve the minutes as written passed 3(T. Alberti, T. Moore, G. Taillon) -0- 2(L. Milette, K. Robinson)

Draft minutes of the July 21, 2021 meeting were included with the meeting materials. No corrections were made.

G. Taillon moved, second by T. Moore to approve the minutes of July 21, 2021 meeting as written.

The motion to approve the minutes as written passed 3(T. Alberti, T. Moore, G. Taillon) -0- 2(L. Milette, K. Robinson)

3. PUBLIC HEARING:

PB 21-09: The completeness of an application from Jinalben Patel, for an amended site plan to convert a general office building to a retail use, with associated alterations to the parking. The property is located at 2 Main St, Tax Map 24, Lot 43 in the C1 Zoning District. The property owner of record is AC Plaistow, LLC. If the application is found to be complete, the Planning Board may immediately conduct the public hearing.

Ch. Alberti noted the receipt of an email from owner's representative Michael Malynowski requesting the hearing on the site plan application be continued to the first allowable hearing in September. Ch. Alberti continued the hearing to September 15, 2021 and noted no further abutter notices will be sent out for this continuation.

PB 21-07: Ch. Alberti opened the continuation from July 21, 2021 of: The completeness of an application from Brighton Drive, Inc for the consolidation of two (2) parcels; a conditional use permit; and a 14-Lot Residential Subdivision. The Plan proposes to combine the parcel known as North Av, Tax Map 47, Lot 003 (reported to have +/- 43.39AC and +/-145.69' frontage on North Ave) with the parcel known as 437 North Ave, Tax Map 36, Lot 018, (reported to have +/-2AC and 0' of frontage on North Ave), both in the LDR Zoning District. The Plan further proposes a Subdivision of the resulting parcel to include: fourteen (14) single-family lots, fronting on two new (2) public rights-of-way; Brady Circle at +/- 650' and Abby Road at +/- 1,956', with related drainage and utility improvements. The applicant is also requesting a conditional use permit for a wetlands crossing. The applicant is the property owner of record for both parcels. If the application is found to be complete, the Planning Board may immediately conduct the public hearing.

Ch. Alberti noted that the members of the Planning Board absent at the last meeting have brought themselves up to date and invited their questions and input. He then invited the applicant's representative, T. Lavelle of James M. Lavelle Associates, 2 Starwood Drive, Hampstead, NH, to address the Board.

T. Lavelle reviewed updates made to the plan and noted that items on the KNA letter had been taken care of and that the Fire Department's fire suppression concerns had been met by adding a 30,000 gallon cistern as shown on sheet 12. He said the hydrant on the street is managed by Haverhill and the Plaistow FD wanted their own water source. He noted the Fire Department will fill and maintain the cistern. He said there were no special provisions needed for snow removal and the Highway Dept. would clear snow from the pipe stand nozzles as they would with a fire hydrant. G. Taillon asked if the Highway Dept. would need to approve the cistern placement; T. Lavelle said it is outside of the right of way. Ch. Alberti asked how far the cistern and pipes were from the pavement and was told about 15 feet.

T. Lavelle noted they are in discussions with Ross Davis regarding the headlights of people exiting Abby Road shinning into his home. He said they have proposed a row of arbor vitae starting just off the right of way and running past his garage. He said the row would be 5 feet high and 6 feet on center. K. Robinson said she had just put in a privacy arbor vitae row and they are much taller than 5 feet because those don't grow large enough.

T. Lavelle also said they are waiting on two waivers; one is for **Article V, §235-33B(1) – Storm Drainage Specifications** where they are proposing 18" of cover for the proposed culvert instead of 24" as required. He said this is due to the topography at the area they have designed a culvert that will only need 12" of cover but will have 18" so the road will remain level. He noted KNA has recommended this waiver.

The other waiver is for **Article V, §235-36.1 - Street Lighting Requirements**; he noted they are trying to keep the lighting dark compliant and placing streetlights for which the Town will eventually maintain. Ch. Alberti asked if it is desirable to have complete darkness vs lights and safety. L. Milette suggested a street light would be needed at the intersection of Brady Circle and Abby Road, and asked if the existing light on

North Ave. gave enough light at the new road's entrance. It was noted there is a streetlight right at the MA/NH border which helps light the entrance. L. Milette suggested placing a few more lights between Brady and the Abby cul de sac. J. Cashell noted that this is the only chance the Town has to settle the lighting issue, that the residents would want some type of municipal lighting. He noted that modern street lighting is less disruptive of the night sky, they are shielded and cast downwards and LED lighting is less expensive for the Town to maintain and pay for. He suggested that if there is no reasonable lighting at the entrance from North Ave. a light be installed there, one at the Brady intersection, one half-way down Abby and one in the vicinity of the cul de sac. There was considerable discussion of the proper amount of lights for safety and their placement. The Board recommended and T. Lavelle agreed to have five street lights located at North Ave, the Brady intersection, and half-way down Abby between lots 12 + 13 , and one on lot lines in each cul de sac

T. Moore moved, second by G. Taillon to grant the waiver of Article V, §235-36.1 Street Light Requirement with the caveat that street lights be placed at North Ave. and Abby Road if there is not one there already, a street light at the intersection of Brady Circle and Abby Road, one be placed approximately half the length of Abby Road, and one at the end each cul de sac on Abby Road and Brady Circle.

The motion to grant the waiver passed 5-0-0

T. Moore suggested T. Lavelle check with Dee Voss to ensure the LED fixtures are the same as being used throughout the Town. T. Lavelle said it would need to be part of the plan set and KNA final review.

Article V, §235-33B(1) – Storm Drainage Specifications – The request is to have 18” of cover over a proposed culvert instead of 24” as required. KNA has reviewed the request and the plan and notes that the elevation is fixed by existing conditions beyond the applicant control and recommends the waiver be granted.

T. Moore moved, second by K. Robinson to grant the waiver of Article V, §235-33B(1) and allow 18” of coverage over a proposed box culvert at Sta. 0+47 instead of the required 24” as the existing conditions don’t allow for the greater coverage dept.

The motion to grant the waiver passed 5-0-0

Ch. Alberti opened discussion of the Conditional Use Permit (CUP), noting there had been considerable discussion at the July 21, 2021 meeting. He noted the initial discussion had begun back in 2019 and he and T. Lavelle recounted the changes made to the project since the initial plans. Ch. Alberti noted there are minutes from the 2019 Conservation Commission (ConCom) meeting but no official letter had been received by the Planning Board or the applicant.

J. Cashell noted that the last Planning Board meeting included a very in depth discussion of wetlands and that the discussion evolved over the course the meeting and it was determined these wetlands are not a standing body of water or a vernal pool, but is a wetland subject to periodic flooding and even with the large amount of rain this summer the area was more “squishy” underfoot than anything else. He noted there is a minimum amount of impact associated with the well crossings and this is why they were approved by the State. There was discussion about the previous ZBA ruling against well and septic located in the lot areas south of the wetland and why the proposed crossings came about. J. Cashell noted the crossings are of minimal impact and that the owners will not be able to develop within or on the other side of the wetland areas of the lot.

Ch. Alberti noted that as a resident and an elected member of the Planning Board, protecting the wetlands and other aspects of the community are of great importance to many on the Board. He asked what kinds of guarantees could be provided that the homeowners could not put some sort of shed, structure, pool etc. on the areas north of the wetland. T. Lavelle noted that cutting of trees would be the right of the homeowners and that there is no way to put a driveway into the back area because a permit would be needed and denied. J. Cashell noted that if the developer would go along with some language that becomes a condition of approval, and the condition was not appealed it would stand. The condition could be that there would be no further development of each one of the lots beyond the specified border of the wetland, except for the development of the well head. T. Lavelle said they could remove the building set back lines and put on the plan the condition that no structures could be built on the three lots past the wetland. He noted that changes could occur to the wetlands over 20 years and that lot 3-8 might be able to add a structure further back. He reported that the wetlands area for the three lots is group 5 soil but lot 3-8 has type 4 soil and it might change over the years.

Ch. Alberti opened the hearing to public comment.

Ross Davis, 32 North Avenue, Plaistow, NH expressed some concerns related to his property. He said the Abby Road as shown on the plans touches his property line. He said he appreciates the arbor vitae agreement but that 5 feet might be too short since in his experience they do not grow fast enough to provide protection. He proposed they be put along the other boundary to provide 90 degree coverage of the corner and extend 50-75 feet down the property line to help ensure his privacy. He also asked about the buffer zone between his property and the lot behind him on Brady Circle which he thought was 15 feet of vegetation. T. Lavelle said this is not an open space development so no buffers are required. It was noted the house position on the lot is near the cul de sac and there is some 150 feet from the Davis lot line. There was discussion of the Town's right of way and that any vegetation planted on it would become the Town's to maintain, which is not typical. T. Lavelle said that to get the planting outside the right of way may put it in R. Davis's driveway. G. Taillon asked if there was room for R. Davis to plant on his property. R. Davis said that it would cut his driveway in half to do so. He said he would be willing to put the trees on his property if the applicant purchased them. J. Cashell noted that the Planning Board cannot dictate to a developer what should be done for R. Davis on his property, as that is a civil matter between them. He noted that the Town's right of way is for plowing and maintenance purposes. R. Davis also suggested that a vinyl fence might be useful. T. Lavelle said the right of way is the property line and anything added would have to be on R. Davis' property. Ch. Alberti asked R. Davis if he had his property survey done yet; R. Davis said it has not been done yet, that they are doing research on the boundary lines under question and he is not definite on this yet.

Steve Davis, 12 Ocean Drive, Seabrook, NH said he was attending in support of his son Ross Davis. He said there are issues that are not yet resolved, including the lot line, which is why a surveyor has been engaged and is also researching old documents. He said there are indications that the lot lines shown on the plan may not be correct and this may need to be litigated. T. Lavelle noted that they also did research in Haverhill and Plaistow on their property and surrounding properties to make sure there is no overlap. J. Cashell noted that this happens quite often, but the Board has before it a subdivision plan with the signature and stamp of a licensed land surveyor which puts his reputation and license on the line. Any litigation would happen between private parties in a civil court. Ch. Alberti said that the Board accepts applications that include a licensed surveyor's stamp as presented and discusses and reviews the merits of the applications. J. Cashell said that any aggrieved party has the right to appeal the decisions but the Board is obligated to act in an objective manner towards the conclusion of an application that has been fully reviewed and engineered.

Ch. Alberti asked for other comments or questions. None were forthcoming.

Ch. Alberti addressed the lot consolidation and asked for any questions or comments. There were none.

G. Taillon moved, second by T. Moore to approve the voluntary lot consolidation of the parcel known as North Av, Tax Map 47, Lot 3, reported to have +/-43.39Ac and +/-145.69' frontage on North Av, with the parcel known as 437 North Av, Tax Map 36, Lot 18, reported to have +/-2Ac and 0' frontage on North Av with the following condition:

- ***Two (2) original signatures copies of the fully executed Planning Board's Voluntary Lot Merger form are provided to the Planning Department for recording***

The motion to approve the lot consolidation with condition passed 5-0-0

Ch. Alberti addressed the Conditional Use Permit (CUP) and invited further discussion. G. Taillon suggested the agreement about no further development the lots needed to be added to the conditions. It was agreed that lots 3-5, 3-6 and 3-7 should have development restrictions above the wetlands. There was discussion of whether lot 3-8 should be added to the mix. T. Lavelle suggested that all four lots should have restricted development on the north side of the wetland until legal access can be obtained. J. Cashell suggested an agreement across all 4 lots that development past the wetlands of these 4 lots be restricted to well development. The note can be inscribed on the plan and the motion of approval and will be agreed to prior to final Planning Board endorsement.

T. Moore moved, second by G. Taillon to approve the conditional use permit for wetlands crossings between lots 3-7 and 3-8, the wetlands crossing between lots 3-5 and 3-6, and the wetlands crossing at Abby Road at the entrance to North Av and related to the development of a 14-lot subdivision of North Ave combined lots Map 24, Lot 3 and Map 36, Lot 18 with the following conditions:

- ***Favorable review comments from ConCom are received by the Planning Department. If the review comments are not clear in their support, additional review may be required by the Planning Board.***
- ***As shown and inscribed as a note on the approved plan, development of lots 3-5, 3-6, 3-7 and 3-8 shall be restricted to the upland area of said lots located to the south of the associated wetlands of these lots, that is with the exception that wetland crossings for each lot shall be allowed for the exclusive purpose of creating access to the well head of each lot.***

The motion to approve the Conditional Use Permit with conditions passed 5-0-0

Ch. Alberti addressed the 14-Lot Subdivison – Conditional Approval.

T. Alberti moved, second by G. Taillon to approve the 14-lot subdivision, with associated drainage and utility improvements for the combined parcels of Tax Map 47, Lot 3 and Tax Map 36, Lot 18 with the following conditions:

- ***Note added to the Plan for any waiver(s) granted***
- ***Note added to the Plan for approval of Conditional Use Permit***

- *Final Plans will have all applicable Professional Stamps*
- *And that there is a favorable review by the Board's consultant engineer on all outstanding items to include but not limited to the Street Lighting, Fire System, Storm Water management and features and all associated easements thereof*

The motion to approve the Conditional Use Permit with conditions passed 5-0-0

Ch. Alberti concluded the Public Hearing at 8:53pm.

Also noted:

Impact Fees

The subdivision project will be subject to the New Road Impact Fee prior to the roads being accepted as town roads. There is a total of +/- 2,606LF (1956LF for Abby Road and 650LF for Brady Circle) of public roadway proposed. The Impact Fee is \$5.00/LF for a total of \$13,030. If the length of the road changes, the New Road Impact Fee will be adjusted accordingly.

Each single-family dwelling will be subject to School (\$3,187), Recreation Facility (\$914), and Public Safety Impact (\$1,933) fees, which will all be assessed as part of the final Staff Report and due for collection prior to the issuance of any certificates of occupancy. Any dwelling that includes an Accessory Dwelling Unit (ADU) will be subject to additional Impact Fees based on the square footage of the ADU.

Bonding and Pre-Construction Meeting

Bonding and Pre-Construction Meeting

The applicant will need to submit a Bond Estimate Worksheet (BEW) to the Planning Department, prior to the scheduling of a pre-construction meeting. The BEW will be reviewed by Keach-Nordstrom Associates and the bond amount, 50% of the BEW total after review, will be set by the Planning Board at a regularly scheduled meeting. The Bond must be posted prior to the scheduling of a pre-construction meeting. The pre-construction meeting will be scheduled through the Planning Department during regular business hours.

4. OLD BUSINESS

Ch. Alberti noted that this was to have been a workshop meeting but it looks like the Board will be busy so we need to plan accordingly. He said if the Board wants to produce any warrant articles it will need to step it up. J. Cashell said he looked online and feels there is nothing concerning land use that has not been incorporated by the Board. He said the staff also gets notice from the NH and Regional Municipal Assn. He said there may be nothing much beyond tweaking some

5. NEW BUSINESS:

K. Robinson said that the Union Leader had a report about going to the State if you want to avoid going to the Town Zoning Board. T. Moore said there is a three-member appeal board if a developer is working on a housing project in a town and the planning board disapproves it, rather than going to Superior Court you can apply to them and their decisions are as binding as the court. He said the idea was to speed up the court backlog.

6. COMMUNICATIONS, UPDATES, FYI'S AND OTHER BUSINESS

Ch. Alberti outlined the three public hearings lined up for the August 18th meeting. The plan for 191 Plaistow Road was briefly discussed and it was noted that this and 190 Plaistow Road are within the new C3 District. J. Cashell noted there is some litigation involving the ZBA and the 190 Plaistow Road plan namely the ZBA decision calling it a contractor's yard is being appealed. K. Robinson asked who the code enforcement officer is now and was told Tom Tombarello. G. Taillon asked if he is also the building inspector because said he'd had a conversation with him and was told by him that the Town really needs a separate Code Enforcement Officer to take care of all the violations on Rte. 125.

Ch. Alberti asked about any existing projects including the one in Newton; J. Cashell said the Newton plan is inscribed that no development is implied or inferred in Plaistow. G. Taillon said there were two lots that had Plaistow land in them and that Newton only has authority for Newton land and nothing can be done in Plaistow without authorization or it would be illegal and can be shut down. There was discussion about developers going onto a property and cutting trees down for future development and claiming it's for forestry reasons.

Ch. Alberti asked if the code enforcement officer should be weighing in on every application coming in ahead of time and should it be on the staff report so we know ahead of time if it is an approved use. J. Cashell said we should have the BOS request of the Town Counsel what authority they want to establish for the building inspector and whether it would include drafting zoning determinations. G. Taillon believed the Town Manager would make that determination.

7. ADJOURNMENT

There was no additional business before the Board and the meeting was adjourned at 9:16 PM.

Respectfully Submitted,

Charlene A. Glorieux
Minute Taker