

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



PLANNING BOARD MEETING MINUTES
December 6, 2023

Call to Order: Ch. Alberti called the meeting to order at 6:30 PM.

1. ROLL CALL:

Tom Alberti, *Ch.* – Present
Chuck Fowler – Present
Laurie Milette - Excused
Karen Robinson –Present
Richard Anthony, Alternate – Present
Timothy Moore, Alternate – Present
Jay DeRoche, *Selectman's Alt.* – Excused
Bill Coye, *Selectman's Rep.* – Present
Victoria Healey, RPC – Present

Also Present: Charlie Zilch, SEC Associates
Robert Pruyne, RPC
Daniel Kayne, Resident

2. MINUTES:

The minutes of the November 15, 2023 Board meeting had been distributed prior to the meeting.

B. Coye moved, second by K. Robinson, to accept the minutes of the November 15, 2023 as presented

The motion passed 4-0-1 (T. Alberti abstaining)

Ch. Alberti noted that the discussion with Steve Keach has been tabled to allow some time for additional thought about that discussion to make sure it is productive and on point. He suggested that the Board may want to invite engineers, other members of the community and other boards to some meetings and suggested this should happen after the holidays.

4. PUBLIC HEARING

Continued from November 15, 2023

PB 23-12: The completeness of an application from J & R Realty Trust, Jeffrey Raymond, TR, for a proposed Trade Business Site Plan. The plan proposes to raze the existing residential structure and build a new two-story, 1,120SF office building within the existing footprint. The plan further proposes a 1½ story, 3,400SF, 4-unit Trade Business building, with associated parking, drainage, lighting, and landscaping. The property is located at 190 Plaistow Rd, Tax Map 44, Lot 2, in the C3 Zoning District. The applicant is the property owner of record. If the application is found to be complete, the Planning Board may proceed to public hearing

Ch. Alberti reopened the hearing, noting that there had been a request by the Board for the Supreme Court decision regarding the applicant. K. Robinson did a quick recap of the last meeting discussion. Applicant's representative C. Zilch spoke to the improvements of this application over that from a few years ago, reflecting the discussions with the Planning Board and Town engineer. He noted all outside storage has been eliminated, it will be for trade business alone and no contractor vehicles will be on site, and approximately 40,000 SF of outside pavement area has been eliminated as well as some of the larger parking spaces. He said the owner has promised to soften the look of the building and make it look less commercial. The professional office building will be his show case for his products and the owner has promised that the four units in the back will match the tone of the professional building. He noted they were waiting for their DOT permit and it has been given.

Ch. Alberti asked about the Court referencing the location as the C1 District when it has been changed to C3, and it calls the building a warehouse. C. Zilch said it is not a warehouse, and that the Court's decision was focused on the definition between a contractor's yard and a trade business.

B. Coye moved, second by C. Fowler, that the site plan application from J & R Realty Trust, Jeffrey Raymond, TR, for Trade Business use at 190 Plaistow Rd, Tax Map 44, Lot 2, as noted in the Legal Notice for Planning Board Matter #23-12, be approved with the following conditions

- ***Plan Note updated to reflect the NHDOT Driveway Permit number and date of approval***
- ***Note regarding receipt of Town of Plaistow Driveway Permit updated with date of approval***
- ***Conditions of this approval shall be met, and all recording materials, as will be outlined in the Notice of Decision, are to be submitted to the Planning Department within ninety (90) days of the date of the Board's Conditional Approval***
- ***If conditions cannot be met within ninety (90) days, the applicant shall submit a request to reopen the public hearing, including abutter notification, for consideration of an extension of the ninety (90) days. The request to reopen the public hearing must be received, so that notice can be made, prior to the expiration of the ninety (90) days.***

The motion passed 5-0-0

Impact Fees – The following Impact Fees are assessed for this project and must be paid prior to the issuance of Certificate of Occupancy:

Office Space:

1,120SF X 2 (floors) = 2,240SF X \$1.27/SF = \$2,844.80

Commercial Use

3,400SF (1½ story height, no second floor) X \$0.97/SF = \$3,298.00

TOTAL PUBLIC SAFETY IMPACT FEE ASSESSMENT = \$6,142.80

LCHIP Fee – Rockingham County Registry of Deeds requires a \$25.00 LCHIP fee for all new site plans at the time of recording. Information as to how to write the check will be provided in the Notice of Decision.

Recording – the Notice of Decision will provide details for what will be required for the recording of the plan. Please do not submit any plans for recording until you have received the Notice of Decision.

5. BUILD OUT ANALYSIS

Rob Pruyne, Rockingham Planning Commission, reviewed the Build Out Analysis. He said the build out analysis is close to complete and he is hoping to answer any questions so it can be wrapped up. He said he is waiting to see where the Board wants to go, He said this is a base analysis looking at today's zoning and constraints and essentially creates a scenario with the most build out possible. He also wishes to create an alternative scenario to come up with a wish list or reconfiguration of zoning which will help answer questions for the Town. He asked if the Board saw issues or errors before it is finalized and if the Board is looking for an alternative scenario, and how it can be played with to give the Board more information. He noted the Town is not maxed out under the current zoning and more building can be done.

There was discussion about the mechanics of the analysis as well as the process. There was considerable discussion of open space and what is truly protected and unbuildable. The Board provided information to R. Pruyne about restricted space and ongoing development. It was suggested that Dee Voss might assist in identifying these ongoing areas. R. Pruyne noted the analysis reported a possible 241 new units. T. Moore suggested there are about 2,800 housing units currently in Plaistow. After discussion the Board thought there might be under 200 possible units. It was noted that the overlay district and ADU's are not included in this analysis. R. Pruyne asked the Board to get back to him with ideas and changes that should be made in the analysis. There was discussion of the prime wetlands public hearing and whether a warrant article was forthcoming. Town owned property was also considered. T. Moore addressed the requirement of PRD's to have 50% open space; he said he was unsure how that space is deeded under the condo/home owners association. R. Pruyne said he has rarely seen anything that deed restricted to building in perpetuity.

6. ZONING AMENDMENTS

Ch. Alberti noted Dan Kane, 64 Main St., Plaistow in the audience. He reminded the Board that there was a forthcoming application from D. Kane and that any specifics relevant to a future or current application are not allowed. C. Fowler recused himself from the discussion.

D. Kane introduced himself and noted he is the Owner of Sweet Hill Farm at 82 Newton Rd., Plaistow. He referred to an amendment he has proposed to create an Agritourism overlay district and asked to have a dialogue on the amendment and answer any questions. He said he used the Agritourism zoning ordinance in for Thurston County in Washington state, but also reviewed Hampton, NH and Lancaster County, PA.

The Town's process for Citizen's Petitions was reviewed. It was noted that D. Kane's petition is not filed with the Town, that he was looking for the Planning Board to have a chance to weigh in and think about it. Ch. Alberti noted that the Board could agree with a Petition in principal but the way it is written could be counter to or impact other aspects of the Town's zoning. R. Anthony suggested that if the concern was that such a petition might runs contrary to zoning the Board could take that, have it not go the citizen petition route and take it on as something the Board would be interested in doing and have a little more control. Ultimately it would be reviewed by Town Counsel to catch areas of conflict with zoning. He suggested the Board could collaboratively work these out. Ch. Alberti noted that the Board has been working on its zoning amendments for several months, there would be work required with any new Citizen's petition coming before the Board now and the timing could be challenging for the Board to do such work.

Ch. Alberti said that to be safe for both sides, the Board must limit its interaction on this subject. V. Healey clarified that it is not the Agritourism ordinance that is at issue, but because there will is an coming to the Board at its next meeting so there is some conflict of interest. Ch. Alberti said he did not want any procedural issues to complicate future decisions.

There was discussion of what Agritourism is. D. Kane said that New Hampshire defines it very broadly and briefly. He said that his experience shows that if a farm is small it needs to broaden what it offers in order to keep it as a farm. He said his notion of creating a definition of use is to eliminate the ambiguity that exists now. D. Kane said there are roughly 5 farms in Plaistow that publically engage in agriculture funning from 15 to 40 acres of total land, not necessarily farm land. There was discussion about whether citizen's petitions are reviewed by Town counsel and whether legal problems with them are required to be addressed by the petitioner.

V. Healey was asked if she had comments. She said she feels that the timing issue is unfortunate and there is no time to do any real analysis. There was a question of whether any citizen's petition would be reviewed before going onto the ballot. R. Anthony said this would come to the Board for review regardless. D. Kane noted the Board can discuss but not change a Citizens Petition. T. Moore noted that there is general interest in the Board to do something with Agritourism and he will have something for the next meeting. T. Moore said that if someone is considering a citizens petition at this late date he recommends they file the petition and if the language the Board comes up with on its own amendment is not meeting the intent of the petitioner then both go forward to the Town Meeting. There was discussion about not having competing amendments. V. Healey reminded the Board that at the next meeting it will be reviewing a new application from D. Kane and a newly written Agritourism ordinance. R. Anthony suggested that if the Board took the citizens petition as its own and modify it and submitted it to be reviewed it would not constitute bias. There was further discussion about the timing of this petition and the possibility of appearing biased. After must discussion it was agreed the Board would not take this on.

K. Robinson said she wanted to make changes to the C3 Zoning Ordinances definitions by change from 12 to 10,000 SF by adding as non-permitted uses warehouses and contractors yards. There was a discussion of what warehouses were. V. Healey noted the definition of warehouse distribution center as a facility that is that is exclusively engaged in as a primary use for the receipt, storage and distribution of goods products,

cargo and materials including train, shipment by boat, rail, air or motor vehicle. Warehouse light industry – a building that is used primarily for light industry, the storage of goods and materials may be an accessory use only to the primary uses as defined in light industry. K. Robinson wanted to change from a maximum size of 12,000 to 10,000 SF. V. Healey quoted that the 20,000 SF is the maximum building size allowed when only one business occupies as single building, but with multiple businesses in a single building the size is 60,000 SF. There was considerable discussion about the building size in C3. The Board generally agreed the building size should go from 20,000 SF to 15,000 SF and to adjust the corresponding lot coverage. There was discussion of lowering the lot size in C3 to allow for small business. There was discussion of reducing the maximum building size for multiple businesses.

Proposed Plaistow Zoning Amendment Z-24-01: Are you in favor of Amendment #1, as proposed by the Plaistow Planning Board, to the Plaistow Zoning Ordinances, Article V -Establishment of Districts and District Regulations, Table 330-32K, IND2 – Industrial 2 by deleting “Aviation” as a permitted use in the district?

Recommended by the Planning Board: 0-0-0.

Proposed Article Z-23-01 Voter’s Note: The proposal is to delete aviation as a permitted use in the IND2 (Industrial 2) Zoning District

There was clarification that this is to delete an allowed use. The Board generally agreed

Proposed Plaistow Zoning Amendment Z-24-02: Are you in favor of Amendment #2, as proposed by the Plaistow Planning Board, to the Plaistow Zoning Ordinance, Article X. Home Occupation, §220-67 Conditions, by adding the words “total, which includes cars, trucks and/or trailers” to Letter G to read?

Sufficient off-street parking for the employee and clients is to be provided. Any required deliveries can only be made by vehicles consistent with normal residential activities between the hours of 7:00 a.m. and 7:00 p.m. The outside parking of not more than two business vehicles *total, which includes cars, trucks, and/or trailers*, for each dwelling unit on the lot is permitted in all residential districts provided the vehicles:

There was discussion about the intent of this ordinance. The Board generally agreed with it.

Proposed Plaistow Zoning Amendment Z-24-03: Are you in favor of Amendment #3, as proposed by the Plaistow Planning Board, to the Plaistow Zoning Ordinance, Article XVA Solar Collection Systems, as detailed below?

Amend §220-50.1. Objective(s) and purpose., by modifying the phrase “...**this** ordinance...”, to “...*the solar* ordinance...” and by adding a second sentence to the second paragraph as follows: “*In doing so the solar ordinance will help protect the general health, safety and welfare for all Plaistow residents as well as making sure the ordinance is in compliance with applicable state and federal laws.*”\

Amend §220-50.2. Definitions., by adding new definitions, modifying definitions and listing all definitions in alphabetical order as follows?

PHOTOVOLTAIC SYSTEM (also referred to as *Photovoltaic Installation*): An active solar energy system that converts solar energy directly into electricity.

RATED NAMEPLATE CAPACITY – Maximum rated alternating current (“AC”) output of solar collection system based on the design output of the solar system. *Sometimes measured in direct current (“DC”) at the output of the solar panels. The AC measurement is the output of an inverter(s) that convert the DC power to AC power.*

SOLAR ACCESS: *The access of a solar energy system to direct sunlight.*

SOLAR COLLECTION SYSTEM MOUNTS -

- A. ROOF MOUNT – No change in definition.
- B. GROUND MOUNT – No change in definition.
- C. CARPORT MOUNT – A solar collection system of any size that is installed on a carport (*roof only*) over a *commercial/industrial* parking area.

SOLAR COLLECTION SYSTEM SIZES -

- A. SMALL SYSTEM SOLAR – No change in definition.
- B. MID-SIZE SYSTEM SOLAR – No change in definition.
- C. LARGE SYSTEM SOLAR – No change in definition.
- D. VERY LARGE SYSTEM SOLAR – No change in definition.

HOT WATER SOLAR SYSTEM - *Sizing for these systems shall be based on solar land coverage only.*

SOLAR ENERGY: *Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.*

Amend §220-50.3. Table of Permitted Uses by adding the Commercial 3 (C3) zone to the Commercial (C1) zone column making C1 and C3 permitted uses (for solar) identical and by deleting the word “Solar” from the system names in the Solar System Type column?

Amend §220-50.4. Roof mounts. by adding a new paragraph 3 as follows:

3). *The highest point of the roof mounts may not exceed 55 feet and must have the fire chief’s approval if the highest point exceeds 47 feet.*

Amend § 220-50.5. Ground Mounts. by adding a new sentence to the 2nd paragraph of as follows:

In no case shall the height of the panels exceed 20 feet.

Amend § 220-50.5. Ground Mounts. by changing the setback requirement in paragraph 4 from “200” feet to 50” feet.

Add a new section § 220-50.11. Abandonment. as follows:

All ground mounted solar collection systems that are no longer in use shall be considered abandoned and must be removed by the property owner in 150 days or less after the abandonment occurs.

Recommended by the Planning Board: 0-0-0.

There was discussion about the intent of this ordinance. The Board generally agreed with it.

Proposed Article Z-24-03: Voter's Notes. The revisions presented in this amendment are based on the recommendations from the Energy Committee that correct an omission, add relevant definitions, and propose height and setback distances.

Ch. Alberti noted that he felt that retail and cleaning up the definition of retail was one of the quintessential outcomes of the Economic Development Survey. He wants to impact zoning via the amendment process. It was noted that parking and septic are always of concern and could limit what is able to go into the various open storefronts. V. Healey referred to the definitions of retail from three Towns but noted many do not define it.

L. Milette noted that a lot of Main Street from Rte. 125 was all commercial and it was changed back to mostly residential in the 1980's.

The latest date for the Public Hearing is January 3rd.

V. Healey read the Town's definition of retail business: A business enterprise where goods and/or services are sold or rented directly to the ultimate consumer.

V, Healey read the critical public hearing dates. Jan. 4, 2024 is the last day to post and publish the notice of the first Public Hearing. The last day to hold the first public hearing is Mon., Jan 15, 2024. It was agreed to vote to post the warrants to the public meeting at the Dec. 20th meeting, schedule the public hearing on Jan. 3rd and if not finished on Jan, 3rd continue the meeting to Jan. 10th. R. Anthony noted that the 2023 warrant article 14 was defective and V. Healey had proposed some language that would tighten it up by removing the reference to multi-family district since one does not exist. She noted that the way it is currently written does not have to be changed since it is not applicable and would not lead to litigation.

7. NEW BUSINESS

Bond Reduction Request: Palmer Woods: On September 21, 2022, the Planning Board set the bond amount for the above noted subdivision project at \$220,393.25 (50% of the reviewed Bond Estimate Worksheet). As per §235-12(I O)(b) of the Planning Board's Subdivision Review Regulations (SDRR) and per the review by KeachNordstrom Associates (KNA) of a Bond Estimate Worksheet.

In July of 2023, the applicant received a partial release of the bond and is now requesting an additional release. Per SDRR §235-12(I I) Release of Construction Bonds ...

(11) *Release of construction bonds [amended 4-1-2015]*

As work is completed, inspected, and found to be installed per approved plan, the applicant may request a corresponding portion of the construction bond to be released to the applicant. The requested release amount will be reviewed by the Planning Board Engineer and approved by the Board. In no case will the amount released reduce the amount remaining below 10% of the original total amount plus the anticipated cost of recording record (as-built) plans. It is expected that the ten percent amount will roll over to a performance bond.

The original amount shown and reviewed on the Bond Estimate Worksheet was \$440,786.50 and the bond was set at 50% of that number, \$220,393.25. There was a completion of \$303,420.00 of the work that reduced the value of the site work to \$107,024.50 and on July 19, 2023, the Board reduced the bond to \$53,512.23 (50% of the revised site work value).

A second request to reduce the bond has been received. The value of the completed work to date of the outstanding site work is \$57,029.50, The completed work has been verified by Jeff Quirk of Keach-Nordstrom Associates and his memo is attached.

Per §235-12.(I I) the applicant is required to maintain a minimum bond of at least I 0% of the original site work, which would be \$44,078.65, that is as far of a reduction the applicant can be granted.

Once the site is completed, this I 0% will converted to the Roadway Performance Bond that will be held for two (2) years by the Board of Selectmen upon acceptance of Stephen C. Savage Way as a Town road.

Mr. Quirk's memo notes a bond reduction of \$57,029.50, which would leave a bond balance of \$49,995.00. But the memo forgets to note that were it not for the requirement to not reduce the bond to less than I 0% of the original amount, we'd only be able to hold half that number of \$28,514.75, which would be far less than the I 0% amount that must be maintained. The draft motion below is reflective of all the requirements of the SPRR §235-12.(I I). Based on all the above information, Staff is offering the below draft motion for the Board's consideration.

B. Coye moved, second by C. Fowler that the construction bond for the Palmer Woods Subdivision to be reduced to \$44,078.65 for the duration of the project. No further reductions will be considered.

The motion passed 5-0-0

ADJOURNMENT

There was no additional business before the Board and the meeting was adjourned at 9:37PM.

Respectfully Submitted,

Charlene A. Glorieux
Minute Taker