

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



PLANNING BOARD MEETING MINUTES (***DRAFT MINUTES – Subject to change once approved and amended by the board at its next meeting on December 6, 2023***)

November 15, 2023

Call to Order: Vice Ch. Robinson called the meeting to order at 6:32 PM.

1. ROLL CALL:

Tom Alberti, *Ch.* – Excused
Chuck Fowler – Present
Laurie Milette -Present
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
John Raymond, J&R Gutters
Victor McKinney, resident
Fran LaChance, resident
Josh Manning, Lewis Builders
Lynn Zebrowski, Jones & Beach Engineers
Meghan Martin, resident, 9 Buttonwood Farm
Corinne Martin, resident, 9 Buttonwood Farm

K. Robinson appointed R. Anthony as a voting member for the meeting,

2. MINUTES:

The minutes of the October 18, 2023 Board meeting had been distributed prior to the meeting.

B. Coye moved, second by C. Fowler, to accept the minutes of the October 4, 2023 as presented

The motion passed 5-0-0

3. PUBLIC HEARING

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.

B. Coye moved, second by R. Anthony to accept 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, as complete.

L. Milette noted that the information that came from KNA said a copy of the Supreme Court's opinion would be part of the packet and it is missing. C. Zilch said he was unaware he needed to provide copies for this meeting and noted the case number is cited on the plan and could be looked up.

K. Robinson read the following from KNA Review #3 into the record:

- A cover letter/letter of intent, prepared by the applicant's consultant on September 25, 2023.
- An application for site plan approval, with attachments, dated September 25, 2023.
- NHDES Construction Approval for installation of an individual sewage disposal system dated March 22, 2021.
- Applications for both NHDOT and Town of Plaistow Driveway Permits.
- A Site Plan (10 drawings) April 22, 2021 and last revised September 11, 2023.
- A Drainage Report dated September 22, 2020.
- A copy of an Opinion issued by the NH Supreme Court (Rockingham No. 2022-0236) on July 28, 2023.

C. Zilch noted that these had been submitted to Steve Keach and he had reviewed all the items. The Board felt it should have this material before making a decision.

The motion passed 5-0-0

Applicant's representative Charlie Zilch, SEC Associates spoke to the application saying this is a resubmittal of a plan that had been before the Board twice and withdrawn. At issue was the owners desire to have J&R Gutters, Inc, a siding and roofing business, as the main tenant on the site, as a trade business and the Town's position that it is a contractor's yard. He noted the NH Supreme Court had ruled in favor of the applicant. He noted the existing residential dwelling has long been abandoned and the plan is to raze it

and construct a two-story, 1120 SF office building within the existing footprint. Behind the office building will be a 1.5 story, 3400 SF four unit trade business building. The office space is to be occupied by J&R Gutters and the trade business building will be supportive of J&R Gutters in its entirety, or units may be rented out to other trade businesses. The plan looks to allow four employees per each unit, 2 office and 2 trade business workers with adequate parking for all. The driveway from Rte. 125 will be the main access and the driveway on Old County Rd will be right turn exit only. He noted there will be no outside storage.

There was discussion of the look of the office building and the trade business building, and the landscaping buffer along the front. C. Zilch said the owner is willing to soften the trade business building so it does not look quite as commercial and more like a professional building. K. Robinson said it still looks like a warehouse.

There was discussion about landscaping. There was discussion about the setbacks; L. Milette noted the 50' setback had been changed to 80' in 2022. C. Zilch said that the existing building footprint is exempt from the setback requirement. V. Healey read from the Plaistow Zoning Ordinance that in Commercial 3, lot size greater than 120,000 SF and /or the building size greater than 10,000 SF, the setback is 80' but all other C3 lots are 50'. C. Zilch said the plan is 51,000 SF so the 50' setback applies.

There was discussion of using the existing well rather than municipal water.

K. Robinson opened the hearing to public comment. Victor McKinney, 28 Old Country Rd, stated he lives in the house that abuts the property. His main concerns are the buffer zone, and the need for a 15' evergreen to block out the view. He said the area was all residential homes originally and he's concerned with the vehicles that could be coming to the four bays. He was also concerned with the business hours and noise. It was noted the hours of operation are Monday-Saturday 6AM to 6 PM.

There was discussion of the parking for commercial vehicles, which will be in the back of the building.

Fran LaChance, Crossbridge Estates, asked why a business has to go in a residential area. K. Robinson said that commercial and residential are allowed in the C3 district. F. LaChance said she was against this being allowed. She referred to Lewis Builders but was told that is the next application for consideration.

It was noted that J&T will occupy the office building and that they will take at least one bay but most likely all the bays.

V. Healey read the permitted uses for C3 into the record. Prohibited uses: contractors yards. Permitted uses: retail business, wholesale business, personal service business, business office, professional office, bank, restaurant, funeral establishment, commercial recreation, private/service club, publishing, a vehicular brokerage office, drive-through restaurants, produce stands, essential service, theaters, trade business, small industry.

John Raymond, brother of the property owner, said that the gutter business extrudes gutters, siding, windows and make a lot of different products and install them. He said the space is to be taken over by J&R Gutters but if things get tight they would rent out a bay to perhaps an electrician or air conditioning/refrigeration person. He said they will use expensive products and stone on the building and make the site beautiful. He said they have another location for storing what the Board does not want to be on Rte. 125. He said they will make reasonable concessions.

The meeting was continued to December 6, 2023.

PB 23-13: The completeness of an application from Lewis Builders Development, Inc. Attn: Josh Manning, for a two-lot subdivision. The plan proposes to subdivide the parcel at 17 Harriman Rd, Tax Map 50, Lot 78, said to be 2,143,873SF (49.2A) of land area, and 315.27' of frontage on Harriman Rd, into two (2) parcels: Parcel 1 proposed to be 137,857 SF (3.16A) of land area, and 157.7' of frontage on Harriman Rd. Parcel 2 proposed to be 2,006,008SF (46.5A) of land area, and 157.6' of frontage on Harriman Rd. The property owner of record is Gerald E. Holt Revocable Trust u/d/t November 9, 2022, Gerald E. Holt TR. If the application is found to be complete, the Planning Board may immediately conduct the public hearing.

B. Coye moved, second by C. Fowler, to accept the two-lot subdivision application for the property at 17 Harriman Road, Tax Map 50, Lot 78 and as noted in the legal notice PB #23-13, as complete.

The motion passed 5-0-0

K. Robinson opened the Public Hearing. Joshua Manning of Lewis Builders representing property owner Gerald Holt introduced Lynn Zebrowski of Jones & Beach Engineering and spoke to the application for the two lot subdivision. He noted they would withdraw the request for Waiver #6 as the Planning Board cannot waive Plaistow Zoning Ordinances.

There was discussion of the history of the property and a concern about an easement that would go to Canterbury Forrest or an emergency access road, and that the Town did not want anything like this constructed. It was suggested this go on the plan as a condition. It was decided this concerned a Town owned property and could not be put on this plan.

B. Coye noted the staff recommendation to continue the application to December 20, 2023 due to outstanding issues, but that the waivers could be dealt with.

K. Robinson invited comments from the public.

Abutter Meghan Martin, 9 Buttonwood Farm, asked the Board to deny the waiver for the soil analysis, the 25 year stormwater analysis, location of soil erosion, preliminary designs to mitigate soil erosion, and stormwater drainage waivers. She said though this hearing is only for the subdivision and if its more than one property they will have to come back and do all the testing, but she has concerns about what this one property, driveway, etc. could do to the wetlands on the remaining 40 plus acres. She suggested that without these tests there is no way to determine what will happen to the wetlands.

Abutter Corinne Martin, 9 Buttonwood Farm, asked about the wells and septic systems. She said there is one well and one septic and one would need to be moved or addressed as one would be on the newly formed property. She expressed concern about wells and septic systems in relation to wetlands. She also expressed interest in purchasing the piece of Town property directly behind them or having it put into an irrevocable trust and conservation land. J. Martin showed the location of existing and proposed wells and septic systems on the plan. He said the existing wells would be decommissioned following NHDES requirements and new ones sited as shown on the plan. He said the State has approved the septic systems.

L. Zebrowski spoke about the waivers, saying the soil mapping was done for the existing lot was fine and only a small piece of the proposed lot to get good enough soils to support a house, well and septic. She said they could actually support many more buildings but they don't want to, they just want that one 45 acre lot with one house at this time. She said any increase in run off would be absorbed by the 45 acre lot. She noted there is a proposed driveway not a road. It was agreed that any additional work would require full soil testing.

Waiver Request #1: Article V. Plats and Data for Final Approval, §235-18.II (letter i) - Soil boundaries, soil symbols using standards of High Intensity Soil Survey, and determined by the on-site inspection of a certified soils scientist. – KNA does not have any objections to the waiver request (See KNA #3)

K. Robinson moved, second by R. Anthony to grant the waiver request from Article V, 235-18.II for the reasons stated in the waiver request.

The motion passed 5-0-0

Waiver Request #2: Article V. Plats and Data for Final Approval, §235-18.JJ - An estimate of the rate of runoff before and after development using the Soil Conservation Science Method for a twenty-five-year and twenty-four-hour rainfall (for subdivisions larger than five acres) – KNA does not have any objections to the waiver request (See KNA #3)

K. Robinson moved, second by R. Anthony, to grant the waiver request from Article V, 235-18.JJ for the reasons stated in the waiver request.

The motion passed 5-0-0

Waiver Request #3: Article V. Plats and Data for Final Approval, §235-18.KK - Approximate location and plan for each proposed soil erosion and sediment control measure as outlined by the Rockingham County Conservation District. – KNA does not have any objections to the waiver request (See KNA #3)

K. Robinson moved, second by C Fowler, to grant the waiver request from Article V, 235-18.KK for the reasons stated in the waiver request.

The motion passed 5-0-0

Waiver Request #4: Article V, Plats and Data for Final Approval, §235-18.LL – Preliminary designs of any structures which may be required to control runoff. – KNA does not have any objections to the waiver request (See KNA #3)

K. Robinson moved, second by C Fowler, to grant the waiver request from Article V, 235-18.LL for the reasons stated in the waiver request.

The motion passed 5-0-0

Waiver Request #5: Article V, Plats and Data for Final Approval, §235-18.MM – An estimate of storm water drainage capacity and location of all storm sewers, culverts, and similar measures. The capacity of the storm waterer facilities shall be based on the estimate rate of runoff after construction for a ten-year, twenty-four-hour rainfall, using the Soil Conservation Service method. – KNA does not have any objections to the waiver request (See KNA #3)

K. Robinson moved, second by C. Fowler, to grant the waiver request from Article V, 235-18.MM for the reasons stated in the waiver request

The motion passed 5-0-0

K. Robinson noted the number and nature of the outstanding issues (legal, recording, and plan review), and continued the application to the December 20, 2023, meeting. She closed the Public Hearing.

4. ZONING

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 Ordinance, Article II. Definitions by adding a definition for Aviation Use to read as follows?

AVIATION: To provide for uses associated with the operation of an airport, including aviation related facilities, structures, and activities.

There was discussion of why we need to have a definition. T. Moore said it could be struck as an allowed use if the Board preferred.

It was agreed to strike this as an allowed use.

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?

G. 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:

V. Healey said this is just a clarification as there was no such restriction before. It was agreed to keep this article.

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.
- E. ***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 1 (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.

It was agreed to keep this amendment.

It was noted that the Stormwater Management Zoning amendment would also need to be included.

K. Robinson asked for changes the Board might want to the Zoning Districts, noting she had a few things for C3 and C2. L. Milette suggested changing C2 to MDR. V. Healey said that changing a whole zoning district would need to be reviewed by the Board’s attorney. T. Moore noted there are a lot of small commercial shops along C2 which would become nonconforming. It was noted they would be grandfathered in. It was agreed this would require more consideration. Maintaining suitable architecture was considered. It was agreed to bring this up at the workshop meeting. There was more discussion about defining retail and retail businesses, building size limitations, lot size limitations and building setbacks. It was agreed to circulate this information for the next meeting.

V. Healey referenced site plan applicability based off a change made last year about a multifamily district the Town does not have. She has examples from other communities to consider. She will circulate the email and it can be dealt with at the next meeting.

V. Healey noted a change suggested by Steve Keach for Stormwater management, for applicability at 20,000 SF instead of 15,000 SF saying that 15,000 SF is too low and certain projects would be caught. It was agreed to keep it at 15,000 SF.

5. MASTER PLAN GOALS

V. Healey said that part of the HOP Grant is to write a housing master plan chapters and part of that is to have some goals. She presented 8 options at the public engagement event, and wrote down people’s comments. She asked for feedback. It was noted this does not have to be acted upon immediately. It was agreed to push this back until the zoning was done as the HOP Grant doesn’t need to be finished until July 2024.

The Prime Wetlands hearing was discussed; it was noted it had to be postponed because of notification requirements. T. Moore said this would go on the ballot with the Selectmen’s warrant articles.

V. Healey reported that Rob could come to the next meeting to answer Build Out questions.

7. NEW BUSINESS

The Palmer Woods bond reduction request was not in the packet of meeting materials, so it was not acted upon

K. Robinson suggested a meeting with the Zoning Officer, Building Inspector and Engineer on December 6th before the scheduled workshop meeting. It would be non-public and would consider how and why some decisions are being made. It was suggested this would need to be run by the Town Manager. T. Moore suggested that is not a legitimate reason for having a non-public meeting.

K. Robinson spoke about all trailer trucks and big delivery trucks have to take a left out of 144 Main St. because it would involve going past where the school comes when they come in, when they go out, with the church and everything right there in the center of town, they were always making a left turn. Cars could make a right turn but trucks were told they have to make a left turn out in the town. She said she has followed two huge trailer trucks turning right. V. Healey said that would be a condition of approval and is on the site plan review that is registered and that would be a zoning enforcement issue. T. Moore suggested a letter from the Code Enforcement Officer might be appropriate.

ADJOURNMENT

There was no additional business before the Board and the meeting was adjourned at 9:15 PM.

Respectfully Submitted,

Charlene A. Glorieux
Minute Taker