

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 January 3, 2024***)

December 20, 2023

Call to Order: Vice Ch. Robinson called the meeting to order at 6:31 PM.

1. ROLL CALL:

Tom Alberti, *Ch.* – Excused
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: Bill Hall, SEC Associates
Josh Manning, Lewis Builders
Chris York, Greenman-Pederson, Inc.
Michael Durant, Nouria Energy
Wendy Moley, resident
Nolan Pelletier, resident

Ch. Alberti appointed R. Anthony as a voting member for the meeting.

2. MINUTES:

The minutes of the December 6, 2023 Board meeting had been distributed prior to the meeting.

B. Coye moved, second by C. Fowler, to accept the minutes of the December 6, 2023 as presented

3. PUBLIC HEARING

Continued from November 15, 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.

There was discussion about the history of the application. K. Robinson asserted that there was to be no more than 2 houses on the land. Josh Manning, Lewis Builders, asserted that at the current time that is all that is proposed but it is not an acceptable restriction, that as an existing lot of record, anything that is allowed by the Town's zoning ordinance should be able to be done on that lot in the future. J. Manning reported that the line easement and the driveway have been recorded.

B. Coye moved, second by C. Fowler, to approve the two-lot subdivision of 17 Harriman Road, Tax Map 50, Lot 78, and as described in the legal notice for PB matter #23-13, with the following conditions:

- *Favorable final legal review of the sight distance easement by Attorney Cleary*
- *All items noted in the Staff Checklist Review are updated on the final plan set for recording and a Response letter from the applicant is received for the file*
- *Notes for the waivers that were granted on November 16, 2023, are added to the plan by citation and date approved*
- *Recording information for Limited Waiver of Municipal Liability noted on final plan*
- *All required professional stamps are on recording plan*
- *Sight Distance Plan, as noted in the Plaistow Zoning Board of Adjustment Notice of Decision, is included as a recording sheet of the final plan set*
- *Recorded easement be noted on the final plan by book and page*
- *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 re-open 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

Town of Plaistow Driveway Permit

Prior to the issuance of a building permit for a structure on the property, a Town of Plaistow Driveway Permit will be required.

Impact Fees:

A 2-lot subdivision, without a new road, is not subject to any Impact Fees. However, any residential dwelling constructed on the resultant parcel will be assessed impact fees at the time of a building permit application.

LCHIP Fee at Recording of Plan

This subdivision plan is subject to LCHIP fees assessed by the Rockingham County Registry of Deeds. Information regarding payment of that fee will be included in any Notice of Decision.

Submission of Recording Materials

This information will also be included in the Notice of Decision.

PB 23-14: The completeness of an application from Nouria Energy Retail for an amended site plan. The plan proposes a 340SF addition to an existing building, and the shifting of the existing drive-thru lane approximately 8 feet south. The property is located at 119 Plaistow Rd, Tax Map 29, Lot 59 in the C1 Zoning District. The property owner of record is Nouria Energy New Hampshire Realty, LLC. If the application is found to be complete, the Planning Board may immediately conduct the public hearing.

R. Anthony moved, second by C. Fowler, to accept the application from Nouria Energy Retail, for an amended site plan that proposes a 336SF addition to the existing building, and the relocation of the drive-thru eight (8) feet south for the property located at 119 Plaistow Rd, and as noted in the legal notice for application PB #23-14, as complete

The motion passed 5-0-0

Ch. Alberti noted the retail use is not changing or expanding. Owners' representative Chris York of Greenman-Pederson introduced himself and Michael Durant of Nouria Energy. He noted that the addition is for restrooms for employees and customers and they are shifting the existing drive through eight feet to the south. He noted there are about eight arbor vitae plants in the area for the addition, and those will be relocated on site. No grading changes are proposed or any additional impervious area. The existing gas meter will be relocated and all the existing utilities will be connected within the building. The existing fencing will be extended, the air conditioning units and mechanical units will be relocated behind the addition in the fenced-in area. Some of the signage and drive through equipment will also be relocated.

K. Robinson noted that originally the building, like the others in the area, had trees for protection and visual appeal. However the trees in front of this building were removed and small bushes were planted. T. Moore noted that changes were made around the time the State was widening Rte. 125. He noted that this materials presented look like half a site plan and the Board will want a whole site plan. C. York said they did not survey the whole site since they were only changing a part of it. Ch. Alberti noted that whole plan must be

submitted even if it's not all being touched. C. York noted they have not surveyed the whole site in years and the original plans show the old gas station that was there. Ch. Alberti asked about impact on the abutters. C. York said the new drive-thru lane is 32 feet from the property line, and there will be no changes to parking. M. Durant said the addition is to provide multiple occupant restrooms and increase the kitchen area.

There was discussion of the State requiring the full site plan for recording. There was discussion of the trees that were located in front of the drainage area and whether the Town's former planner had approved a change in the plan. C. York said they did submit a plan in 2021 that was approved by him and which did not include trees but shrubs. R. Anthony asked if they would be amendable to putting trees back in the area. There was discussion of whether making any change to any aspect of a plan should come back to the Board.

T. Moore referred to a landscaping note in the staff report. *Landscaping Note - Note #19 indicates full compliance with the Board's Landscaping Regulation, except where waived. A waiver has been submitted for the Board's consideration for the front landscaping buffer that has changed since the reference plan #D-29334 was approved. Previous Planning Director, John Cashell, allowed some replacement landscaping in the front buffer that was not fully compliant with the existing site plan. There are also no details on the rest of the site's landscaping that would indicate full compliance for the rest of the site if the waiver for the front of the parcel is approved by the Board.*

There was discussion of why this hadn't come to the Board and how to rectify this. V. Healey asked if they would be amendable to increasing the landscaping to become compliant with current regulations. M. Durant said they could work with staff but were not sure how compliant they could get. Ch. Alberti said the Board wants them to work with the Board not staff. He asked if they could return to the original site plan and put trees back in. M. Durant suggested this might be difficult and was why the change was made in 2021.

Ch. Alberti invited public comment. Wendy Moley, 13 Old Road, Plaistow asked if the addition would be taking away some of the parking lot and how close to the property line they would get. The answer was 32 feet to the property line. She noted that Unitil took down some trees in the area and the big pine trees could still cause problems. She suggested a better buffer would be smaller maples. V. Healey looked at Google historical ,aps and in 2018 there were some bigger bushes and a few trees in the Rte. 125 buffer.

Ch. Alberti noted that the original plan had trees and bushes that looked nicer than what is there, and the Board did not approve the variation or change from the original plan and asked if they would be amendable to go back to the original plan. M. Durant said that typically when trees are placed near a roadway they are difficult to maintain and often don't last due to road salts, etc. T. Moore said it was possible the original trees didn't survive. M. Durant asked if it would be possible to work with the Board on further enhancement of the landscape plan and if they would work through staff with the Board. The Board agreed, noting they are looking for thematic consistency with the overall landscaping concept for Rte. 125. M. Durant noted that he didn't believe they could get back to what was there previously, that he didn't know what was there previously, but would work with the Board to enhance the landscaping plan.

Ch. Alberti continued the hearing to January 17, 2024 and asked for a revised landscaping plan that's compliant with the original. M. Durant stated again his doubts of being able to return to the original plan, but agreed to look into a modified, enhanced landscaping plan. The Board said it was ok with the proposed addition to the building and just looking for some adjustment to landscaping.

PB 23-15: The completeness of an application from Daniel Kane, Sweet Hill Farm, LLC for a preliminary design review of a brewpub. The plan proposes a two-story, 11,725 total finished footprint, to include a bar, brewpub, pizza bar, private rooms, kitchen, office, storage and related parking and stormwater management. The property is located at 82 Newton Road, Tax Map 68, Lot 8 in the ICR and LDR Zoning Districts. The applicant is the property owner of record. If the application is found to be complete, the Planning Board may immediately conduct the public hearing.

C. Fowler recused himself from the discussion. Ch. Alberti noted this is a preliminary design review and therefore non-binding discussion.

Bill Hall, SEC & Associates representing applicant Dan Kane spoke to the application. He said the concept is to construct a brew pub on the site using some of the existing buildings and modifications and additions to those buildings in the north east part of the site closest to Newton Rd. They would maintain the existing driveway and two garages. He said the total footprint is approximately 11,725SF. The brewery would be capable of 40 barrels a day and would be located in an existing garage. The middle and eastern ends would be for the bar, brew pub, pizza bar and private rooms for functions. The southern end would have space for the kitchen. There would be approximately 205 seats for service and there will be parking to accommodate that and employees or 116 spaces. They are hoping to use recycled asphalt. There was discussion of Town parking requirement.

They are proposing a series of tanks for the septic system between the greenhouses and the farm stand and addition. There was discussion of dealing with wastewater from a brewery in a place that doesn't have public water. Ch. Alberti said the Board would want to hear more details on this aspect if it progresses. B. Hall said the Clean Solutions system treats the waste water more than a typical septic system. A preliminary look at storm water management was presented. A cistern to be filled by roof run off was described. They will be drilling two wells behind the northwestern most greenhouses. There was discussion of protecting the water source and supply of the abutters. B. Hall said there would be a limit of 9,720 gallons of water per day from the wells. He noted the septic system will be recharging on the site as well and suggested they will be recharging more than withdrawing.

There was discussion of the driveway and nearby Corliss Hill Rd coming out of Haverhill and driving difficulties it currently presents. Ch. Alberti asked about potential street lights and better alignment of the streets and safety for possible busy traffic times. A DOT permit is likely to be needed. There was discussion about Police and Fire input. V. Healey said that on the actual site plan, the Board would want to know the exact amount of new impervious surface that will be added. She also mentioned traffic circulation as a big concern. There was discussion about the existing private dwelling and how that driveway came into play and the potential need for a second way out.

There was discussion of the visual matching of the various buildings under discussion. B. Hall said this would be done, and that lighting would match the carriage style lighting now on the site. The site plan itself was discussed and whether all the buildings had been surveyed; B. Hall said everything was surveyed for this plan. He said ideally they would want to submit for a summer or fall project.

4. ZONING AMENDMENTS

Ch. Alberti noted that Laurie Miette's proposed amendment regarding the MDR had been withdrawn due to timing and notification issues. There was discussion of defining retail or defining retail uses. Ch. Alberti

brought up having completion guidelines for plans approved but non-completed within a specific timeframe and then being grandfathered when zoning ordinances change. These will be a priority in 2024. V. Healey said there is an RSA for substantial completion being exempt from new zoning laws. She said you might be able to put a condition on the site plan that says it must be substantially completed within X years or come back for re-review. T. Moore spoke about vesting and said that work must be started within two years and another level within five years and if not then new zoning would take effect.

There was considerable discussion on storm water and prime wetlands. It was regretted that the Planning Board has not had enough time to review these issues, and the studies and public hearing on them. There was question of whether this could be discussed as part of the public hearing.

Language to be deleted is noted in **bold strikethrough**

Language to be added is noted in ***bold italics***

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 220-32K, IND2 – Industrial 2 by deleting “Aviation” as a permitted use in the district?

B. Coye moved, second by K. Robinson, to post Plaistow Zoning Amendment Z-24-01 to the Public Hearing on January 3, 2024.

The motion passed 5-0-0

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:

B. Coye moved, second by R. Anthony, to post Plaistow Zoning Amendment Z-24-02 to the Public Hearing on January 3, 2024.

The motion passed 5-0-0

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 -

ROOF MOUNT – No change in definition.

GROUND MOUNT – No change in definition.

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 -

SMALL SYSTEM SOLAR – No change in definition.

MID-SIZE SYSTEM SOLAR – No change in definition.

LARGE SYSTEM SOLAR – No change in definition.

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 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.

B. Coye moved, second by K. Robinson, to post Plaistow Zoning Amendment Z-24-03 to the Public Hearing on January 3, 2024.

The motion passed 5-0-0

Proposed Plaistow Zoning Amendment Z-24-04: Are you in favor of Amendment #4, as proposed by the Plaistow Planning Board, to the Plaistow Zoning Ordinance, Article IV. Natural Resources Protection; §220-19 Stormwater Management Regulations as detailed below?

Repeal and Replacement of the following sections: § 220-19.1. Purpose, and § 220-19.3. Minimum Thresholds for Applicability.

Amend § 220-19.3. Minimum Thresholds for Applicability by changing the minimum threshold for applicability from 20,000 square feet to 15,000 square feet.

Deletion from the Zoning Ordinance to be moved to the Site Plan Regulations: § 220-19.4 Other Required Permits, § 220-19.5. Construction/Post Construction Regulations, and § 220 19.6 Operation and Maintenance

Deletion from the Zoning Ordinance: § 220-19-3.1 Responsibility for administration, § 220-19- 3.2 Severability, § 220-19-3.3 Ultimate Responsibility, Sample Town of Plaistow Notice of Violation, and the Sample Stormwater Permit Application.

The full language of the replacement text is available on the Planning Board’s webpage and hard copies will be available at the polls.

to be compliant with the New Hampshire Municipal Separate Storm Sewer Systems (MS4) requirements that were set by the United States Environmental Protection Agency,

B. Coye moved, second by C. Fowler, to post Plaistow Zoning Amendment Z-24-04 to the Public Hearing on January 3, 2024.

The motion passed 5-0-0

Proposed Plaistow Zoning Amendment Z-24-05: Are you in favor of Amendment #5, as proposed by the Plaistow Planning Board, to the Plaistow Zoning Ordinance, Article V. Establishment of Districts and District Requirements by amending Table 220-32M - “C3- Commercial 3” Section C - Areas and Dimensions as detailed below?

Amend Table 220-32M.C(1) Areas and Dimensions by changing the minimum lot size area from “80,000 square feet” to “60,000 square feet”.

Amend Table 220-32M.C(5) Areas and Dimensions by changing the maximum building size where a single business is to occupy a single building from “20,000 square feet” to “15,000 square feet”.

Amend Table 220-32M.C(6) Areas and Dimensions by changing the maximum building size where multiple businesses are to occupy a single building “60,000 square feet” to “45,000 square feet”.

Plaistow resident Nolan Pelletier, 24 North Ave, interrupted the meeting expressing concern about the amendment and charging that these weren't posted. He was told this is not a public meeting for the zoning amendments but a vote would be held on whether to post the proposed amendments to the public hearing where public input is welcomed.

There was discussion about whether there had been a full discussion of the amendment before. V. Healey noted the full discussion had only been about the single business, and that the others were changes to match the percentage.

B. Coye moved, second by C. Fowler, to post Plaistow Zoning Amendment Z-24-05 to the Public Hearing on January 3, 2024.

The motion passed 5-0-0

Proposed Plaistow Zoning Amendment Z-24-06

Ch. Alberti explained to R. Pelletier how and when public comments are allowed during the regular meetings of the Planning Board. R. Pelletier said he believed bringing this to the Planning Board is bypassing the deliberative session. There was discussion of why the Conservation Commission brought this amendment to the Planning Board. B. Coye noted it is the recommendation of NHMA it be done this way.

Proposed Plaistow Zoning Amendment Z-24-06: Are you in favor of Amendment #6, as proposed by the Plaistow Planning Board, to the Plaistow Zoning Ordinance, Article IV, Natural Resources Protection, §220.18.3, Boundaries and Setbacks, by reducing the size of the prime wetlands buffers as detailed below?

Wetland Buffers and Setbacks (in feet)			
Prime Wetland	Limited Use Buffer	Parking and Structure Buffer	Wastewater System Setback
Existing Prime Wetland	100	125	125
<i>Proposed Prime Wetland</i>	<i>50</i>	<i>100</i>	<i>100</i>
Wetlands Greater than 3,000 SF	50	75	75

Furthermore, shall the Town vote to designate certain wetlands, referred to as prime wetlands, within its borders as being worthy of extra protection because of their size, uniqueness, fragility, unspoiled character, or other relevant factors that make them of substantial significance per RSA 482-A:15?

The criteria to designate prime wetlands are detailed in NH Department of Environmental Services wetland rules Env-Wt 700 and were used in the selection of proposed prime wetlands.

After considerable discussion, the Board expressed confusion about the proposed amendment and if it should be brought to the Public Hearing.

T. Alberti moved, second by R. Anthony, to consider posting Plaistow Zoning Amendment Z-24-06 to the Public Hearing on January 3, 2024.

The motion failed 0-5-0

There was more discussion about the proposed amendment and how it came to the Board.

B. Coye moved, second by C. Fowler, to not post Plaistow Zoning Amendment Z-24-06 to the Public Hearing on January 3, 2024.

The motion passed 5-0-0

Proposed Plaistow Zoning Amendment Z-24-07: Are you in favor of Amendment #7, as proposed by the Plaistow Planning Board, to the Plaistow Zoning Ordinances, Article V -Establishment of Districts and District Regulations, Table 330-32M, C3 – Commercial 3 by deleting “Vehicular Brokerage Office” as a permitted use in the district?

B. Coye moved, second by R. Anthony, to not post Plaistow Zoning Amendment Z-24-07 to the Public Hearing on January 3, 2024.

The motion passed 5-0-0

Proposed Plaistow Zoning Amendment Z-24-08: Are you in favor of Amendment #8, as proposed by the Plaistow Planning Board, to the Plaistow Zoning Ordinance, to modify Article III, General Provisions, §220-2.1 Site Plan Applicability as follows?

Replace § 220-2.1 Paragraph B to read:

B. Any Commercial, Industrial, Change of Use, and Multi-family (3 or more units) Residential uses, regardless of the Zoning District they’re located in, are required to include a Site Plan in the application that conforms to the Plaistow Zoning Ordinance and all Site Plan Review and Subdivision Regulations.

There was considerable discussion about multi-family definition, site plans and site plan reviews, as well as whether incorporating elderly housing and PRDs into the amendment was needed. It was noted they have their own rules already. It was noted minor changes can be made at the public hearing.

V. Healey said the current amendment under discussion is for Part B of Site Plan Applicability and read from part C that any application for a change of use or any application submitted as a PRD or as affordable housing for older persons in the district must include a site plan in the application, so they are already covered.

B. Coye moved, second by C. Fowler, to post Plaistow Zoning Amendment Z-24-08 to the Public Hearing on January 3, 2024.

The motion passed 5-0-0

7. OLD BUSINESS/NEW BUSINESS

Ch. Alberti noted there is Citizen's Petitions that will be coming to the Public Hearing on January 3rd and the Board will vote whether to recommend or not. There is another petition but it is not yet decided where it will be heard.

V. Healey read from NH RSA **673:3 Zoning Board of Adjustment and Building Code Board of Appeals.** –

III-a. A local legislative body's decision to change from an elected to an appointed zoning board of adjustment, or from an appointed to an elected zoning board of adjustment, may be made without amending the zoning ordinance. In a town operating under the town meeting form of government, the decision may be made at any annual or special town meeting. If the town has adopted the official ballot for the election of town officers, the question may be, but is not required to be, placed on the official ballot. If the question is not placed on the official ballot, the question shall be placed in the warrant and shall be voted on as a separate article at the town meeting.

ADJOURNMENT

There was no additional business before the Board and the meeting was adjourned at 9:47 PM.

Respectfully Submitted,

Charlene A. Glorieux
Minute Taker