

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



PLANNING BOARD MINUTES
July 15, 2020

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

Chair Peck read the following COVID-19 statement:

The Plaistow Planning Board, due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, is authorized to meet electronically, and these reasons shall be reflected in the minutes. Notice of this electronic meeting was sent to all abutters and published in the Eagle Tribune Newspaper.

The Plaistow Planning Board is utilizing the GoToWebinar program of the GoToMeeting platform for this electronic meeting. All members of the Board have the ability to communicate contemporaneously during the meeting through the GoToWebinar program, and the public has access to contemporaneously listen and, if necessary, participate in this meeting. The link to access this meeting was provided on the Town's website, with the notice where to email with It is strongly suggested that you test the link in advance of the meeting to make sure you are able to access it. Please report any issues to jcashell@plaistow.com.

There is a "raise your hand" feature of the program that will allow attendees to participate in the discussion. There is also a Q&A box for the public to type questions during the meeting. The Public can also send emails with questions or concerns prior to and during the meeting to dvoss@plaistow.com. Please note: all questions and concerns typed into the Q & A box or sent via email will be read aloud to become part of the public record. The meeting will also be live on Plaistow Access Cable - Channel 17 and will be livestreaming on the Town's website

ROLL CALL: James Peck, *Chair*
Tim Moore, *Vice Chair*
Laurie Milette
Francine Hart, *Selectman's Rep*
Karen Robinson
Greg Taillon, *Alternate Selectmen's Rep*

Geoffrey Adams, *Alternate - Excused*
Also present: John Cashell, *Planning Director*

Agenda Item 2: Minutes of the June 17, 2020 Planning Board Meeting:

T. Moore moved, second by L. Milette to add a footnote to the minutes of the June 17, 2020 Meeting, said footnote language includes:

** At the July 15, 2020 meeting K. Robinson requested that language be included, referenced to the discussion on page 8 of these minutes that state J. Cashell was rude and disrespectful, citing that J. Cashell referred to her as possibly being predisposed in wanting to inject herself into a meeting matter of which she previously played no role.*

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

Agenda Item 3: Public Hearing(s):

PB 20-05:

PB 20-05: The completeness of an application from The Town of Plaistow, Office of the Board of Selectmen. The plan proposes to subdivide off a portion of land, that would result in a 20,000 SF parcel with 200 feet of frontage on East Road, which would be used for municipal purposes. The remaining parcel would be +/-9.5 Acres with +/-283.25 feet of frontage on Sunrise Terrace. The parcel is located at 24 Sunrise Terrace, Tax Map 14, Lot 13 in the LDR District. The property owner of record is Neil C. Kelly If the application is found to be complete, the Planning Board may immediately conduct the Public Hearing.

Ch. Peck read the Public Hearing Notice for this application, and the board voted on this application as follows. Note: with all board members present in Town Hall roll call votes were not required for all votes taken at this meeting.

Decisions:

Plan Acceptance:

T. Moore moved, second by K. Robinson, to accept the application as complete that proposes a subdivision of the +/- 9.5-acre parcel at 24 Sunrise Terrace, Tax Map 14, Lot 13, to create a 20,000SF parcel, with 200' of frontage on East Road, for purpose of locating a pumphouse related to the Plaistow municipal potable water system. The vote was 5-0-0 U/A.

Waivers:

There were no waivers requested for this application.

Jim Hanley, P.E., Civil Design Consultants and Gene Forbes, P.E., Underwood Engineers (both remote and alone) presented the proposed subdivision plan to the board.

Also, in attendance at Town Hall for this subdivision hearing, and associated Site Plan hearing, was Town Mgr., Mark Pearson, representing the Town, as the applicant for both applications.

After further clarification provided by Mr. Hanley, as to the location of the pumphouse lot (117 feet from the nearest residence at 39 East Road and 167 feet from the Atkinson town line), and that it meets the minimum frontage requirement for the zoning district, the board voted to approve this Subdivision application as follows:

Plan Approval:

F. Hart moved, second by T. Moore to approve the plan that proposes to create a 20,000 SF lot with 200' frontage on East Road by subdivision of the +/- 9.5-acre parcel at 24 Sunrise Terrace, Tax Map 14, Lot 13, to create a 20,000SF parcel, with 200' of frontage on East Road, for purpose of locating a pumphouse related to the Plaistow municipal potable water system. The vote was 5-0-0 U/A.

Other aspects involving the processing and recording of the subject plan, as cited in the Notice of Decision, are as follows:

The applicant (the Town) shall submit to the Planning Department the following plan copies for recording and Planning Department files:

- 2 Copies of Mylar Recording Sheet(s)
- 3 Paper Copies of the Approved Plan
- Electronic Copy of Final Plan

Also, it is the responsibility of the applicant to have new deeds prepared, based upon the Planning Board's approved subdivision plan.

Ch. Peck opened the following public hearing and: read the Public Hearing Notice for this application.

PB 20-06

PB 20-06: Review and comment on a Municipal Site Plan for the Town of Plaistow, Mark A. Pearson, Town Manager. The plan proposes to locate a 26' X 28' (728 SF) municipal potable water pumphouse and related infrastructure, on a new lot created by the subdivision of 24 Sunrise Terrace, Tax Map 14,

Lot 13 in the LDR district (see PB 20-05). Once the lot is created, the Town of Plaistow will be the property owner of record.

Project description: The Town of Plaistow is developing a potable water system. The system will include and expand the current fire suppression system. An integral part of the system is locating a pumphouse on a 20,000SF lot, with 200' of frontage on East Road, to be created by subdivision of a +/- 9.5-acre parcel owned by Neil Kelly, 24 Sunrise Terr., as approved above in PB 20-05. The location of the pumphouse on the Atkinson/Plaistow line is an integral part of the potable water system. There are some wetlands involvement, so permits from NHDES are being sought. The location has been approved by State officials overseeing the Southern New Hampshire Regional Water Project that is bringing potable water from Manchester to Plaistow via a number of southern NH towns.

Since this site plan is for a municipal project, there is no requirement for site plan review or approval (NH RSA 674:54). However, the Town Manager and Board of Selectmen strongly believe that the Planning Board should see and have the ability to comment on any proposed site plan when there is town-owned property involved. This present public hearing also provides an additional opportunity for residents, especially those who about this specific project, obtain information about same.

Ch. Peck commended the town and Mr. Pearson for conducting the public hearing before the Planning Board.

Gene Forbes, P.E., Underwood Engineers presented the above-cited Site Plan for the proposed pumphouse at 24 Sunrise Terr., Map 14, Lot 13 (Parcel A).

After several board members commented and asked questions of Mr. Forbes in regard to climate control, why it was located on East Road, location of the water line, size of the pumps, vibration from the pumphouse, landscaping, clear cutting of trees, how often the pumphouse would be checked on, the proposed driveway location, sign location, a security fence around the pumphouse, and noise attenuation issues concerning the pumphouse operations, Mr. Forbes answered those questions and assured the board members that sound attenuation issues can be addressed, if needed, in the future, but he stated that he did not believe the pumphouse operation will result in causing any noise annoyance issues to abutters. He also stated that if security becomes of concern, a security fence could be added to the site improvements. He further stated there would be two 20 h. p. pumps, no vibration, minimal landscaping (of the generator & propane tank) and construction of the pumphouse would hopefully begin in late fall this year. Mr. Pearson added there would be no cutting of trees between the pumphouse raised flood plain area and the lot line with 39 East Road.

The following members of the public then spoke (both remote):

Donald Wise, 18 Sunrise Terrace, and abutter to the subdivision parcel, asked for clarification as to the location of the subdivision parcel. Mr. Hanley provided this information to Mr. Wise.

Lisa Spinucci, 39 East Rd., and abutter to the subdivision parcel, expressed concerns with noise emanating from the proposed pumphouse and the impact on her well. Peck informed Ms. Spinucci that her concerns regarding noise were addressed in the board questions. He also stated

that she would soon have a great opportunity to connect to the water line which would run right in front of her house.

Mr. Forbes further answered the questions and concerns of Ms. Spinucci. He said there was no need for a “sound wall” and there would be no impact on her well.

Upon completion of the above Q & A discussion, and no further public concerns presented, the board went into deliberation then voted to send the following comments to the Board of Selectmen in regard to the Pumphouse Site Plan:

F. Hart moved, second by K. Robinson to forward the following comments to the Board of Selectmen regarding the proposed municipal potable water pumphouse to be located on a lot created by subdivision of the lot at 24 Sunrise Terrace, Tax Map 14, Lot 13, and in the LDR Zoning District:

– *None*

Finding that the aforementioned use is provided for in accordance with the provisions of RSA 674-54. Governmental Land Uses, and that it is necessary, relative to the proper storage and distribution of potable water, as shall be provided by the soon to be implemented municipal water distribution system, the Planning Board, herein, recommends favorably to the Board of Selectmen the construction of the proposed pumphouse, to be located on Parcel “A”, formally part of Lot 13, as shown on the Town Assessor’s Map 14. The vote was 5-0-0 U/A.

Other aspects involving the processing and recording of the subject Site Plan, as cited in the Notice of Decision, are as follows:

The applicant (the Town) shall submit to the Planning Department the following Site Plan copies for recording and Planning Department files:

- 2 Copies of Mylar Recording Sheet(s)
- 3 Paper Copies of the Approved Plan
- Electronic Copy of Final Plan

Ch. Peck read the Public Hearing Notice for the next application:

PB 20-07

PB 20-07: The completeness of an application from Ocean Storage, LLC c/o Bussiere & Bussiere, PA. The application seeks to amend an approved site plan to change the previously approved, but not constructed, retail space, to a climate control self-storage building of +/99,000 GSF. The property is located at 88 Plaistow Rd, Tax Map 27, Lot 21 in the C1 District. 88 Plaistow Road, LLC/Mark Murphy is the property owner of record. If the application is found to be complete, the Planning Board may immediately conduct the public hearing.

Michael A. Malynowski, PE - Senior Project Manager, Allen & Major Associates, Inc., Manchester, NH | Woburn, MA | Lakeville, MA (remote and alone), presented the Amended Site Plan, as cited in the hearing notice, and he went over the peer review report, authored by the board's consultant engineer, Steve Keach. Said report is dated 13 JUL 2020 and M. Malynowski's response letter is dated 14 JUL 2020. Both documents are in the board's permanent file for this application.

Referring to the staff report, as citing that this Amended Site Plan application was complete in its contents, T. Moore moved, second by L. Millette, to accept as complete the application that proposes to amend the site plan for 88 Plaistow Road, Tax Map 27, Lot 21, to change the previously approved retail use to self-storage. The vote was 5-0-0 U/A.

Upon opening the public hearing, Ch. Peck asked if the ZBA approved self-storage use at the rear of the property applied to the front of the parcel, as proposed in the Amended Site Plan. He cited that he would like to have from the ZBA written clarification on this issue.

Board members asked questions on the footprint (basically the same north to south, slightly wider east to west), height (38 feet, below the zoning height maximum of 45 feet), location of the septic in the front (on the plan) and distance from Route 125 (75 feet). Mr Malynowski answered these questions.

Ch. Peck pointed out again he had watched the tape of the ZBA approval and it was evident the only location discussed and used to justify the variance was the back lot surrounded by trees and shielded from the road. Mr Malynowski stated his opinion that usage variance granted on 5/30/2019 by the ZBA for self-storage applied to the entire parcel, not just the back

Ch. Peck then opened questions to the public (all remote):

Jason Piterak, 39 Greenfield, abutter to the project, voiced that he was in attendance to learn about the proposal.

Scott Spindler, representing Ocean Storage LLC, described the project, stating that it was his company's intent to build a quality self-storage facility, and to work with the board to make sure it is approved in accordance with acceptable design standards.

Francine Hart, Selectmen's Rep., stated that she considered the proposal to be a substantial change from what was originally approved, and that the board should make sure that the ZBA intended,

through their issued variance, that a self-storage facility at the front of the site was considered in their action.

Board members, L. Milette and K. Robinson, also commented that they would like this issue clarified before moving to take action on this application. L. Milette stated that the Site Plan approved retail for the front of this property consisted of a single-story plaza façade, not three-stories, in-height, as now proposed. L. Milette also stated that she would like to see elevation plans and landscape renderings, so that the board has a better idea on what it is actually considering for approval. The board agreed those renderings were important.

Ch. Peck and L. Milette stated that another reason to continue was that the board had not received materials for this hearing until 10:30 PM the night before. Ch. Peck stated he never wanted to force a vote if members had not had sufficient time to review all materials and to feel comfortable that they could ask intelligent questions.

J. Cashell cited that it is the board's prerogative to defer the hearing and decide on this application at a time when they are comfortable in taking such action. Ch. Peck polled the board and everyone agreed to continue the hearing until August 19th.

Taking into consideration the above-cited issues, and, in particular, wanting to first receive input from the ZBA, as to the extent of their issued self-storage special exception permit including or not the entire parcel, plus the fact that the board had not received materials until 10:30 PM the night before, Ch. Peck declared the hearing continued until the 19 AUG 20 meeting.

Old Business:

a. 2020-2025 Capital Improvement Plan (CIP)

Vice-Chair, Tim Moore, and long-time CIP Chair and author of the Board's CIP, led a brief discussion concerning this year's CIP. This item was taken under advisement till the 19 AUG 2020 meeting. L. Milette suggested adding the original RSA to the CIP document and Mr. Moore agreed to do so. Mr. Moore stated that he felt it wasn't necessary for the board to vote on approval of the 2019-20 CIP. Ch. Peck and F. Hart commended Mr. Moore on his hard work on the CIP documents over the years.

5. New Business

a. Discussion - 125 Development Corp – Industrial Site Plan Application in Newton

The board's discussion on this proposed light industrial development, located in both Newton and Plaistow, centered around the contents of following documents, which are now included in the permanent file for this proposed development:

- 1) Legal Notices, as published by the Town of Newton's Planning and Zoning Boards
- 2) Conceptual Development Plan, entitled: Southern NH Industrial Park, Tax Map 14, Block 1, Lot

- 27-3, NH Route 108, Newton, NH, having no discernible date
- 3) J. Cashell memorandum to the board, dated 10 JUL 20
 - 4) T. Moore email communication to the board, dated 11 JUL 20
 - 5) J. Rowden, RPC Circuit Rider to Newton Planning Board email communication, dated 15 JUL 20
 - 6) DRAFT Planning Board letter to the Newton Planning Board
 - 7) Letter from Project Abutter, Tom Alberti, as published in the Lawrence Eagle Tribune

T. Alberti's above-cited letter reads as follows:

Greetings Plaistow Planning Board Members.

My name is Tom Alberti and I reside at 2 Ridgewood Road. Our home is a member of the Greenfield Hill Estates HOA. The homes along Ridgewood Road abut land owned by Coleman McDonough/125 Development Corp – some of which is in Plaistow and the remainder of which is in Newton. I am writing to you on behalf of the Greenfield Hill Estates Board that is extremely concerned about the proposed development on and adjacent to Plaistow and Newton, specified as Newton Lot 27-3.

I am writing to inform you of upcoming ZBA and PB meetings taking place tonight, 7/13 and Tuesday, 7/14 in the town of Newton. From what I understand, the ZBA meeting agenda includes appeals to various zoning ordinances, including setbacks to abutting property and wetlands. The Planning Board meeting appears to include a submission of his Site Plan for the project on a large parcel of land, referenced as Newton Lot 27-3. A portion of this plan includes the land this individual owns in Plaistow. I have attached a document that shows his site plan. I was wondering if you were aware of these submissions, if Newton has been communicating with Plaistow about his plans, and if you were addressing any specific concerns with this project? I believe we asked for this site to be designated as a Project of Regional Impact.

Concern #1: the plan is flawed as it shows commercial buildings situated on Plaistow land that is zoned Low Density Residential on Parcels 6, 7, 8, and 10 – which are Plaistow Parcels 19 and 82. I am not sure if he is simply uneducated or unaware of the fact that this land is zoned as LDR, or if he believes he will be able to bring a WA to Plaistow to have this land re-zoned. Either way, the site plan as presented should clearly be rejected.

Concern #2: The plan is requesting setback variances for construction of structures located near wetlands. Some of these wetlands extend onto Plaistow land. The multitude of issues associated with commercial construction on or near wetlands is abundant. Can we address this with the NH DES? Development of this land should not be allowed until the environmental impact is addressed.

Concern #3: The plan appears to show 46 units constructed on this land. The land surrounds an Aquifer Recharge Area that feeds the groundwater locally. I have multiple concerns with this – 1) how will it impact our groundwater supply as new sources will potentially draw off this supply? 2) how will the construction and subsequent land use impact the quality of our water supply? Concerns include inevitable exposure to new pollutants, etc. Similar to concern #3 – what involvement would the NH DES have with this situation?

Concern #4: I have major concerns with the overall plan to develop this land that abuts Plaistow residents in the Greenfield Hill Estates community as well as those that live in the Sweet Hill Estates

(Partridge Lane) community. There are several studies that show the negative impact that commercial development (non-retail, non-office building) has on surrounding residential communities. These studies show that this type of development can have a negative impact to the value of homes in excess of 15%. With (I believe) 40 homes in our HOA alone, a devaluation of home values by 15% would drop taxable valuations by over \$1.2 million. This doesn't even factor in the impact to the neighborhoods in the Sweet Hill Estates HOA, which we can presume would also be in the millions collectively.

Concern #5: The land in Plaistow was recently clear cut. Did he ever request permission and submit the proper paperwork to cut the trees on this land? Prior research into this matter showed that he had not.

Lastly, Coleman McDonough has a criminal past and is currently facing 70 counts (including felonies) resulting from an investigation by Atkinson NH police. While technically an independent issue from the procedural aspects of these ZBA and PB Meetings, I wanted to point out that this person's character is unscrupulous and that his business practices will prove to be nothing but harmful to the Plaistow residents that reside near this project. This is not the type of individual we want developing in our community. He has proven time and again that he has no issues violating laws and ordinances for personal gain. I am asking for your support in protecting the interests of Plaistow and its residents that would be negatively impacted by this project.

Please feel free to reach out with any questions.

Sincerely,

Tom Alberti

2 Ridgewood Road

Plaistow

Ph: 603-382-0193

C: 978-987-0992

L. Milette requested that it be added to the record that she watched the Newton Planning Board meeting on this matter, and the applicant had stated that he "had been working with the Plaistow Planning Board" on this development. She stated that was not true. All board members agreed, though T. Moore stated the Planning Board had received conceptual plans some time ago, but no one had begun work with any applicants.

L. Milette also stated that the Newton Planning Board had referred the project to the Rockingham Planning Commission as a regional project. T. Moore explained that meant the RPC would meet some time soon to discuss it and he would alert the board when that happened. He also expressed a number of concerns as to liability and legal issues stemming from the fact that the lots in Plaistow were land-locked and the project crossed the border.

The board decided to forward the below-cited DRAFT Planning Board letter to the Newton Planning Board, with the following change: the last line of the letter shall include Chairman Peck's name and email address in place of Dee Voss'. The letter shall read as follows:



Town of Plaistow Office of the Planning Board & Planning Department

Town Hall • 145 Main Street – 2nd Floor • Plaistow, New Hampshire • Tel. 603-382-5200 X202 •
Fax. 603-382-7183

July 13, 2020

Newton NH Planning Board
Newton NH Zoning Board of Adjustment
2 Town Hall Road
Newton, NH 03858

Re: 125 Development NH Corp – Property Subdivision and Development.

Dear Newton Boards:

The Town of Plaistow Planning Board is in receipt of the notifications regarding certain applications before each of your boards. As you know, the applicant has included properties they own that are located in the Town of Plaistow. This letter is to provide the boards with information regarding those Plaistow parcels.

The parcels located in Plaistow, identified as Plaistow Tax Map 63, Lot 82 and PTM 71, Lot 19 are both located in the Town's Low Density Residential (LDR) zoning district. It is our understanding that the adjacent zoning in Newton is Industrial and that is how the applicant intends to develop the entire abutting parcel once subdivided.

As this Board currently understands the plan there are multiple conflicts in our zoning regarding the proposed subdivision and use. The Planning Department would have been happy to discuss these matters with the applicant. However, thus far, the developer had not contacted the Town to request any kind of a meeting regarding with the subdivision or subsequent development of the resulting parcels. Once the Board has had a chance to hear even a conceptual presentation or review development plans, we will be in a better position to offer comment on the project.

The Town of Plaistow respects that the Town of Newton has their own zoning and site plan regulations. The Town is not contesting any of Newton's jurisdiction over their review process. However, as you know, if the applicant proposes to include the Plaistow parcels in either the proposed subdivision or site development, he must also respect that Plaistow also has concurrent jurisdiction over the parcels located in Plaistow.

The Plaistow Planning Board feels that it is important for the protection of our resident's rights that we be on record to remind the developer that he must gain concurrence from the Plaistow Planning and Zoning Boards in order for this project to move forward in the review process in Newton as it is currently proposed.

Thank you for your kind attention to this important matter for both our towns. We look forward to working cooperatively with not only the developer, but with the Town of Newton boards. If you have any questions please forward them to the Planning Department at the address noted above or contact Planning Director John Cashell at jcashell@plaistow.com or Planning Board Chairman at jpeck@plaistow.com.

Sincerely,

James M. Peck
Planning Board Chair

cc: Newton Board of Selectmen
JMP/dmv

In addition to the above, the board requested for staff to emphasis to RPC's staff the need to work together with Plaistow, relative to the issues this project may have on Plaistow, and as such, this project should be thoroughly vetted through the RSA's Regional Impact provisions.

6. Communications, Updates, FYIs and Other Business

a) City of Haverhill public hearing notices.

b). Ch. Peck read an email from Dee Voss to the board that follows:

Good Morning Planning Board:

I just wanted to let everyone know that the Anthony's have filed an appeal of the Planning Board's decision of the ProQuip application.

The applicant describes their Appeal from an Administrative Decision as:

Decision to of the enforcement officer to be reviewed: *June 17, 2020 Planning Board decision on Application 19-06, Milton Real Properties of Massachusetts, LLC. relating to Article II, Section 220-2; Article V, Section 220-28; Tables 220-32A and 220-32B.*

The deadline for filing with the ZBA isn't until tomorrow (Wednesday, July 15, 2020) at 3:30PM, so the legal notice is yet to be prepared as I don't know if there will be additional applications that will need to be included. However, this is essentially the language (with property location information added) as it will appear on the legal notice.

I have made Attorney Cleary aware of this filing with the ZBA.

Best Regards,
Dee Voss

Mr. Moore then explained that the judge had approved an extension of the ZBA zoning appeal period

from 20 days to over a year and a half (July 15.2020), and that the Anthonys or the town could also appeal the judge's final decision to Superior Court once he makes that decision.

c) NOD's RE: Court Remand Action by the Board Town of Plaistow v. Anthony's and Exeter Med's Amending Action, i.e., hours of operation for the Health Clinic facility within Exeter Med's complex along Rte. 125.

7. There was no additional business before the Board and the meeting was adjourned at 8:37 pm.

Respectfully Submitted,

John M. Cashell
Planning Director