

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



PLANNING BOARD MINUTES
Mar. 16, 2022

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

1. ROLL CALL:

Tom Alberti, *Ch.* – Present at Town Hall
Tim Moore, *Vice Ch.* - Present at Town Hall
Laurie Milette - Present at Town Hall
Karen Robinson – Present at Town Hall
Darrell Britton, *Selectman's Alt.* Present at Town Hall
Richard Anthony, Alternate – Present at Town Hall
Bill Coye, *Selectman's Rep.* - Present at Town Hall
John Cashell, *Planning Director* –Present at Town Hall (non-voting)

Also Present: William Bergeron, Hayes Engineering
Paul Feldman, attorney, Davis Malm
William Bergeron, P.E. Hayes Engineering
Wayne Finnegan, HOW-PLAISTOW LLC.
Cameron Green, James M. Lavelle Associates
Gary King, resident
Jeremy Hill, resident

2. REVIEW/APPROVAL OF MARCH 2, 2022 MINUTES:

Draft minutes of the March 2, 2022 meeting were included with the meeting materials.

T. Moore moved, second by K. Robinson to approve the minutes of the March 2, 2022 meeting as corrected.

The motion to approve the minutes as issued passed 4-0-0.

3. RE-ORGANIZATION

Ch. Alberti noted that L. Milette had been re-elected. He thanked Greg Taillon for his service as Selectmen's representative. It was also noted that B. Coye was the voting member from the Board of Selectmen and D. Britton was the alternate.

a) Nominations for Chair, Vice Chair: Ch. Alberti asked for nominations.

L. Milette nominated T. Alberti as Chair, second by K. Robinson

There were no other nominations.

T. Alberti was elected Chair 5-0-0

K. Robinson nominated T. Moore as Vice Chair, second by B. Coye

There were no other nominations.

T. Moore was elected Vice Chair 5-0-0

b) CIP Committee Assignments: Ch. Alberti asked for nominations.

T. Moore noted that the Planning Board has two voting and one alternate member to the CIP Committee.

T. Alberti nominated T. Moore for the CIP Committee, second by L. Milette

T. Moore was elected to the CIP Committee 5-0-0

Ch. Alberti offered to serve on the CIP Committee again.

K. Robinson nominated T. Alberti for the CIP Committee, second by B. Coye

T. Alberti was elected to the CIP Committee 5-0-0

K. Robinson offered to serve on the CIP Committee again.

T. Alberti nominated K. Robinson for the CIP Committee, second by L. Milette

K. Robinson was elected to the CIP Committee as Alternate 5-0-0

Ch. Alberti asked about the Rockingham Planning Commission. T. Moore said the term is four years and his will end in 2025 or 2026.

4. PUBLIC HEARINGS

Ch. Alberti asked the Board to review the material on Developments of Regional Impact (DRI) before opening the hearings. He noted this material discusses how the State through RSAs deals with projects that may have an impact not only to the community where the project resides but also the surrounding communities not the record: A proposal before a local land use board should be deemed a DRI when it

“could reasonably be expected to impact neighboring municipality.” RSA 36:55 lists six factors that the Board can review to determine if something would qualify as a DRI; he suggested it was relevant for the Board to look at those factors and discuss whether or not the applications relative to 214 Plaistow Road, PB 22-03, PB 22-4, PB 22-5, PB 22-06, are relevant.

Ch. Alberti asked the Board consider whether this is a Developments of Regional Impact (DRI), and noted that if it is there is a course of action that will then take place to notify the surrounding communities. Input from those communities would go to the RPC which would write an advisory review of the application which could be of benefit to the Board and allow other communities to be involved in the process.

The criteria were considered:

1. Relative size or number of dwelling units as compared with existing stock. Ch. Alberti asked if there were any existing industrial complexes of this size. It was determined there were some buildings of that size but not the same type of operation. Ch. Alberti said he understood this application to be wholesale distribution with freight in and out bound as well as employees. It was noted that the application is not for dwelling units.
2. Proximity to the borders of a neighboring community. It was suggested that the facility is within a mile of Kingston.
3. Transportation networks. It was agreed that the application would have a potential impact on transportation on Rtes. 125 and 495, with potential access to Rtes. 101, 111, 121A and 93
4. Anticipated emissions such as light, noise, smoke, odors, or particles. The Board did not think this was relevant other than noise from trucking.
5. Proximity to aquifers or surface waters which transcend municipal boundaries. Ch. Alberti noted this location is on the aquifer.
6. Shared facilities such as schools and solid waste disposal. It was clear the schools would not be impacted and solid waste disposal was unclear.

Ch. Alberti asked whether the Board should vote on whether this application was a DRI. D. Britton noted that there is nothing in the Town that couldn't fall into one of the criteria and if the Board puts every application through screening of what it thinks is going to be versus what it knows is going to be it could be very obstructionist to letting applications move forward. He noted the waste disposal is unclear, that Kingston has a project very close by and has not notified the Town. Ch. Alberti noted the RSA exists to be to support local land use Boards with resources and information, and the Board is not trying to be obstructionist, and noted the Newton project that was a DRI and the abutters were notified. He suggested a 300,000 SF ware house with an estimated 2,000 vehicle trips a day is very different from a convenience store.

J. Cashell noted that this tool is not used often and all it does is serve notice to abutting communities that a sizable project is being proposed, and that ultimately whether a project gets approved resides with the community in which it is proposed. He noted the tool does not stop development, which can only be stopped in the community by the land use Board which, if the use is allowed by statute, often leads to litigation. Ch. Alberti noted there was no attempt to use the DRI to influence or change how the Board determines if the application is approved.

K. Robinson asked how when the Board had only had a non-binding preliminary design review with them, the applicant was able to go to the ZBA, the Fire Department, etc. Ch. Alberti noted the applicant was within rights to go to the ZBA, and recalled to the members the Board's Policies and Procedures which state that the Chair should be speaking for the Board at any meeting unless it is consensus and agreed upon. He further noted that everything the applicant has done has been part of the proper application process to this point.

Ch. Alberti asked again whether the Board wants to vote on whether this is a DRI. R. Anthony suggested that it is not the Board's place to determine if it is a DRI situation but that if it believes one of the criteria plies the default is to issue notices to surrounding communities. Ch. Alberti noted a DRI extends the clock on the application for another 30 days which would allow time for more discussion. B. Coye suggested there needs to be a use determination before even considering a DRI. Ch. Alberti said he had spoken with Atty. Cleary about the process and understood the process is to look at the application and determine if it's a DRI before opening the public hearing so that abutters could be notified and attend the hearing. L. Milette noted that Plaistow was notified on the large warehouse application in Kingston. D. Britton suggested that while the DRI may be a useful tool, the process has already been started on the current application, and the DRI might be considered for future applications. T. Moore stated there are four applications with this project – three of which are very straightforward. There was discussion of whether one application impacted another; it was agreed they are individual applications in themselves and to be treated as such.

Ch. Alberti noted that none of the discussion was an effort to prejudge or make a determination on how the Board feels about an application. He said all applicants are welcomed.

There was discussion about communication and procedures between the Board and the planning staff. J. Cashell left the meeting.

Paul Feldman, attorney for the applicant for the four applications, asked to speak. He said he would like to speak to the question of the criteria for a DRI, and noted it is a Planning Board decision and the applicant will participate in the process as decided, but asked the applicant be allowed to express its view before a vote is taken. T. Moore suggested going through the applicants one by one and determining if they are complete.

A five minute break was proposed and taken. Ch. Alberti called the Board back into session and read the application into the record.

Continued from February 16, 2022

PB 22-03: The completeness of an application for from HOW-PLAISTOW, LLC, Wayne R. Finnegan, CFO for a Subdivision, Lot Line Adjustment and Lot Consolidation. The plan proposes to subdivide 214A Plaistow Rd, Tax Map 45, Lot 1, to create a 123,245SF, standalone lot (Lot A), with 170.42' frontage on a private access road, for an existing business; and a lot of 1,129,093SF (Lot B) with 151' frontage on a private access road. The private access road is 214 Plaistow Road, Tax Map 45, Lot 2, property owner of record is 216 Panniello Plaistow Realty Trust, Joseph G., Sr., and Michael Panniello, TR. The owner of record for 214A Plaistow Rd is Panniello Plaistow 214 Realty Trust, Maria C. Levin, TR. The plan further proposes to consolidate 216 Plaistow Rd, Tax Map 45, Lot 3 and 218 Plaistow Road, Tax Map 45, Lot 4 and then add, by Lot Line Adjustment 169,638 SF from 214A Plaistow Rd for a resultant lot of 486,046SF (Lot C). The resultant Lot C will have total 486,046SF of land area and 413.55' frontage on Route 125. The owner of record for 216 Plaistow Rd is Panniello Plaistow 216 Realty Trust, Joseph G., Sr., and Michael Panniello, TR. and the owner of record for 218 Plaistow Rd is Panniello Plaistow 214 Realty Trust, Maria C. Levin, TR. All involved parcels are located in the I2 Zoning District. If the application is found to be complete, the Planning Board may move directly to Public Hearing on the application.

T. Moore moved, second by B. Coye, to accept the Subdivision, Lot Line Adjustment and Lot Consolidation Plan for parcels located at 214 Plaistow Rd. and as shown on the Town Assessor's Map 45, Lot 1,2,3 & 4.

The motions to accept passed 3-1(K Robinson)-1(L. Milette)

Ch. Alberti opened the public hearing and invited the applicant's representatives to speak.

Applicant's representatives P. Feldman, Davis Malm Attorneys and William Bergeron, P.E. Hayes Engineering representing Howland Development introduced themselves.

P. Feldman said he has done a lot of development work, has represented the applicant for some time and knows them well. He said the applicant will give the Board the time it needs to evaluate the project and do its job well. He spoke to the experience and record of Howland Development. He introduced Wayne Finnegan the project manager for the applications. He said the property under consideration is owned by two property owners at 214 and 216 Plaistow Road and totals approximately 30 acres and there are four lots associated with the land. He said the point of this application is to turn the four lots into three lots. He noted this is both a subdivision and a consolidation made through lot line adjustments. He said that businesses currently operating on 214 and 216 Plaistow Road will continue to operate there, but there are 26 acres in the back owned by the property owners. Those owners were approached by Howland Development for the proposed uses that will be discussed in PB 22-05 to create a lot they would sell to Howland. So the purpose of the application is to create the lot for the current use by Central Leasing at 214 Plaistow Road, and the current use by JOB Rolloff on lot A, and then create a developable third lot. He noted it is the intent of the property owners to sell the respective lots created by this subdivision to Century Leasing, JOB Rolloff, and Howland Development. He said they are proposing Lot A be a lawfully sized lot of two acres which meets all zoning requirements and will have 150 feet of frontage on the subdivision road. Lot B of 26 acres is the lot Howland Development wished to purchase to develop the 300,000 SF warehouse. Lot C has appropriate frontage on Plaistow Road. All lots will be serviced from the subdivision road.

P. Feldman said they went to the ZBA first is because if they did not get the variances they would have to ask the Planning Board for something else, and they were not sure they would be able to create something else that worked. He noted that a change had been made to the Zoning bylaw saying that a subdivision road in Plaistow must be a public road, and there were other requirements for frontage off a public road. He said the proposed subdivision road is 745 feet from Plaistow Road to the cul de sac and will only service these three lots, and they did not want taxpayer money to pay for maintaining it, but to have the three businesses using it pay. He further said another variance was requested and granted for the 300,000 SF warehouse to be 51 feet tall, higher than the 45 foot limit in the industrial zoning district.

William Bergeron, Hayes Engineering, spoke to the subdivision road, which he said was originally established in the 1970's as access to the rear parcel, and the two existing uses were done in 2008. He said the design review conducted in September 2021 was to get information to go forward with the plan. He noted they were looking for a variance on the approach grade, that the current regulations require a 3% grade, and the existing grade on the subdivision road at the approach to Rte. 125 is 5.08%. He noted that KNA has asked them to look at what would happen if they had to meet the 3% grade. He said if they did this the drive way grade for the abutter to the south would be increased by 14-15 inches. He noted their

driveway drains onto this road so it would be blocked. The driveway into Century Leasing would increase 24 inches which would be an unacceptable 25% driveway grade.

He also spoke about the discussion with the Board about maintaining the overhead utilities as they exist until they get to the cul de sac where they would meet the current standard.

W. Bergeron also recalled the discussion regarding the road that has been heavily used since 2008 and probably constructed well before that which is structurally in excellent shape. He said they had indicated they would do any necessary patching and would create a 1.5 inch levelling course and a 1.5 inch top course leaving the pavement between 6 and 6.5 inches on a gravel base that they know is structurally sound and doesn't need any work done to it. He noted the plans do include curbing on both sides of the roadway to the cul de sac.

He also said there is a low point on the roadway and under the current conditions there is no drainage on the roadway. He said adding the curbing will direct the run off to a low point in the roadway. He said the drainage on the roadway from Century Leasing and the adjacent auto body shop, the driveway and a portion of the roadway drains down through the Century Leasing lot and adjacent to the wetlands system. To enhance the existing drainage they are adding a double catch basin with a gas trap and deep sump. All the drainage will go into a state of the art treatment and filtration system, protecting the wetland. He said the whole project exceeds the 100 year storm mitigation and exceed the amount of infiltration requirements. He noted that the KNA review recommended ripping up the road and rebuilding it, and that Mr. Keach wanted the roadway to be 32' wide rather than 30' wide. W. Bergeron said that when Mr. Dirk explains the traffic study it will show that the minimum standard for the roadway should be 24' and the existing 30' is perfectly adequate for the existing and proposed uses. He said they do not see the benefit of requiring retaining walls where the wetland crossings are to add an extra two feet of pavement for the roadway.

W. Bergeron said Mr. Keach had noted that the rounding at the intersection of Rte. 125 encroaches onto the Century Leasing parking lot parcel a bit, so an easement would be required. He said they have been in contact with NHDOT since October regarding the design and won't address easements until they have clear recommendations from NHDOT. He noted that Mr. Keach would like a drainage easement on the storm water management area adjacent to the cul de sac and again they are waiting for the NHDOT review before putting easements on the site. He concluded that the subdivision creates the frontage for lots A and B, and lot C already has the necessary frontage. He noted that on one part of the subdivision in the rear there will be a sliver that will relocate the existing container storage area to that portion of the site, and that it doesn't need frontage but has a driveway.

Ch. Alberti noted that their presentation included information on the larger picture beyond the current application. He also said that the KNA reviews have been effective and served the Board well, along with the staff reports. He noted the recommendation is to continue the hearing but invited questions from the Board about the specific application under consideration. There was discussion among the Board members about timely distribution of materials and the need to digest a considerable amount of information. Ch. Alberti asked if the Board wanted to do a site walk and it was agreed to do so.

T. Moore referenced the following note on the site plan: Subdivision road to be called Industrial Way will be permanently designed as a private road and maintained by the adjacent property owners and suggested for clarity to rephrase it as property owners of the specific lots.

P. Feldman discussed the State's redesign of Rte. 125 and that their curb cut is tied into it. He said they have designed the curb cut to accommodate the State design code if they are implemented in time, or they have an interim design for a curb consistent with the existing road and then tie into the new State design.

W. Bergeron referred to the following emailed question from an abutter regarding a tree. "Regarding the planning board meeting on 3/16/2022, Our main question and concern is if they plan on widening the top of the private road to turn onto 125? I believe it shows removal of a maple tree on our property. They told us earlier this year that they wanted to widen where the traffic would enter off of 125 with a turn lane. We understand that the NHDOT plans to widen 125 and they have told us that the area in question is theirs but we wanted some clarity on this area. I have attached some photos of the area. We welcome our new neighbors but we need clarity on the impacts to our property. Sincerely, Robin Sullivan, Dick's Auto Body, Inc., Rockingham Self Storage, LLC." He noted the tree is not on her property but is seven feet into the layout of Rte. 125 and it will be removed by the State.

Ch. Alberti invited public comment; there was none. He noted that the public is always welcome to comment and that he can be reached by email at PlanBoardChair@Plaistow.com.

It was agreed to ask Steve Keach attend the next meeting.

Ch. Alberti continued the hearing to April 20, 2022. No further notice will be sent to abutters.

Continued from February 16, 2022

PB 22-04: The completeness of a Site Plan application from Panniello Plaistow 214 Realty Trust. The site plan is for an existing contractor business on a standalone lot created by subdivision from 214A Plaistow Road, Tax Map 45, Lot 1 with associated parking, lighting, drainage and landscaping. The applicant is the property owner of record. The parcel is located in the I2 Zoning District. If the application is found to be complete, the Planning Board may move directly to Public Hearing on the application.

T. Moore moved, second by B. Coye, to accept the Site Plan application, calling for the existing contractor business on a stand alone lot created by subdivision from 214A Plaistow Road, Tax Map 45, Lot 1, as shown on the Amended Site Plan entitled: Amended Site Plan for Proposed Lot A for Existing 2,400 S.F. Contractors Storage Yard, dated Jan. 9, 2022, prepared by Hayes Engineering, Inc., consisting of Sheets 1 through 3. Note: said Lot A is depicted on the associated Def. Subd. Plan as Consolidated Lot A, #2 Industrial Way Proposed Tax Map 45 Lot 1-A.

The motions to accept passed 5-0-0

Ch. Alberti opened the public hearing and invited public comment; there was none.

Ch. Alberti continued the hearing to April 20, 2022. No further notice will be sent to abutters.

Continued from February 16, 2022

PB 22-05: The completeness of a Site Plan application from HOW-PLAISTOW, LLC. The Site Plan proposes a 301,000SF warehouse structure and associated parking, drainage, lighting, and landscaping. The parcel is 214 Plaistow Road, Tax Map 45, Lot 1 with 1,129,093SF (25.92Ac) with 151' frontage on a private access road. The property is located in the I2 Zoning District. The property owner of record is Panniello Plaistow 214 Realty Trust, Maria C. Levin, TR. If the application is found to be complete, the Planning Board may move directly to Public Hearing on the application

Ch. Alberti asked if the Board wanted to consider this as a DRI or continue this to the next meeting and vote then. There was procedural discussion regarding the DRI aspect. It was agreed to get more information from the staff and other communities.

T. Moore moved, second by B. Coye, to accept the Site Plan application, calling for the construction of a warehouse/distribution facility at 214 Plaistow Rd., and as shown on the Town Assessor's Map 45, Lot 1,2,3 &4.

The motions to accept passed 4-1(K Robinson)-0

Ch. Alberti opened the public hearing and invited public comment; there was none.

Ch. Alberti continued the hearing to April 20, 2022. No further notice will be sent to abutters.

Continued from February 16, 2022

PB 22-06: The completeness of a Site Plan application from Panniello Plaistow 216 Realty Trust and Panniello Plaistow 214 Realty Trust. The Site Plan is for an existing container sales and leasing business, with associated drainage, parking, landscaping and lighting, on a newly configured lot resultant of a lot consolidation and lot line adjustment between 214A Plaistow Rd (45-1), 216 Plaistow Rd (45-3) and 218 Plaistow Rd (45-4). All parcels are located in the I2 Zoning District. The applicants are the property owners of record. If the application is found to be complete, the Planning Board may move directly to Public Hearing on the application.

T. Moore moved, second by B. Coye, to accept the Site Plan application, calling for the existing container sales and leasing business to continue on the site, as shown on the Site Plan entitled: Amended Site Plan for Proposed Lot C for Existing 8,400 S.F. Contractors Storage Yard date Jan. 9, 2022 prepared by Hayes Engineering, Inc., consisting o Sheets 1 thru 12. Note: said Lot C is depicted on the associated Der. Subd. Plan as Consolidated Lot C, #1 Industrial Way Proposed Tax Map 45, Lot 3 (formally comprised of 3 separate parcels, as shown on said Plan).

The motions to accept passed 5-0-0

Ch. Alberti opened the public hearing and invited public comment; there was none.

Ch. Alberti continued the hearing to April 20, 2022. No further notice will be sent to abutters.

PB 22-07: The completeness of an application from Gary King for a Lot Line Adjustment and abandonment of an access easement. The Lot Line Adjustment proposes to transfer equal 0.73Ac (32,000 SF) parcels between 2 Greenfield Drive, Tax Map 62, Lot 48 and 4 Greenfield Drive, Tax Map 62, Lot 47 as well as abandon the access easement that was for the benefit of Lot 48. Both properties are located in the LDR

Zoning District. The applicant is the property owner of record. If the application is found to be complete, the Planning Board may move directly to Public Hearing on the application and asked T. Moore to preside.

Ch. Alberti noted that while he is not a direct abutter to the location he is a member of the homeowners association and recused himself from the discussion.

Applicant's representative Cameron Green, James M. Lavelle Associates, Hampstead, NH noted the application is a lot line change plan exchanging equal area and removing a driveway easement across Lot 47 for the benefit of Lot 48. K. Robinson asked for the purpose of the lot change and what would be built there. C. Green said it would remove the driveway easement and exchange frontage, and he had no knowledge of something being built. Applicant Gary King said it is a piece of land that could be sold and built. T. Moore noted that parcel A which would be the recipient of 32,000 SF but would not have sufficient size to be considered a buildable lot. C. Green said the two lots size will remain the same after the exchange said it was a buildable lot. L. Milette said the houses in the neighborhood have a shared well and it is like a planned residential development and the lot sizes could be made smaller even though it is in a low density residential zone. She suggested that if he sold the lot he'd need to get a variance from the ZBA and possibly put in a well. She asked the Board if doing this lot line adjustment was actually creating a new lot, and it was felt it did. Buildable lot size in an LDR is 110,000 SF. G. King said it was sold to him as a buildable lot. D. Britton asked if that was noted on his deed. T. Moore noted that the LDR lot size used to be 80,000 SF and if that was the case when the subdivision was created it would have been a buildable lot. He noted he was not sure whether this lot might have been grandfathered. He also thought the homeowners association might have to be contacted to support the lot line adjustment. The applicant was advised to get a legal opinion about the grandfathering of the lot, and if the lot was part of common land and how it would affect the association.

T. Moore moved, second by K. Robinson to accept the application that proposes an equal exchange of 32,000 SF between 2 and 4 Greenfield Drive and the abandonment of the access easement benefitting 2 Greenfield Drive as complete.

The motions to accept passed 4-0-0

T. Moore opened the public hearing and continued the hearing to April 20, 2022. No further notice will be sent to abutters.

Ch. Alberti revisited the rough nature of the meeting's DRI discussions and asked the members to take some time to research the DRI process and consider if the Board should apply that or not.

The public hearing was closed.

5. OLD BUSINESS: Set bond for 49 Plaistow Road (ConvenientMD)

There was discussion about NHDOT driveway permits and the entrances and exits for the site. It was noted new equipment would be added and assumed it was for an arrow only light,

T. Moore moved, second by L. Milette, that the construction bond for the Convenient MD project at 49 Plaistow Rd to be set at \$30,151.22.

The motions to accept passed 5-0-0

6. NEW BUSINESS: Set bond for 27 Plaistow Road (Nassar Diamonds)

T. Alberti moved, second by L. Milette, that the construction bond for the Nassar Diamond project at 27 Plaistow Rd to be set at \$11,910.54.

The motions to accept passed 5-0-0

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

Ch. Alberti invited the audience member to speak. Jeremy Hill, 18 Elm Street, Plaistow said he was recently on the ballot as a citizen who wanted to get involved with local politics. He noted his campaign was unsuccessful he felt that since he had been invited to be an alternate he would come to a meeting and determine if he was in the right place. He was thanked for coming. Ch. Alberti said he welcomed public comment at any time.

T. Moore said that the Board had talked about inviting Tim Roach from the Regional Planning Commission to talk to the Board and that he would like to make a presentation about regional housing and see what RPC could do to help with the Economic Development Plan. T. Moore will invite him to attend the April 6 or May 4, 2022 workshop meeting.

L. Milette noted that after elections is a good time for the Board to review its rules of procedure and suggested it for the April 6th meeting.

Ch. Alberti noted that all the warrant articles passed and thanked T. Moore and Dee Voss for the time they put in to craft the language. He noted the change in setbacks for new commercial construction from 50 to 80 feet and hopes it will have a positive aesthetic impact. He asked what the Board can do to adapt to the changes around us and what input can it have from an economic development plan and what the plan tells us about the warrant articles for next year to shore up the current zoning and meet the Town's future needs, and if they will help the Board achieve its economic development goals.

8. ADJOURNMENT

There was no additional business before the Board and the meeting was adjourned at 9:30 PM.

Respectfully Submitted,

Charlene A. Glorieux
Minute Taker