

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



PLANNING BOARD MINUTES
August 17, 2022

Call to Order: The meeting was called to order at 6:3 PM.

1. ROLL CALL:

Tom Alberti, *Ch.* – Excused
Tim Moore, *Vice Ch.* - Present at Town Hall
Laurie Milette - Excused
Karen Robinson – Present at Town Hall
Richard Anthony, Alternate – Present at Town Hall
Darrell Britton, *Selectman's Alt.* Present at Town Hall
Bill Coye, *Selectman's Rep.* – Present at Town Hall
Sara Tartarczuk, RPC – Present at Town Hall

Also Present: Steven Keach, Keach-Nordstrom Associates
Michael Malynowski, Allen & Major Associates
Paul Feldman, attorney, Davis Malm Attorneys
William Bergeron, P.E. Hayes Engineering
Jennifer Gagnon, property owner
Michael Drago, property owner

In the absence of Ch. T. Alberti, T. Moore chaired the meeting and appointed R. Anthony as a voting member for the meeting.

2. REVIEW/APPROVAL OF JULY 20, 2022 MINUTES:

Draft minutes of the July 20, 2022 meeting were included with the meeting materials.

K. Robinson moved, second by R. Anthony, to approve the minutes of the July 20, 2022 meeting as written.

The motion to approve the minutes as written passed 3-0-1 (B. Coye).

3. PUBLIC HEARINGS:

T. Moore opened the public hearings at 6:34 PM.

Continued from February 16, March 16, April 20, May 18, June 15, and July 20, 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 reopened the hearing.

Attorney Paul Feldman, spoke to the application. He noted the application is referred to as Lot 1 which is currently used by a contractor and was part of a larger lot and has been subdivided onto its own stand-alone conforming lot. He noted that Board had reaffirmed the existing waivers at the July 20, 2022 meeting and they were ready to proceed.

T. Moore invited questions from the Board and the audience; there were none. He then referred to the recommendation for conditional approval in the staff report.

R. Anthony moved, second by B. Coye to approve the Amended Site Plan calling for the existing contractor business on a standalone lot created by subdivision from 2 74A Plaistow Road, Tax Map 45, Lot 7, and as shown on the Amended Site Plan entitled: Amended Site Plan for existing 2,400 S. F. Contractor's Storage Yard, dated January 9, 2022, prepared by Hayes Engineering, Inc. with the following findings of fact and conditions:

- The site plan meets all the requirements of the Plaistow Planning Board's Site Plan Review Regulations, except where waivers were granted on July 20, 2022*
- The site plan has been reviewed for drainage and engineering by Keach-Nordstrom Associates and there are no outstanding issues*
- The parcel will now be known as 26 Industrial Way, Tax Map 45, Lot 7 for £9-7-1 and Assessing purposes*
- The applicant shall submit confirmation from NHDES of the adequacy of the existing septic system or approval of a contingency septic system. Once confirmation/approval is received the plan note shall be updated with the approval number and date*
- The applicant shall satisfactorily address the final Staff Checklist Review Comments from August 74, 2022*

The motion to approve the Amended Site Plan passed 4-0-0.

Impact Fees: There are no additional structures proposed for this site, therefore, there are no Impact Fees to be assessed. Any additional structures will require Planning Board approval and may be assessed an Impact Fee at that time.

Bonding/Pre-Construction: There are no additional structures proposed. or changes proposed to this

site. The amended site plan merely establishes this use on its own lot; therefore, there is no need for bonding or a pre-construction meeting. The business use will require a new Certificate of Occupancy be issued under the new address once the Town's database can be updated with the new information.

Continued from February 16, March 16, April 20, May 18, June 15, and July 20, 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.

P. Feldman spoke to the application and the reviews of the application by Steve Keach, Keach-Nordstrom Associates and the Rockingham Planning Commission and expressed hope the application would be approved by the Board. W. Bergeron noted the Board had also approved the Conditional Use Permit for the lot as well.

T. Moore invited question from the Board and the audience. D. Britton asked if Steve Keach's comments were up to date; S. Keach said that Sara Tartaczuk and Dee Voss said there were a few loose ends but he was sure he and Mr. Bergeron would reach accord on them.

B. Coye moved, second by K. Robinson, to approve the Site Plan application, calling for the construction of a 301,000SF warehouse/distribution facility at the property created by subdivision/lot line adjustment/lot consolidation by PB #22-03 and to be known as 31 Industrial Way, Tax Map 45, Lot 3, with the following findings of fact and conditions:

- The site plan meets all the requirements of the Plaistow Planning Board's Site Plan Review Regulations, except where a waiver was granted on July 20, 2022***
- The site plan has been reviewed for drainage and engineering by Keach-Nordstrom Associates***
- The parcel will now be known as 31 Industrial Way, Tax Map 45, Lot 3 for E9-1-1 and Assessing purposes***
- All State Permits are received by the Planning Department and permit number(s) and date(s) of approval are updated to the site plan***
- The applicant shall satisfactorily address the comments of KNA Review #3 and a final comment letter from Steve Keach with confirmation is received by the Planning Department***
- The applicant shall satisfactorily address the final Staff Checklist Review Comments from August 12, 2022***

R. Anthony noted there had been a lot of review and discussion on the application but that he believed the traffic study numbers were problematic and did not adequately address the issue of traffic on Main Street and the Town's Master Plan goal of a village type experience there. There was discussion of the traffic calming study and the efforts to make Main Street less of a short cut. There was discussion about the statutes and laws that must be followed. There was discussion about the types of businesses that might come to the Town and adversely affect traffic.

The motion to approve the Site Plan failed 2(B. Coye, T. Moore)-2(R. Anthony, K. Robinson)-0.

There was discussion of how to lawfully defend denying an application if it meets all the Town's criteria. P. Feldman noted that the traffic study had used pre-COVID numbers, and that NH DOT had reviewed the Vanesse design and traffic study and had commented that the access and sight plan was oversized because they were anticipating more traffic than the project would generate. He spoke about the benefits that will come to the Town from the project, including tax income. While noting the laudable aspects of the applicant's plan, the impact on Main Street traffic was discussed again. There was discussion about the Town's Master Plan and the Board's discretion in using it during consideration of an application, as well as what is allowed in a district by the zoning regulations, as well as what the current applicant can do to help mitigate potential issues. There was discussion of property owners' right to develop their property. There was discussion about traffic on Route 125.

S. Keach noted that because the Planning Board did not have a full complement of voting members this night, the applicant has the right to request a continuance to a time when there are five voting members present. He added that the reasons that have been explained this night for voting against the application would lose if the Board is taken to Superior Court. He further explained that the chair could call for a new motion. There was discussion about the number and attendance of regular voting members and options open to the applicant.

T. Moore called a ten minute recess at 7:26PM. The meeting resumed at 7:33PM.

It was noted that the previous motion had failed and there are two options before the Board: someone craft another motion or continue until there are five voting members present. P. Feldman reported he had authority to agree to the condition for the site plan approval that the applicant will contribute \$50,000 towards the traffic calming study or the next step needed to address the traffic concerns being expressed.

B. Coye moved, second by T. Moore, to approve the Site Plan application, calling for the construction of a 301,000SF warehouse/distribution facility at the property created by subdivision/lot line adjustment/lot consolidation by PB #22-03 and to be known as 31 Industrial Way, Tax Map 45, Lot 3, with the following findings of fact and conditions:

- The site plan meets all the requirements of the Plaistow Planning Board's Site Plan Review Regulations, except where a waiver was granted on July 20, 2022***
- The site plan has been reviewed for drainage and engineering by Keach-Nordstrom Associates***
- The parcel will now be known as 31 Industrial Way, Tax Map 45, Lot 3 for E9-1-1 and Assessing purposes***
- All State Permits are received by the Planning Department and permit number(s) and date(s) of approval are updated to the site plan***
- The applicant shall satisfactorily address the comments of KNA Review #3 and a final comment letter from Steve Keach with confirmation is received by the Planning Department***
- The applicant shall satisfactorily address the final Staff Checklist Review Comments from August 12, 2022***
- The applicant will provide \$50,000 for the Town to use at its discretion to address traffic mitigation, prior to the issuing of the building permit.***

There was discussion of the traffic calming process, who is involved and the 2023-2024 time line.

The amended motion to approve the Site Plan failed 2(B. Coye, T. Moore)-2(R. Anthony, K. Robinson)-0.

P. Feldman noted for the record that the applicant is not asking for a continuance but an extension of the time period for the Planning Board to make a decision. He noted they had submitted a letter to Dee Voss extending the action time to August 31, 2022.

T. Moore called for a special meeting of the Planning Board on Wednesday August 24, 2022 at 6:30 PM for a final vote and decision on PB22-05.

Continued from February 16, March 16, April 20, May 18, June 15, and July 202022

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.

P. Feldman spoke to the application. He said there is no new construction proposed up front but there will be a new container storage area constructed in the back if necessary because the existing container storage area would potentially be displaced by new development.

W. Bergeron noted that the waiver that was not previously voted on was for the landscaping and they have proposed supplemental landscaping that doesn't meet the exact standard required by the bylaws so the waiver is still needed for the proposed landscaping. He noted the current tree growth and said none of the proposed storage area would be visible from Rte. 125 or the subdivision road. T. Moore noted they have added trees and shrubs along Rte. 125.

R. Anthony moved, second by B. Coye, to re-affirm the waiver granted from §230 -14. /HH and Article III §230-23, landscaping compliance for the reasons stated in the waiver request with the following condition:

= Landscaping shall be provided on the Route 125/ Plaistow Rd side of the property as shown on the Plan updated as of August 12, 2022

The motion to re-affirm the waiver passed 4-0-0.

B. Coye moved, second by R. Anthony to approve the Amended Site Plan calling for the existing sales and leasing business to continue on the site as shown on the Site Plan entitled: Amended Site Plan for Existing Container Leasing and Storage in Tax Map 45, Lot 4, dated January 9, 2022 through August 12, 2022 prepared by Hayes Engineering, Inc. with the following findings of fact and conditions:

- The site plan meets all the requirements of the Plaistow Planning Board's Site Plan Review Regulations, except where waivers were granted on July 20, 2022 and August 17, 2022***
- The site plan has been reviewed for drainage and engineering by Keach-Nordstrom Associates***
- The parcel will now be known as 13 Industrial Way. Tax Map 45, Lot 4 for E9-l-l and***

Assessing purposes

- All State Permits are received by the Planning Department and permit number(s) and date(s) of approval are updated to the site plan*
- The applicant shall submit confirmation from NHDES of the adequacy of the existing septic system or approval of a contingency septic system. Once confirmation/ approval is received the plan note shall be updated with the approval number and date*
- All granted waivers shall be noted on the site plan with the date(s) of approval*
- The applicant shall satisfactorily address the comments of KNA Review #3 and a final comment letter from Steve Keach with confirmation is received by the Planning Department*
- The applicant shall satisfactorily address the final Staff Checklist Review Comments from August 11, 2022*

The motion to conditionally approve the Site Plan passed 4-0-0.

Impact Fees: There are no additional structures proposed for this site, therefore, there are no Impact Fees to be assessed. Any additional structures will require Planning Board approval and may be assessed an Impact Fee at that time.

Bonding: If the plan is approved with the landscaping on the Route 125 side of the parcel. then a \$5,000 bond shall be submitted that will be release upon certification by the applicant's engineer that the landscaping has been installed per the Planning Board approved site plan.

Pre-Construction: There are no additional structures proposed. or changes proposed to this site. The amended site plan merely establishes this use on its own lot; therefore. there is no need for a preconstruction meeting. The business use will require a new Certificate of Occupancy be issued under the new address once the Town's database can be updated with the new information.

Steve Keach was excused from the meeting at this point.

PB 22-17: The completeness of an application from Jennifer Gagnon, Managing Member for JM Property Management, LLC, for an amended site plan to convert an existing 2nd floor yoga studio to an owner-occupied dwelling unit. The property is located at 18 Danville Rd, Tax Map 30, Lot 88 in the C1/Danville Road Overlay Zoning District. JM Property Management, LLC 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.

Michael Malynowski, Allen & Major Associates, spoke to the application. He said there are no proposed improvements to the building or the parking, but they do propose some additional landscaping along the front. They propose an increase in the septic system to provide for the residential use and are going through the DES process for that. There is an existing curb cut and driveway application for the combined usage with the DOT. He explained that the existing septic tank is of adequate size and the field footprint will be expanded for more bed space. There is adequate space behind the building for added recreation space. There was discussion of the need for two ways to get out of the new living space; staff has asked for information from the Fire Department.

S. Tartarczuk said staff had been working with the Fire Department to determine if this is a one or two story building; it was determined it is a one story building with a 2000SF mezzanine and that the location is 18 Danville Rd. not 18A Danville Rd. She noted the applicant provided seven waiver requests but there are eight waiver requests noted so one is missing

Article I, §230-14.1.BB- Existing Structures (Wavier #1)

R. Anthony moved, second by K. Robinson, to grant the request to waive Article I, §230-14.1.88 and not require that existing structures beyond TOO' feet of the project be shown on the plan, for the reasons stated in the waiver request and discussed at this meeting.

The motion to approve Waiver #1 passed 4-0-0.

Article I, §230-14.1.CC- Existing Structures within 100' (Waiver #2)

R. Anthony moved, second by K. Robinson, to grant the request to waive Article I, §230-14.1. CC and not require that existing structures within 100' feet of the project be shown on the plan, for the reasons stated in the waiver request and discussed at this meeting.

The motion to approve Waiver #2 passed 4-0-0.

Article I, §230-14.1.FF- Loading and Unloading (Waiver #3)

There is a loading area indicated on the plan (Sheet C-100). §230-13.E. would not require additional loading/unloading for the existing commercial or proposed residential use. Staff feels that the plan complies with this SPRR and this waiver is not necessary. No action was taken.

Article I, §230-14.1.HH- Landscaping Compliance (Wavier #4)

There is next to no landscaping currently on the site, and there is landscaping proposed with this plan. If this waiver is granted, Staff is proposing that a note be added to the plan that reads "Landscaping shall be compliant with the requirements of Article III, §230-23, except where specifically waived."

Staff is recommending that instead of a waiver of Article 1, §230.14.1.HH that would forgive any compliance with Article III (landscaping) that the landscaping note #5 be updated on the plan to read " Landscaping shall be compliant with the requirements of Article III, §230-23, except where specifically waived." making this waiver request unnecessary.

M. Malynowski explained the additional landscaping that will be provided, as indicated on the site plan. No action was taken.

Article I, §230-14.1.YY- Architectural Elevations and Renderings (Waiver #5)

This is an existing building and there is no new structure construction proposed. Staff is recommending that photos of the building be submitted to be included in the file. Staff recommended the waiver be withdrawn. No action was taken.

Article III, §230-23.B(3) - Landscaping Requirements (Waiver #6)

Currently there is next to no landscaping existing on the parcel. Staff has recommended to the applicant that some landscaping be proposed with this plan, and there is some noted on the plan. The Board will need to decide if what is provided is adequate to meet the spirit of the landscape regulations. This would be considered a partial waiver.

R. Anthony moved, second by K. Robinson, to grant the request to grant a partial waiver to Article III, §230-23.B(3) and not require full plantings in the landscaping buffers, for the reasons stated in the waiver request and discussed at this meeting. The applicant will be required to provide the plantings as depicted in the proposed plan submitted with this application.

The motion to approve Waiver # 6 passed 4-0-0.

Article I, §230-14.1.11- Lighting Compliance (Waiver #7)

The checklist review indicates that there is a waiver request of this requirement, yet none could be found in the application packet. There is a note on the plan that indicates that all lighting will be full cutoff compliant.

Staff is recommending that a note #6 be updated to read "Lighting shall be compliant with the requirements of Article II, §230-22, except where specifically waived." and the applicant request waiver(s) of the specifics of that SPRR (§230-22) instead of requesting that all compliance be waived.

S. Tartarczuk explained that any new lighting would require a new waiver request from the applicant.

S. Tartarczuk also noted there is an additional waiver on the site plan that was not included in the waiver request forms. She suggested that due to the several waiver issues, staff is not recommending the site plan be approved this evening but be continued so these things can be cleaned up. M. Malynowski asked if they could come in on August 24, 2022 after the special meeting hearing.

T. Moore continued the hearing to August 24, 2022. No additional notice will be given to abutters.

PB 22-18: The completeness of an application for Three Hamilton North, LLC (Rob Waters) for an amended site plan for change of use. The amended site plan proposes to include an office use, personal services use, and two (2) residential uses in an existing building, with associated parking. The property is located at 174 Plaistow Rd., Tax Map 30, Lot 64 in the C# zoning district. If the application is found to be complete the Planning Board may move directly to a public hearing on the application.

R. Anthony moved, second by C. Coye, to accept the application for an amended site plan for a change of use at 174 Plaistow Rd., Tax Map 30, Lot 64, and as noted in the legal notice PB22-18, as complete.

The motion to accept the application as complete passed 4-0-0.

T. Moore continued the hearing to September 21, 2022. No additional notice will be given to abutters.

T. Moore closed the public hearings at 8:48 PM.

5. NEW BUSINESS

13 Garden Road Bond Set:

B. Coye moved, second by R. Anthony, that the construction bond for the Telecommunications project at 13 Garden Rd. be set at \$16,790.00

The motion to set the bond passed 4-0-0.

6. COMMUNICATIONS, UPDATES, FYIS AND OTHER BUSINESS

S. Tartarczuk commented on the upcoming workshop meeting where the Economic Development Survey will be discussed and there will be a presentation on the municipal water project. She mentioned emails from D. Voss regarding veteran housing and funding applications. She also mentioned the H1661 bill that goes into effect on August 23, 2022 that has impact on rules and procedures for Planning Boards.

7. ADJOURNMENT

There was no additional business before the Board and the meeting was adjourned at 8:55 PM.

Respectfully Submitted,

Charlene A. Glorieux
Minute Taker