

Planning Board Minutes 09/13/11

NEWMARKET PLANNING BOARD MEETING SEPTEMBER 13, 2011 MINUTES

Present: Chairman Badger (Chairman), Peter Roy, Justin Normand, Elizabeth Dudley, Val Shelton (Vice Chairman), Janice Rosa, Eric Botterman (Town Council ex officio), Rick McMenimen (Alternate), Diane Hardy (Town Planner)

Absent: Adam Schroadter (Alternate)

Agenda Item #1 – Pledge of Allegiance

Agenda Item #2 – Public Comments

None.

Agenda Item #3 - Review & approval of minutes: 08/09/11

Diane Hardy stated she had sent a copy of the draft minutes to Bill Arcieri, in order for him to review some of the technical material he had gone over at the meeting for accuracy. She went over his changes, which had been sent to the Planning Board members in an earlier email.

Action

Motion: Eric Botterman made a motion to approve the minutes, as amended

Second: Peter Roy

Vote: All in favor

Agenda Item #4 – Regular Business

Town of Newmarket – Public hearing for an application for Subdivision review, for the Town of Newmarket to subdivide a 3-acre lot from an existing 34.533-acre lot located at 426 Wadleigh Falls Road (former Newmarket Department of Public Works location), Tax Map R6, Lot 52 & Durham Tax Map 17, Lot 29-0.

Ed Wojnowski, Newmarket Town Administrator, presented the application. He explained they were subdividing, in order to sell a 3-acre parcel. This meets the lot requirements of the Aquifer Protection District. They do have a purchaser, at this time. In 2006, the Town looked at subdividing the lot, but it was not done, as it did not meet the requirements in place, at that time.

Diane Hardy stated she had gone over the minor subdivision checklist. The application is substantially complete. There is a need for some clarification. The Board will need three copies of the subdivision plan and a Mylar for recording.

Currently the plan says "Preliminary Subdivision Plan". That should be changed to "Minor Subdivision Plan".

There is a box on the plan for the surveyor to list the dates of any plan revisions. Those should be completed before the final plat comes before the Board for signature.

The Land Surveyor's Certification needs to be signed.

The Zoning District on the plan is incorrect. It is not an R1 District, it is a B3 District.

The lot is located in the Aquifer Protection Overlay District. The lot size and setback requirements are different for the R1 District, so Note #4 needs to be changed to reflect the information for the B3 District and Aquifer Protection Overlay District.

A waiver needs to be requested for a complete boundary survey. There is a dotted line on the plan indicating the proposed lot line. What that needs to show is the metes and bounds description of the 3-acre new parcel, as well as appropriate survey markers, iron pins, granite markers, whatever they decide to use to legally define the new tract.

A waiver needs to be requested for the requirement for a topography plan. Typically, for a subdivision of this size there needs to be either one or five foot contours. Given the small size of the proposed lot, that would be something for the Board to address.

There are miscellaneous notes on the plan, including an arrow showing leased area. Originally, the plan of the Town was the land would be leased, but this is no longer the case. Any references to leasing need to be removed from the new lot.

The building shown on the plan should be labeled.

There are structures located within the 20' setback. They will either have to be removed or the lot line redrawn, so none of them are located in the side setback. Also, there are utility poles and bollards and other structures that should be removed from those areas, including an LPG tank.

Diane Hardy asked Ed Wojnowski if he would state for the record what the proposed use is for that lot. That is typically something that is included in the presentation and testimony for the subdivision. Ed Wojnowski stated the purchaser wishes to establish an animal crematorium at that location. The individual has six or eight crematoriums in Massachusetts. Eric Botterman stated that use was a potential use only. They have to get Zoning Board approval and other approvals. Diane Hardy stated the crematorium owners would be at a future Planning Board meeting for a special use permit and site plan approval, probably in October or November of this year.

Diane Hardy stated it is unclear whether there will be new access to the lot off of Route 152, which would require a State Highway Access permit, or whether access would be gained through the remaining Town lot via the existing access road. Ed Wojnowski stated they have not worked out the details on that. He stated there would be no problems in having the Town provide an easement. Diane Hardy stated there is no legal access to the proposed lot at this time. The final plan should not be signed unless access is defined for the lot. There should be a condition of approval regarding this issue.

Diane Hardy stated any land subdivided that is less than five acres requires State subdivision approval from NH DES. Eric Botterman stated this was correct. This also needs to be a condition of approval.

Elizabeth Dudley asked if this application requires a stormwater checklist. Diane Hardy stated it is an existing site; the subdivision is not increasing the amount of impervious area, and/or creating a new road. Eric Botterman stated the stormwater requirements have not been accepted, at this point. Diane Hardy stated hypothetically, if the new owners come in for site plan approval and they show a new driveway and a parking area with a disturbance of more than 20,000 square feet or have an addition of 5,000 square feet of impervious area, at that point, the owners would have to have a stormwater management plan meeting the new standards, if the proposed regulations are adopted.

Elizabeth Dudley asked if there has to be more buffering of the cell tower. She thought there was a buffering requirement for cell towers. Ed Wojnowski stated, at this time, there is a significant amount of woodlands in front and out back. All the activity in the potential new business will take place in the interior of the building. The cell tower owners will try to keep the vegetation at a certain height.

Action

Motion: Val Shelton made a motion to accept the application for minor subdivision approval on 426 Wadleigh Falls Road, Tax Map R6, Lot 52, and Durham Tax Map 17-29 to subdivide out a 3-acre lot from the existing 34.533 acre parcel

Second: Eric Botterman

Vote: All in favor

Chairman Badger stated there are two waivers that need to be addressed, a waiver for the complete boundary survey for the entire parcel and, because it is only three acres, a waiver for the topography survey.

Action

Motion: Eric Botterman made a motion to approve the waivers for the complete boundary survey and for the topographic survey

Second: Peter Roy

Vote: All in favor

Val Shelton asked if they were requesting a waiver on the 4,000 square foot septic system area, referring to Section 3.07 (B). Eric Botterman stated, in his opinion, they will have to show that they comply with State requirements. The State is not going to waive the 4,000 square foot septic system requirement. They want to make sure the septic system will work. He was not sure if the state 4,000 square foot requirement applied to the larger lot.

Ed Wojnowski stated the potential buyer needs to go to the Zoning Board, then to the Planning Board. They are ready to purchase the property and move forward. Chairman Badger asked if a 30-day delay would be detrimental to the sale of the property. Ed Wojnowski stated it would not.

Chairman Badger stated the Board could approve it tonight conditionally or could ask that the issues raised be incorporated into the plan by Doucet Survey and they could come back at the next meeting. He would prefer conditional approval. Eric Botterman agreed. He did not think they would have the State approval back in 30 days, so he would rather conditionally approve it. The Board agreed.

Action

Motion: Chairman Badger made a motion that the application be approved conditionally, with the following conditions:

Copies will be 22"x34", including a Mylar to be signed.

That it will be titled a "Minor Subdivision".

That all updates on the plans will be added, with dates.

The plans need to be signed by a land surveyor, stamped, and dated.

The zoning district needs to be revised, it should be B3, not R1, and the aquifer protection overlay district needs to be added.

Boundary survey to only include the 3-acre lot to be divided off.

Label building and removal of concrete pad within the 20' setbacks.

Obtain State Subdivision approval, as necessary.

Provide easement documents to cross the Town property or State Highway Access permit for access to new lot.

The word "leased" reference has to be deleted.

Second: Peter Roy

Vote: All in favor

The Board realized they had not opened the application to public comment. There was an abutter in the audience. They recognized the abutter and opened the application for public comment.

Steven Young, Lee Hook Road, stated he lived in Durham, but spends a lot of time in Newmarket and watches the Newmarket Town Council meetings. He stated he has lived on Lee Hook Road for twenty years. The Newmarket town well is on the other side of his stone wall. His only concern is for any environmental impact, because of the incineration process for an animal crematorium. He was familiar with the one in Dover, near his workplace. He was not sure if this was the right forum for his comments to those issues. Chairman Badger stated the proposed buyer will come before the proper Boards in order to move forward. Since the property where the crematorium is being proposed will be subdivided when they are ready to move forward with further applications, Mr. Young would not be directly notified of any public hearing, as he would no longer be an abutter. Chairman Badger stated Mr. Young could send Diane Hardy his email address and she would keep him apprised of any future public hearings regarding this lot or business. Mr. Young stated he would do that.

Agenda Item #5 – Old/New Business

Stormwater Management Regulations

Diane Hardy gave an update on the stormwater management regulations. She stated she received comments from Derek Sowers, from the Piscataqua Region Estuary Partnership (PREP) Program. In response to his recommendations, Mr. Arcieri made some changes to the stormwater management portions of the subdivision and site plan review regulations. Also, there is a new stormwater checklist for site review and subdivision applications. One of Mr. Sowers' recommendations was any stormwater Best Management Practice (BMP) be located outside of the wetland buffers that are part of our zoning regulations. We have a wetland buffer around Hydric A soils of 50', Hydric B soils of 25' and prime wetlands of 75'. Language was proposed to clarify that stormwater BMPs cannot be located within those buffers. There was also a recommendation from the PREP Program regarding keeping the BMPs out of any areas within 50' of any rivers, brooks and streams that was not included in the draft. Eric Botterman had some objections to it. The Board decided not to make the buffer requirements any more restrictive than they currently are.

She stated there was another recommendation that gravel wetland BMPs be included as a stormwater technique because they are very efficient at removing nitrogen. Mr. Sowers suggested some language to clarify and encourage the use of non-impervious surfaces. This is under the parking section. Elizabeth Dudley mentioned, if pervious surfaces are not cleaned regularly, they lose their porosity. There are other structures, such as grass-pavers, that allow for the infiltration of stormwater that work equally well, if not better. She would like to add language that would not be so restrictive so these other options could be considered. They are also less intensive as far as the carbon footprint is concerned. There was a discussion of cost. Eric Botterman stated the pervious types of pavers are generally more expensive and the Board will probably hear how an applicant looked into it, but it was too expensive. He had no problem with people at least looking at using them. It would be up to the Planning Board to tell the applicant that is what they want him/her to use, if the Board felt it was the appropriate way to go, whether it was expensive or not.

Diane Hardy stated under Parking Lot Design, paragraph 1(C), there was a change to the specification from minimum width to maximum width. She did not feel comfortable with this change. The recommendation did not consider how much room might be needed for various types of vehicles. There had been no feedback from a traffic engineer as to the suitability of changing it to a maximum vs. minimum. Elizabeth Dudley suggested rather than have two things that are contradictory, could we say "suggested aisle width". Each case is unique. Eric Botterman recommended taking the chart out altogether. The numbers associated with angle parking and the minimum aisle widths are dictated by numerous engineering manuals. He did not think any Planning Board should say what a maximum width is. The engineer should determine the width, based on the usage and type of vehicle.

Diane Hardy stated the subdivision regulations presented at the last meeting reference the site plan review regulations. These regulations should be stand-alone documents and not reference each other. She copied the applicable information from the site plan regulations and put it into the subdivision regulations, so the documents do not reference each other.

Elizabeth Dudley asked if 72 hours of design time for re-infiltration of water might be too long, with the possibility of breeding mosquitoes. Eric Botterman stated that is standard used in engineering. If it is smaller, the basins have to be a lot bigger. He stated a lot of what the Board is doing will create more areas for mosquitoes to breed. Diane Hardy stated she has information about maintenance requirements from Mike Morrison, who works with the Town on mosquito control. She will get that information to the Board.

Peter Roy stated there were some page numbering changes on pages 48-51 that needed to be made in the subdivision regulations. They do not contain a footer.

Val Shelton stated she agreed with Eric Botterman on the issue of buffer widths around wetlands. Diane Hardy stated if you are going to apply the width to the wetland buffer, they should also apply it to areas within 50' of streams, brooks, and rivers for the same reason to treat the stormwater before it enters the resource. Eric Botterman stated he did not agree to apply this to the wetland buffer. One reason when you do stormwater design, typically you want to release the water into a wetland. You want to be close to the wetland. The other is, when you have that requirement, it is often used as an anti-development tool (in some communities.) Peter Roy asked if that was to purify the water before it goes into wetlands. Eric Botterman stated that was the intent, but when you have stormwater management facilities, the first drop of water that comes out of that has to meet your cleanliness requirements. The fact that you are 20' or 30' from a wetland doesn't impact it any more than if you are 100'. On a case by case basis, the Planning Board should do whatever is appropriate. Saying everything "shall" be outside of that is very draconian for what we are trying to do. The Board agreed with Eric Botterman. Diane Hardy stated, right now, the way it is worded in the Zoning Ordinance, you cannot alter the wetland buffer, so changes would have to be made to the zoning regulations to incorporate that concept. The regulations state you cannot disturb the land (or remove vegetation) within a wetland buffer. Chairman Badger stated the subcommittee may need to meet again. Val Shelton stated she did not think, if the subcommittee met, their position would change. Diane Hardy agreed. Eric Botterman stated the regulations need to be consistent. Diane Hardy suggested taking this right out of the site review and subdivision regulations. She went over the section, page 57, Section 5.03, paragraph (C)(2) (3) and (4). Val Shelton stated this was covered under Special Use Permit (Page 59, Section 5.03 (E) and (F)). She suggested taking it out of subdivision and site plan regulations and use the Planning Board's authority under Special Use Permit. The Board agreed to take that subparagraph out.

Eric Botterman stated, on page 25, in subdivision regulations, it looks like the thicknesses of base course and pavement have been amended. Eric Botterman stated, on the copy he received today, it is on page 25, paragraph B. He assumed they were 1½" thick now. Diane Hardy stated the Board should keep what they have right now, unless they agree on changing it. Eric Botterman stated it was not a big issue, but wanted to mention it.

Diane Hardy asked if they would like Bill Arcieri to attend the public hearing. The next meeting is October 11. The Board would like to have Bill Arcieri there, if he can attend.

Diane Hardy stated she would get an updated version available to the Board before the public hearing. Chairman Badger would like it on the website, also.

Eric Botterman stated the checklists put together by Diane Hardy were very well done. They should be very helpful to applicants.

Update on Impact Fees

Diane Hardy stated Bruce Mayberry provided the Board with a report. She suggested the Board review and become familiar with it and take it up at the October Planning Board meeting. She asked the Impact Fee Committee members if they could get a meeting together before the next Planning Board meeting, so they can get their recommendations together for discussion.

Old Business

Diane Hardy stated the Economic Development Plan was approved at the last meeting. The Board needs to certify this was adopted. She needed signatures from the Board to file with the Town Clerk. The Board signed the document.

Update from Zoning Review Committee

Val Shelton stated the committee met on September 8, 2011. The Planning Board portion of the committee is in agreement that their main objective would be to look at the zoning ordinance relative to Newmarket being seen as a business-friendly community. One of the questions they asked was if they wanted to include the Black Bear TIF District in that update, at this time. It was agreed that they did not. They felt they should look at areas readily accessible for development in the short term and simple modifications that could be implemented in the current regulations to address some of the issues coming before the Zoning Board, as well as the Planning Board, which may be hindering business development. They are looking for input from the Newmarket Business Association, Newmarket Community Development Corporation, Black Bear TIF Committee, property and business owners, anyone who has an interest in the initial work the committee is doing, as well as input from the Zoning Board and Code Enforcement Office. They encourage participation in this process. They thought they should seek input from commercial brokers of large firms and see what kind of clients they are working with, what they are looking for, and why they might not be looking in Newmarket. The other question was how the committee should approach this. Should they start with specific sections of town and what would be the priority areas? The committee decided to focus on the Route 108 corridor. Currently, there is a checkerboard of uses on the corridor. They will specifically look at how to do mixed use developments in those areas, which would encourage providing jobs and services in close proximity to where people live. Route 152 would be a second priority, a prime area for possibly specialized manufacturing, at some point, as the economy changes. They will start with a review of permitted uses vs. the actual existing uses and look at special use and conditional use permitting in those zones. They want to look at other towns with positive business development and what might be appropriate for Newmarket. Also, what type of incentives might be offered to developers?

The committee will discuss whether the town can accommodate business development with the current infrastructure, such as water flow on the north and south areas of Route 108 and the issue of the Bay Road pump station and any upgrades needed, as well as how the CIP addresses these infrastructure issues. They will look at whether it makes sense to talk about expansion of TIF districts and what land is available for redevelopment, and the suitability of those lands. The next meeting is 09/29/11 at 5:00 p.m.

Miscellaneous

Eric Botterman asked if there was any word on the status of the North Main Street shopping center. Chairman Badger stated the developer has not responded to emails or phone calls.

Agenda Item #6 – Adjourn

Action

Motion: Janice Rosa made a motion to adjourn at 8:30 p.m.

Second: Peter Roy

Vote: All in favor

