

PLANNING BOARD

September 13, 2022 at 7:00 PM

Town Council Chamber

**APPROVED MEETING MINUTES**

**Members Present:** Eric Botterman (Chair), Val Shelton (Vice-Chair), Bart McDonough (Director of Planning & Community Development), Jane Ford, Jeff Goldknopf,
Patrick Reynolds, Timothy Rossignol, Scott Blackstone (Town Council Ex officio),
and Michal Zahorik (alternate).
**Members Absent**: None

Chair **Eric Botterman** opened the meeting at 7:00 PM. **[time on DCAT 7:27]**
**Agenda Item #1 - Pledge of Allegiance**

**Agenda Item #2 – Public Comments**Public comments were opened at 7:01PM. There were no members of the public wishing to speak this evening on anything not already on the agenda. Public comments were closed at 7:02 PM.

**Agenda Item #3 - Review & Approval of Minutes - August 9, 2022
 [time on DCAT 8:44]
Motion: Val Shelton** moved to approve the draft minutes of
August 9, 2022 as written.  **Second: Jane Ford
Discussion: Val** pg. 3 line 11 (delete ‘continue’), pg. 11 line 26 (change M2A to ‘B-1’)  **Vote: Approved with changes 6-0-1** (**Tim Rossignol** abstained) **Agenda Item #4 – Regular Business [time on DCAT 10:48]**Read by the Chair:

**1. Pursuant to Appendix B - Site Plans of the Municipal Code of the Town Newmarket, New Hampshire, notice is hereby given that there is a request to amend the conditions of approval for a major site plan by 11 Chapel Street LLC, seeking not to be compelled to record the approved site plan at the Rockingham County Registry of Deeds. The property is located on real property with an address of 11 Chapel Street, Tax Map U2, Lot 3, within M-2 zoning district.**Mr. Eric Weinrieb, PE, Consulting Engineer, Altus Engineering, Inc. representing 11 Chapel Street LLC has come this evening to seek to amend the conditions of approval for a major site plan by 11 Chapel Street LLC. He stated that the Registry of Deeds is no longer amenable to recording site plans. They are very particular that about what is on the site plan and how it is phrased. It must actually be stamped by a licensed land surveyor. In this situation, it would be an engineered document. This project is a site improvement plan and not a survey document. This project has no boundary or easement issues which would normally be recorded by the Registry. He understands that this is Newmarket’s procedure, but almost all other communities in the Seacoast are moving away from this requirement. Ambit did perform the engineering work previously, but they are unwilling to sign off and take responsibility on work that they didn’t perform. Altus works with several others engineering groups.
 **[time on DCAT 18:39]**
The members discussed the Town’s Regulation and may consider changes at a later point. The members also discussed their individual concerns and the process for changes to the Regulation.

 **[time on DCAT 30:01]**
**Motion #1**: **Val Shelton** made a motion to grant a Waiver from requiring a survey plan on the site plan to be recorded including the Surveyor stamp on the recorded site plan for 11 Chapel LLC.The property is located on real property with an address of 11 Chapel Street, Tax Map U2, Lot 3, within M-2 zoning district.
**Second:** **Patrick Reynolds
Discussion:** none **Amendment: Jeff Goldknopf** made a friendly amendment to the motion such that a copy of the final stamped and Board signed site plan be provided back to the Town in pdf format.
**Second: Val Shelton**
**Vote: Approved 5-2-0 (the amendment)

Amended Motion
VOTE: DENIED 2-5-0**---------------------------------------------------------------------------------------------------------------------
Read by the Chair: **[time on DCAT 33:07]
2. Pursuant to Appendix B - Subdivisions of the Municipal Code of the Town Newmarket, New Hampshire, notice is hereby given that there is a request to modify an approved open space site plan by Chinburg Properties Inc., seeking approval to expand the footprint of two (2) retaining walls in order to provide structural support for the footings and foundation of the lot’s buildings.** The proposed modifications are located on real property with an address of 77 Hersey Lane, Tax Map R4, Lot 3-10 & Lot 3-11 within R-2 zoning district.

**Jeff** **Goldknopf** recused himself and **Michal** **Zahorik** was appointed to vote on this request.

Joining the meeting this evening are Christian Smith, Principal, Beals Associates PLLC, and Greg May, Senior Project Manager, Chinburg Builders. Mr. May spoke to the history of discovering the need for expanded retaining walls to support the footings and foundations of the two lots. The single home and the duplex home now have slightly smaller footprints and, therefore, decrease the impervious surface. The Lot 3-10 was discussed first. Mr. Smith posted the approved copy on the TV and a large format copy of the proposed changes was presented to the Board. He stated that all of the work would be done within the approved area of disturbance. **Bart** noted that the Town Engineering Consultant, Underwood Engineers Inc has already looked at the plans and determined that there would be no detrimental effect to stormwater management. Members did not have any further questions about Lot 3-10. They then moved to discuss Lot 3-11. **[time on DCAT 46:46] Bart** had a conference with Underwood, Christian Smith and Maria Chinburg to discuss alternatives to the retaining wall. Mr. Smith mentioned that Chinburg was looking at building shorter sills and longer foundations, but the retaining walls made more sense. As they were building into the hills of Lots 9 and 11, and thinking about Lot 7, they were building into the hills and needed to raise up the foundations to achieve usable backyards. By the time they looked at Lot 11, the foundation would have been 5 feet less that the foundation sill height than Lot 9 leaving a very steep grade down to the drainage pool below. Mr. Smith said that the bioretention pond has been completed, is functional, and vegetated. The maintenance road is done and the downhill side is protected by a double row of silt fence.

The Chair opened the public hearing at 7:47 PM. **[time on DCAT 55:19]**
Hearing no comments, the Chair closed the public hearing at 7:48 PM.  **Recommendation of the planner:** Based on his conversation with Underwood Engineers Inc. regarding the expectation that this revised site plan would not impact stormwater, **Bart** is satisfied. He would also like a letter from the applicant regarding the exact housing size reduction (building footprint) and have that also written on the revised site plan. Since there is a reduction and not an increase, he would recommend the conditional approval.
 **[time on DCAT 1:02:17]**
**Motion: Patrick Reynolds** moved to approve the amended site plan to request modification of an approved open space site plan by Chinburg Properties Inc., seeking approval to expand the footprint of two (2) retaining walls in order to provide structural support for the footings and foundation of the lot’s buildings as described, the fencing as described in Note #19 on page 1.0 of the FSC plan shall be changed from ‘recommended’ to ‘required’, approval is subject to receiving a letter from the Engineer outlining that there shall be no negative impact on drainage, and adding a note on the plan that there is a reduction of footprint size. The proposed modifications are located on real property with an address of 77 Hersey Lane, Tax Map R4, Lot 3-10 & Lot 3-11 within R-2 zoning district.
**Second: Tim Rossignol
Discussion:** none
**Vote: Approved 7-0-0

Jeff Goldknopf** returned to the meeting as a voting member.
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 **[time on DCAT 1:03:00]**Read by the Chair:

3. Pursuant RSA 676:4, RSA 675:7 and Appendix A – Subdivisions of the Municipal Code of the Town of Newmarket, New Hampshire, notice is hereby given that there will be a public hearing for an application for Boundary Line Adjustment, requested by Tina Russell of 19 Packers Falls Road, (Tax Map U1 - Lot 3), Nancy Sunders & Peter B. Williams of 9 Packers Falls Road, (Tax Map U1- Lot 2), and Philip & Laura Lavoie of 21 Packers Falls Road (Tax Map U1- Lot 4) all located within the R-2 zoning district. The proposed application seeks to adjust the lot line between the three properties by Tax Map U1 - Lot 3 respectively conveying 8,532-sf of land to Tax Map U1- Lot 2 and 5,834-sf of land to Tax Map U1 - Lot 4.

The Chair explained that, at the July 12th meeting, the PB approved “the Boundary Line Adjustment between Tina Russell of 19 Packers Falls Road, Tax Map U1, Lot 3 in the R-2 zoning district and Philip & Laura Lavoie of 21 Packers Falls Road, Tax Map U1, Lot 4 in the R-2 zoning district to adjust the lot between the two properties by conveying 5,834-sf from Map U1 Lot 3 to Map U1 Lot 4 subject to the recommendations of the Town Planner in regards to Conditions Precedent and Subsequent. These conditions include a Surveyor’s Certificate of Monumentation.” The application before the PB this evening is to do the Boundary Line Adjustment to the other abutter.

Scott Boudreau, Boudreau Land Survey PLLC, was present this evening to represent the applicants. The members had a brief discussion.

**Planner’s Recommendation**: **Bart** had no issues as this adjustment will make the lots more conforming.

The Chair opened the public hearing at 8:00 PM. **[time on DCAT 1:07:09]**
Hearing no comments, the Chair closed the public hearing at 8:01 PM.

**Motion: Tim Rossignol** moved to approve the Boundary Lot Adjustment for the three lots on Packers Falls Road as written: Pursuant RSA 676:4, RSA 675:7 and Appendix A – Subdivisions of the Municipal Code of the Town of Newmarket, New Hampshire, notice is hereby given that there will be a public hearing for an application for Boundary Line Adjustment, requested by Tina Russell of 19 Packers Falls Road, (Tax Map U1 - Lot 3), Nancy Sunders & Peter B. Williams of 9 Packers Falls Road, (Tax Map U1- Lot 2), and Philip & Laura Lavoie of 21 Packers Falls Road (Tax Map U1- Lot 4) all located within the R-2 zoning district. The proposed application seeks to adjust the lot line between the three properties by Tax Map U1 - Lot 3 respectively conveying 8,532-sf of land to Tax Map U1- Lot 2 and 5,834-sf of land to Tax Map U1 - Lot 4.
**Second: Jane Ford
Discussion:** none
**Vote: Approved 7-0-0**

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 **[time on DCAT 1:08:19]**Read by the Chair:

4. Pursuant to §24-1 Zoning ordinance amendment procedures, of the Municipal Code of the Town of Newmarket, New Hampshire, notice is hereby given that the Planning Board shall hold a public hearing on proposed amendments to §32-5 *Nonconformities*; §32-9 *Special use permits*; §32-11 *Definitions*; §32-155 *Wetland protection overlay district* and §32-234 *Accessory apartments of the Municipal Town Code of Newmarket, New Hampshire*, that seeks to expand the use of accessory dwelling units, or take any other action relative thereto.

The Chair opened the public hearing at 8:08 PM. **[time on DCAT 1:08:54]**

**Bart** described the primary reason for this amendment. It will allow for the opportunity for accessory dwelling units (ADUs) to exist in Newmarket. Currently, as special exception by the ZBA is required to approve an accessory apartment (as they are currently known). Part of the requirement is that they be requested only from single-family and conforming lots within the zoning district. The amendment would be redefined to require only a building permit on all single-family lots whether or not they are conforming. In addition, this amendment would allow for detached ADUs. A special use permit would allow for two ADUs through the PB. The idea would be to blend in these units aesthetically with the existing dwelling. There are three types of classifications: 1) Internal Conversion ADU (i.e. basement), 2) Attached ADU (to the primary dwelling unit), and 3) Detached ADU (new or existing building). Parking requirement for an ADU would be a maximum of 2 spaces allowing for the greatest flexibility. No additional curb cuts would be allowed for driveways. The Building Inspector would enforce the ordinance.
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The Chair asked to move forward in the agenda to allow the Planner to retrieve additional information from his office. There was no objection.
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**Agenda Item #5 - New/Old Business [time on DCAT 1:18:16]**
***Committee Reports***
***Town Council*:** **Scott Blackstone** reported that the Town Council is implementing a branding strategy for all Town committees and boards. Uniform letterhead and font requirements have already been distributed. The Town will also look at ways to implement a uniform image for Town signage. They had a 1st reading of an amendment that will add both a PB and a ConCom member to the Energy and Environment Advisory Committee. The second reading will happen at the next meeting. H. Benjamin Stebbins, Condor Capitol, wrote a letter that was read into the minutes. He has been receiving some negative publicity about the rent increases. His letter fully outlined his commitment to providing low income housing (the letter may be heard at 49:15 DCAT time for the September 9, 2022 meeting of the Town Council).

***Conservation Commission*:** **Jeff Goldknopf** reported that the ‘Conservation Conversation’ event will be held on October 15 and will begin in the Town Hall Auditorium. There are three speakers scheduled for the morning and a volunteer work day at the Piscassic-Loiselle property (advertised through Nature Groupie). The PB Chair has asked that **Jeff** send the proposed ADU information to the Chair of the ConCom for distribution to the members for their comments.

***Capital Improvement Program Committee (CIP)*:** **Jane** reported that the process is going really well this year thanks to Bart’sfantastic organization and Chair Phil Nazzaro! All of the Department Heads are providing answers to the questions which have arisen in the earlier meetings. The CIP will meet again once the school proposals are completed and submitted for consideration.

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The Chair returned to the agenda There was no objection.
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Continued discussion on ADUs: **[time on DCAT 1:29:04]**

**Bart** feels that the changes to the Municipal Code about ADUs will help by providing
more housing options in Town. Short-term rental for 30 days or less will be prohibited.
This will protect neighborhoods and promote long-term rentals. This will be discussed more in the future.
 **[time on DCAT 1:50:28]**
**§32-155 *Wetland protection overlay district*** : **Bart** read the proposed changes and members discussed them.
 **[time on DCAT 1:57:51]**
**§32-234 *Accessory apartments of the Municipal Town Code of Newmarket, New Hampshire:***This section is a complete delete and replace.

The Board would really like to have input from the public on these proposed amendments to the zoning code related to Accessory Dwelling Units (ADUs). **Bart** will place this item at the top of agenda for the next meeting and then the members will continue to go through each section later in the meeting.

**Motion: Patrick Reynolds** made a motion to continue the public hearing to the next Planning Board meeting on October 11.
**Second: Jane Ford
Discussion:** none
**Vote: Approved 7-0-0**---------------------------------------------------------------------------------------------------------------------
 **[time on DCAT 2:33:55]**Read by the Chair:5. Pursuant to RSA 675:7, the Planning Board shall hold a public hearing to amend both the Site Plan and Subdivision Regulations of the Town of Newmarket, New Hampshire intending to modify Sec. 2.06 Fees of Appendix A. - Subdivision and Sec. 2.05 Fees of Appendix B. – Site Plan Review, or take any other action relative thereto.

The Chair opened the public hearing at 9:26 PM. **[time on DCAT 2:34:13]**
**Val** has asked **Bart** to create a comparison chart for current and proposed fees.

**Motion: Patrick Reynolds** made a motion to continue the public hearing to the next Planning Board meeting on October 11.
**Second: Jane Ford
Discussion:** none
**Vote: Approved 7-0-0**---------------------------------------------------------------------------------------------------------------

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**Agenda Item #5 - New/Old Business [time on DCAT 2:35:04]**

***Chairman’s Report***: The Chair had no report this evening.
***Planner’s Report:* Bart** updated the members on the Planning Department’s efforts to seek grant funding through InvestNH for rezoning the B-1, Master Plan additional funding, and funding for a design charrette for the Riverfront. All proposals will be submitted by the end of March. He also mentioned that the CIP process is going very well and that the members have identified ways to revamp the process and tie everything back to the Master Plan.

**Agenda Item #6 – Adjourn [time on DCAT 2:37:35]**

 **Motion: Jane Ford** moved to adjourn at 9:31 PM. **Second: Tim Rossignol
Discussion:** none **Vote: Approved 6-0-0**Respectfully submitted,

Sue Frick

Recording Secretary

**DCAT:
https://videoplayer.telvue.com/player/XSekkdEeRsk0JHQVHAvKJVka7\_5VjxKP/videos**