

Planning Board Minutes 12/11/12

NEWMARKET PLANNING BOARD MEETING DECEMBER 11, 2012 MINUTES

Present: Val Shelton (Chairman), Janice Rosa (Vice Chairman), Diane Hardy (Planner), Rick McMenimen, Elizabeth Dudley, Adam Schroadter, Ed Carmichael (Town Council ex officio), Jane Ford (Alternate), Eric Botterman (Alternate)

Called to Order: 7:01 p.m.

Adjourned: 9:31 p.m.

Agenda Item #1 – Pledge of Allegiance

Agenda Item #2 – Public Comments

None.

Agenda Item #3 – Review & approval of minutes: 11/13/12, 11/27/12

Action

meetings Motion: Eric Botterman made a motion to postpone the review and approval of minutes until the January meeting

Second: Ed Carmichael

Vote: All in favor

Agenda Item #4 – Regular Business

Acadia Engineers and Constructors LLC/Russell Serbagi Jr. – Continuation of a public hearing for an application for Site Plan at 13 Water Street, Tax Map U3, Lot 4, M-2 Zone. The proposal is for the redevelopment of the property to include two projects: restoration and renovation of historically significant F. E. Lang Blacksmith building (5,599 SF); and construction of four new townhouse units (5,320SF).

Chairman Shelton stated the Technical Review Committee (TRC) and Diane Hardy should bring the Board up to date at this time.

Eric Botterman stated there was a TRC meeting last week. They went point by point through Underwood Engineer's comments and the other memos that were received. The applicant is revising the plans. Everything that was an issue can be addressed. There does not appear to be anything that would prohibit the project from moving forward. A member of the Rivermoor Landing Condo Association was at the TRC meeting and made some comments. They are working on a few issues with the developer. Hopefully the Planning Board will be able to act upon the next submittal at the next

meeting.

Diane Hardy stated the next Planning Board meeting is January 22. There is a 65 day time period on the application that will expire the week before that. The applicant will be requesting an extension. She stated the Board has received correspondence from the Conservation Commission and from the Lamprey River Advisory Committee. Elizabeth Dudley also provided the Board with some recommendations. These were addressed at the TRC meeting and can be discussed at the next meeting.

Chairman Shelton asked if any members of the public would like to speak, opening the public hearing. There were no comments and she closed the public hearing.

Chairman Shelton appointed Alternate Eric Botterman to take Justin Normand's place for the meeting.

Action

Motion: Eric Botterman made a motion to continue the hearing contingent upon extension from the applicant to January 22, 2012

Second: Janice Rosa

Vote: All in favor

There will be a public hearing to amend Title III: Land Use Code and Regulations, Chapter IV: Zoning Ordinance, and Chapter VI: Site Plan Review Regulations in accordance with RSA 675:2, RSA 675:6 and RSA 675:7. The purpose of these amendments is to expand the mixed-use functions within the downtown village area and reinforce its pedestrian scale and historic character. The full text of the proposed amendments is available at the Planning Office of the Newmarket Town Hall during normal business hours and online at www.newmarketnh.gov. Property owners, abutters, interested parties and the public are invited to attend.

Diane Hardy had prepared a build-out analysis for the area. She stated the question was asked at the last meeting, if this zoning change was enacted, what the impact would be in terms of the number of additional new housing units that could be built in the future given there is a change in density to six units per acre for multi-family, single and duplex residential uses. She put together a map of the lots within the area of the proposed rezoning showing the corridors of Route 108 north and south of the downtown. For those areas, she did a total calculation of the acreage. Based on GIS data, there are approximately 70 acres of land within the two rezoning areas. She looked at the number of new units that could be added and the number of lots that could be subdivided in the future. She did this by doing a query to identify and select all of the lots within the study area that exceed ½ acre in size and have greater than 100 feet of frontage. In order to subdivide, there would have to be 50' of frontage with a ¼ acre lot for each new lot. She identified 32 lots that could be subdivided. She indicated their location on the map that was distributed to the Board and the public in attendance.

She stated this was a worst case scenario. It does not take into consideration things such as existing topography, constraints posed by wetlands, floodplains, utility lines and other variables. There is an assumption, too, that no building currently exists on each lot, this scenario is as if the buildings had been cleared from the land. The 32 lots she identified consist of about 41 acres, which is roughly 60% of the land area. She identified all of the lots within the study area by their tax map and lot numbers. She pulled, from the GIS database, the acreage of the lots and converted it to square footage. She also collected the data on the frontages of the lots and put it into the database. From that information, she prepared a map and was able to identify the number of potential units based on the acreage. That is a simple calculation of measuring the density by dividing the acreage of each lot by six units (six units per acre are allowed in the M-2 zoning district. She then listed the number of potential units. She went through the Town's vision appraisal database and identified the number of existing units according to tax records. These are residential units. If there was an entirely commercial enterprise, it would say zero. Other information is the number of new units that could be developed under the six units per acre density. She tabulated it and there is a total of 425 units based on the density. The existing is 278 and the number of new units is 264. Some of the figures came out in the negative, which would represent where there are more units existing than the current zoning allows, so that is zeroed out.

She stated, in response to the question that was asked about buildout, the worst case scenario, if you did a complete redevelopment of all the land and built new under the six units per acre density, it could conceivably result in 264 additional units. Chairman Shelton stated that would be if there were no restrictions assuming all of the acreage was on one lot. There are a lot of assumptions involved in this that are not realistic. It does not take into account any setbacks, wetlands, floodplains, or steep slopes.

Diane Hardy stated it shows on the map the land that includes the B&M Railroad right of way is a lot. It has frontage and acreage, but the reality of whether that land would ever be subdivided and developed is remote.

Chairman Shelton stated one of the large acre parcels that show up on this calculation is already built out with apartment buildings. Another lot, the parking lot behind the library cannot be built upon, because it is restricted for parking for the mills. The mill would have to be torn down in order to redevelop that lot. It is dedicated parking. She asked that people keep this perspective in mind. Also, she said there are a lot of existing lots within the district that already have more units than what would be allowed under the proposed change of zone.

Diane Hardy stated the lot at Tax Map U3 Lot 137 is the lot south of the funeral home on Route 108. It actually shows as having quite a bit of frontage, but the back is almost entirely wetlands. The chances of it being developed to that potential scenario are remote. Chairman Shelton stated you would never get the permits to fill all of the wetlands. Diane Hardy stated if there are poorly or very poorly drained soils, you cannot include those in calculations for subdivision purposes. Chairman Shelton stated you also get into the number of units per building and size of the building. There are so many parameters. The Board was requested to do this buildout analysis, but it is so unrealistic. You would never be able to achieve the buildout, because of the different constraints.

Eric Botterman stated there is nothing that would prevent someone from combining lots instead of subdividing. Diane Hardy stated that could make it more favorable as to the number of units that could be developed.

Adam Schroadter asked about the lots that currently had more units on them than what would be allowed under new zoning. Diane Hardy stated they are grandfathered and legally non-conforming. Adam Schroadter asked if they needed to refurbish those properties, what kind of restrictions would be dealt with. Diane Hardy stated they could refurbish the buildings. If they were expanding upwards or horizontally, they would need to obtain a Special Exception from the Zoning Board of Adjustment and would be required to meet certain conditions. Chairman Shelton stated, for the most part, all of the properties are nonconforming. Many of those will become less nonconforming with the new zoning.

Elizabeth Dudley stated she wanted to make sure she understood. She asked about the calculations and they were clarified for her.

Chairman Shelton stated they should not lose sight of what this means. The whole intent of this is to allow flexibility in the zoning, so property owners and applicants can bring prospective projects to the Board where, if they can meet certain criteria and prove to the satisfaction of the Board that it makes financial sense for the Town from a fiscal standpoint, as well as other requirements, the Planning Board has the ability to try to move that forward. The burden is on the applicant to prove their project doesn't just meet dimensional and density requirements, they have to provide information showing it makes good fiscal sense for the Town to have that project developed.

Elizabeth Dudley asked about Tax Map U3, lot 137. This is the last lot on the south corridor. Diane Hardy stated 2/3 of that lot is wetland and unbuildable. There is a very small envelope on which someone could build.

Elizabeth Dudley asked if there was another lot that had potential for dramatic change from what it is now. Chairman Shelton stated there is one across from the library, the old Marcel property. You can have ten units there. The lot is Tax Map U2, Lot 243. The lot has 1.728 acres. It has 243 feet of frontage. There are no units there now. The house that was there was torn down. In order to have ten units, they would need three separate buildings. The maximum height would be 35 feet. Diane Hardy stated it would require a Special Use Permit. The lot is in a Shoreland Protection Area and there

will be constraints on development.

Chairman Shelton stated the site plan review regulations would apply. As you put more regulations onto this, it makes the buildout numbers less realistic.

Chairman Shelton opened the public hearing.

Rob Phillips, Rivermoor Landing, asked whether there were any requirements for how far apart buildings on the same lot have to be. Eric Botterman stated that was typically a fire code issue. Making minimum setbacks between buildings has not been considered. Chairman Shelton stated there would be review by the Fire Department at the site plan review level for compliance with fire safety laws.

Diane Hardy stated, in the open space ordinance, there are restrictions on the spacing between buildings. For single family, there needs to be a 30 foot separation between.

Bill Arcieri, 135 Exeter Road, stated the maximum number of residential units is four per building. He did not see that anywhere. He saw, if there is no commercial use, the maximum was four. He asked if there was a restriction if there is commercial use in the building. Chairman Shelton stated not per building, if it is a mixed use. Mr. Arcieri stated you could have a building with commercial use with more than four residential units. Eric Botterman stated that was correct, if commercial was on the first floor. Mr. Arcieri stated if there was a large lot available, you could have a commercial building with ten or twelve commercial units. Chairman Shelton stated it would be a very big commercial building. Mr. Arcieri stated that was true. There are a couple of lots that are larger.

He stated, if you have ten units, there are traffic issues. That is twenty cars coming out of one lot right onto Route 108. He wondered if they needed to consider a maximum amount of residential units for traffic reasons, if nothing else. Chairman Shelton stated it depends where the lot is.

Mr. Arcieri stated he was trying to look at some of the unintended consequences. He knew this was proposed to try to promote some commercial development in town in this area. If there is a lot that could generate as many as ten residential units, you will probably create a traffic issue getting onto Route 108. Eric Botterman stated it would still be six units per acre maximum. Mr. Arcieri stated he hoped it comes in with a balance, that it is more commercial than residential. He stated, in the northern segment, a lot of those lots are along the Lamprey River and in the Shoreland Protection Zone. Diane Hardy stated they were also now in the State Rivers Management and Protection Program. Mr. Arcieri asked if they had considered some tiered density for that area. For example, a lower density for that portion that is in the Shoreland Protection Zone, similar to the open space requirements where you limit the amount of wetland area included in the open space.

Mr. Arcieri stated there are some very small lots in that area that are nonconforming. He asked how those played a role. Eric Botterman stated if they are nonconforming, they cannot be made more nonconforming, unless they get a variance. The small lots would be difficult, because you couldn't expand a building or make one bigger than the footprint of the building that is already there. He stated it was more likely that someone would buy two or three lots and combine them.

Mr. Arcieri asked, on the Permitted Use Table, why the Board would want to allow automotive repair on Route 108. There have been discussions in the past on trying to get away from that, as far as being consistent with the character of what they are trying to develop on Route 108. Auto repair used to be on the southern section of Route 108 and it was good when that went away. He didn't know if anyone wanted to bring it back. Chairman Shelton stated the reason they kept automotive in M-2 is because it was allowed in B-1. They didn't want to take away the right to have automotive. Mr. Arcieri stated it does not seem consistent with what they were trying to do along the corridor. Elizabeth Dudley stated, if not there, then where. The town needs a place for auto repair. Chairman Shelton stated under the current zoning someone could come in with an auto repair business in the B-1 zone, if this was not rezoned. Their minimum road setback would be 15 feet. There are a lot of residents in town who have automotive repair facilities and many residents use them as opposed to putting the money outside of town. There are pockets of automotive repair facilities creeping up in residential areas. It is not really fair to the abutters in residential areas. So, where do you put them? The B-3 zone

would be over the aquifer which is not an appropriate place. Janice Rosa stated people travel and, when they go through the center of a town, they like to have an automotive repair service shop on the route. She stated a lot of people were upset when Riverdale Auto went out, because a lot of people used that.

Mr. Arcieri stated there is a Route 108 overlay with some restrictions. Chairman Shelton stated that was brought into the ordinance and incorporated into the M-2 zoning. Mr. Arcieri stated traffic and curb cuts will be an issue. The area is not suited for access and egress.

Martin McKinsey, 6 Washington Street, stated he wondered if auto repair included auto body repair. He stated they paint at the auto body shop on Route 108. He lived on a side street bordering on Exeter Street near the body shop where they do the painting. He stated he did not know what the health issues were for the smell of paint, but the odor will not encourage any street life. There are plenty of places left where people could put auto repair. He did not see the need for it on Route 108.

Mr. McKinsey stated, on North Main Street up to Dame Road, there are one or two lots on the other side of the street, most have one structure, many are historic structures, and he was concerned that people would come in and want four units instead of one. He did not see any mechanism or demolition regulation that would stop people from buying up lots, tearing down the historic structures and putting up apartments with more than four units. He was concerned about that happening. He stated the comments about character of the neighborhood are a judgment call and, while he trusts the Planning Board, the constituency of the Planning Board can change over time. He did not think they should leave that sort of leeway in interpretation of the ordinances. Chairman Shelton stated the perfect example of what could happen in the proposed area is Great Bay Dental property. Under the re-zoning proposal, along North Main, in order to do residential, you would have to have commercial on the first level. Any new residential would have to have that. If it is all commercial, it would not fall under the Special Use Permit criteria, it would only fall under Site Plan Review. There are several lots that have three or more units, but they are nonconforming.

Mr. McKinsey asked about a lot adjacent to where he lives on the other side of Elm Street from the library. He stated it is the large lot on Lincoln Street. According to the proposed changes, this lot would only be able to have four units on it, unless it had commercial. It could potentially have ten units. Chairman Shelton stated that was allowed because of the density. She stated, when counting, you cannot round up, you have to round down. Mr. McKinsey stated he was curious if they had looked at other towns' zoning ordinances to see if this kind of zoning has worked elsewhere. Chairman Shelton stated Portsmouth was pretty much driven by form based zoning. Diane Hardy explained what form based zoning was. She stated Dover recently adopted form based zoning for an area adjacent to the downtown. They are trying to achieve development that is consistent with the character of the area. They actually went out and measured hundreds of lots in that area to come up with their zoning scheme. They have developed a couple of buildings under the new zoning, one at the corner of Central Ave and Sixth Street where there is a Century Bank. It forms a nice streetscape with parking to the rear. On Chestnut Street in Dover there is also other commercial development that is very tastefully done, which is close to the street and has parking and loading to the rear.

Mr. McKinsey asked, if you wanted to develop the south end of town so it has pedestrian character and movement, how would parking be dealt with. It seemed like every new business would need its own parking. It might make sense to have some public parking. He stated there is a public parking lot on Railroad Street. It seems out of the way, he didn't know how much use it got. The Town also had purchased the land where the house had burned next to the railroad tracks on Route 108. It seems like there may be some way to connect a path from Route 152 to this southern area on 108. This way you could use that parking lot on Railroad Street and have direct access to the southern portion of 108. Chairman Shelton stated if you walk down from Railroad Street or Moonlight Drive, Moonlight Brook does cross through there. If you are on that Town parcel, there is a retaining wall back there, because of the topography. It would be physically impossible to get to the southern part of 108 unless you were walking up the railroad tracks, because of the topography and Moonlight Brook.

Mr. McKinsey stated if we are looking to make this a pedestrian area, it would be nice if the speed limit were lowered there. There may be some State restrictions on how low it could be set.

Jim Phelps, 4½ North Main Street, stated he had sent a letter which was read at the last meeting. He questioned whether the change from B-1 to M-2 is in the best interest of the Town in the long term, because of the greatly reduced setbacks. He did not think the Board is accurately envisioning what that will allow developers to do. It is highly unlikely a developer will honor the look and feel of downtown Newmarket when they have a commercial project that will have these setbacks. He stated a developer said himself it has been difficult because of setback requirements under B-1. It was

naïve to think the feel of downtown Newmarket will be carried through north and south of town, if developers are allowed to build as they see fit with site plan approval.

Mr. Phelps stated the proposal was to carry M-2 to the Durham line. During the second meeting, that area was pulled back to stop just north of Dame Road. He did not see the logic in that and in the explanations that have been provided so far. He stated the Planning Board stated there were more lots there that can be developed under B-1. He asked if there was another reason why these lots will remain B-1. Chairman Shelton stated the reason this was changed after one of the public hearings was there were two landowners from that area that brought up the issue of whether these changes would potentially become missed opportunities. When you think about the types of projects that have come to the Planning Department, those underdeveloped lots are the only areas that are conducive for redevelopment for larger commercial based types of development. They are underdeveloped and they have the land mass available, particularly when associated with abutting parcels.

Mr. Phelps stated he believed one of the resident's comments in the October meeting was actually from a developer. He stated there are 13 lots that are going to remain B-1, but only three that are not commercially developed and have enough frontage to be developed under the B-1 zoning. One of the lots is owned by the Community Church. It is his understanding they cannot develop or sell based upon their endowment. That only leaves two lots that can be developed under B-1. It doesn't make sense to him. He believes everything should remain B-1. He did not see the rationale in keeping the northern lots as B-1. Chairman Shelton stated the comment about the Community Church lot is a valid point. It does create the transition. It is a large lot and we know it will not be developed, because of deed restrictions, leaving thirteen lots that, from a Planning perspective, are very underdeveloped. If you think about a project such as the one that had been proposed at 3 North Main Street, which was going to combine multiple lots to create a commercial development, the exact same development could happen on the other side of the road, because of the deepness of some of the lots. You would have the ability there to widen the road and have a turning lane.

Mr. Phelps stated he owns Tax Map U-2 Lots 273 and 275. He stated there was a lot in between. He stated Lot 276 is not for sale, but he is having a hard time understanding why the Board would make these lots B-1. He stated they are hurting all of those people who have lots south of 3 North Main. If they remain B-1, there is additional leverage for the developer. All the previous uses under B-1 are rolled into M-2 zoning. Chairman Shelton stated the whole issue to do a type of development that is currently allowed in B-1 is going to be based upon whether you can put your parking in front of the building. Anyone with a significant development is going to want the parking in front of the building. To change the lots at the northern edge of town would very much diminish the ability to have development of a 3 North Main type of development. Mr. Phelps stated keeping the area as B-1 is only helping 3 North Main Street and is not fair to the abutting properties. The whole intent was to increase development by changing areas to M-2. He stated it is in conflict to keeping the north end of town as B-1. If the concern is 3 North Main Street with parking in the front, it seems that a variance could still go through successfully for the parking, as it is obvious the Town wants this development. Chairman Shelton stated they have talked about a lot of proposed projects that came before the Planning Board or the Zoning Board, which is what precipitated looking at zoning changes. They are not trying to spot zone for a specific project. It is B-1 now. The Board knows, since it has always been B-1, there has been no development and this area is not moving forward. The idea of expanding the downtown area with urban infill more towards the north and south makes sense given the existing land uses, the configurations of the lots, and what is currently on the lots. The Board did go all the way to the town line thinking they would do M-2. Then the Board realized, if they go all the way to the town line, what they really would have done would be diminish the ability for the most likely scenarios that land could be developed under with the benefits of B-1 and that being B-1 does serve those particular lots well. It will be a larger commercial development than what could occur on the fringes of the downtown.

Mr. Phelps stated all of the allowable uses for B-1 would be included in M-2. The only difference would be that the B-1 swatch would not allow the owners of the other lots to create any development under M-2 that allows any developer to place parking between the building and the road. That appears to be the bottom line. Chairman Shelton stated that is one of the critical items. A developer will not put a grocery store in or any development of that type without parking in front of it. She has not seen many without it.

Mr. Phelps said this change is for the benefit of 3 North Main Street and one developer. Chairman Shelton stated there is no developer. Mr. Phelps stated it would be a potential developer. Chairman Shelton stated these lots create a large developable block of land for the larger commercial types of developments that are 100% commercial that have many commercial uses in one development. There is access to Route 108 in an area where Route 108 could be widened.

Mr. Phelps asked why some lots are not remaining B-1. He stated you can't have it both ways unless you are trying to appease a developer. Eric Botterman stated there is no development for 3 North Main Street. That project died on its

own. The developer decided not to go forward because of the cost of infrastructure. Mr. Phelps stated he was sure the Board was aware there are discussions of what is going to be done there and what lots will be a part of it. Eric Botterman stated he did not know that. Chairman Shelton stated some of the owners in that north area have spoken at the last two meetings and did not object to it remaining B-1. Mr. Phelps stated this would impede the ability of 3 North Main Street to be developed. He did not think the owner realized the better position they would be in if they could develop their own lot as opposed to being subject to B-1. He asked if it was safe to say that we have this portion of North Main Street that is B-1 because we want commercial development and we want those developers to be able to have parking between the road and the building. Other areas are M-2 despite the fact that 85% of the lots cannot be developed. Those lots are M-2, because those lots are undersized and we don't want parking between the street and the building. Chairman Shelton stated this is transitional zoning, expanding the existing M-2 zoning from the downtown to the north and south and then it transitions. Mr. Phelps stated all of these lots other than the two mentioned cannot be developed under B-1 unless multiple lots are consolidated, which is the same that you have been looking for all these years for M-2. Chairman Shelton stated his point is well-taken.

Elizabeth Dudley stated the Board wanted to be careful not to limit business opportunities at the outer limits of the town. She was not sure how much of a linear downtown configuration their small town concept could support. Maybe the Board is outreaching at the far north and south, as far as extending the village feel. The Board would not want to limit larger business opportunities that may want parking visible to the road. The Board may want to make the area smaller. She did not see why the Board had to be too expansive in the first effort at this change. She did not think it would hurt to be more conservative in the numbers of lots included in this conversion.

Mr. Phelps stated he could see why the original M-2 proposal included the area up to the Durham line and down to the car wash. His suggestion is everything remains B-1. It was his understanding the Town was trying to stay away from additional housing. He believes the Town is pro-business. If they make a change to M-2, it should be to the entire area, not make it piecemeal. He stated if his neighbors were rezoned M-2 he would fight tooth and nail to be rezoned M-2. It is a matter of principle. He has no plans to sell or develop his properties.

Mr. Phelps stated the area should remain B-1 to provide additional buffers for everyone. He asked if the Board had any questions for him. Jane Ford stated, at an appropriate time, maybe he could educate the Board on what was happening on some of those parcels he had made reference to earlier. Mr. Phelps stated he felt that would not be appropriate. Jane Ford stated if there was a decision being made by the Planning Board that could be beneficial to some and hurt others without the Board knowing, she would want to make sure she was making an informed vote. Mr. Phelps stated he did know that there is a Planning Board member who is aware of discussion occurring. He was not bringing news to everybody.

There were no further comments or questions and Chairman Shelton closed the public hearing.

Chairman Shelton stated the Board's next step would be to either make further amendments and continue the hearing or move this forward as is to the Town Council for public hearings or give it to Town Council just for discussion. She stated Ed Carmichael had advised her that the Board should send this to the Town Council in the form they would like adopted.

Adam Schroadter stated he was asking himself how long along one road with store frontage within five feet of the road really serve the character and pedestrian nature of the town. He felt the transition point makes sense, especially where the church's lot is not developable. He stated if there was a greater draw for further pedestrian village-like development further down the corridor maybe it would make sense. Maybe on the river side there is more of an opportunity for store frontage and retail shops rather than just larger development. The only way to have it make sense to make the M-2 zone extend north of town is to have some sort of charming retail, mixed use opportunity on the water. Diane Hardy stated that whole area is under the Shoreland Protection Overlay District zoning. They are not looking to redevelop the waterfront; they want to protect it, while encouraging development to occur closer to the road.

Ed Carmichael asked how many lots were between Tax Map U-2 and Lot 274 and the town line on each side. Chairman Shelton stated there were eight lots that would remain B-1 on the west side and eight on the east side.

Mr. Phelps asked if he could make a comment. Chairman Shelton stated she would allow it. Mr. Phelps stated it was his understanding the Shoreland Protection Act is a 250 foot setback. Diane Hardy stated that was the zone, the setback is 125 feet. Mr. Phelps stated a building cannot encroach on the 250 foot zone. Eric Botterman stated it could, but you would have to get a permit from the State. Mr. Phelps stated if this was going to go M-2, it is a stretch of beautiful waterfront and it would be a shame to see a commercial building or an automotive repair sitting on the Lamprey River.

Elizabeth Dudley stated she was trying to make this more likely to be considered by Town Council and, if the Board was more modest in the proposal, it might have a better chance of passing. It is quite a dramatic shift. If the Board was to geographically limit the expansion of this idea, it may have a greater chance. Part of that limitation would limit the number of potential new units. It would be a compromise and more conservative. It might better serve the interest of the town in the immediate future. There is a charming downtown and she understands the spirit of what they Board is trying to do, but for practical purposes she was not sure at what point that extension would translate. She stated it is difficult for businesses to prosper if there is no immediate parking access. That limitation of where parking can happen may be detrimental. She did not have a specific lot cutoff recommendation, but she would suggest Dame Road at the north and Bennett Way to the south.

Diane Hardy clarified if the Board goes forward with the proposed changes; a developer would have more flexibility, because the M-2 zoning provides more flexibility in calculating parking requirements and by allowing shared parking and the use of off-site parking within 500 feet of the site to satisfy parking needs.

Elizabeth Dudley recommended the Board limit the extent north and south of the conversion, but she did not know where the cutoff should be. She stated some people may know the town better.

Eric Botterman stated he was fine with it the way it is. He is also fine with reducing or expanding the zone, if someone wanted to do that. The intention is to try to promote orderly development in an area that has not been developed. They are not going to think of every possibility that could occur with developers and potential projects, but the intent is good. He is comfortable with the way it is, but if someone wants to add or reduce a few lots that won't change his opinion. He stated this has absolutely nothing to do with 3 North Main Street. He knows there was a project brought forward a while ago that died and had nothing to do with zoning. It had to do with available infrastructure. If someone brings another project forward for North Main, good, if not, it is what it is.

Rick McMenimen stated he was for the proposal.

Ed Carmichael stated he would suggest adding lots and going to the town line or nearer to it. He needed to look at it further.

Jane Ford stated she agreed they need to go back and look at it.

Adam Schroadter stated it looked good. He would propose to move forward with it as it is.

Janice Rosa stated she was concerned they are adding an influx of apartments. It is multi-family and affects the water situation. She will still not let that hold her vote back. They have worked hard to make this move forward and she knows there are businesses in town that have been denied for proposing a complex with businesses on the bottom and apartments on top. If we are going to bring in businesses by allowing mixed use, we need to allow that to happen, even with the concern of more apartments or condos. She knows the Board does put a good technical review process together and the Town's engineer looks at it and there are provisions in place about aesthetic concerns.

Chairman Shelton stated she wanted to address adding more residential units into Newmarket, whether they are multi-family or not. We understand single-family homes that are built on the outsides of town cost the town a lot of money in road maintenance and schools. We know we will have some population growth in town. Where do we want that to occur? The trend is to have it occur within our towns, where you have the ability to walk to the facilities. She is a proponent of urban infill development and trying to get the population growth to occur within the downtown area. She understands there will be impacts on traffic and she hopes they will be mitigated by more pedestrian emphasis and lifestyle and that people will not be getting into cars to go to work, because they can walk downtown or downstairs to work. Some very successful communities are capitalizing on their urban infill development through form based zoning. She would not want

to move this forward as proposed, because it is more important they move a proposal forward that they have an extremely high level of confidence will be passed by Town Council. She stated if Ed Carmichael did not feel he could advance this then she would not be comfortable moving ahead with this. Ed Carmichael stated he was not comfortable with it. Chairman Shelton stated he is the one who has sat through all of the hearings and deliberations and the one the Board would count on moving this forward. She stated it would be difficult to decide where to cut the zoning changes off. They could move it forward to a continuation at their next meeting with a reposting that brings the M-2 Zone to the town line. They would have the ability within site plan to waive the parking requirements. Or they could take out an entire section as far as leaving it B-1 zoning. There has got to be a transition point. It is either they do nothing on the north side and leave it all B-1 or transition it at Dame Road. If it is extended to the town line, they would have another public hearing.

Elizabeth Dudley stated there would be more chance of getting this passed, if it were less extensive.

Ed Carmichael stated he had second thoughts after listening to Mr. Phelps. He would like to give it more time.

Chairman Shelton asked how this can be posted so a decision could be made on the meeting night, whether to move it to the town line and create a different transitional zone or another option. Diane Hardy stated she thought another meeting was needed in between. Eric Botterman agreed. Diane Hardy stated you need to have a full ten days notice for what is being presented. She suggested having a meeting before the next regular Planning Board meeting.

Eric Botterman stated he thought the Town Council would be looking to Ed Carmichael for his thoughts on it and, if he does not support it, it gives the Council an easy reason to vote no.

Jane Ford stated the Board could start with presenting one end of town at a time and see how the first one goes. If successful, they could approach the other end from lessons learned.

Chairman Shelton stated it would make sense to not go north of the bridge. The river is the transition. Early on, they were looking at the area by Elm Street only. Then they decided to do the whole thing before going to Town Council. If they were to repost the public hearing and do this in a transitional effect, they would eliminate the proposal of changing the properties north of the river along Route 108 and Bay Road and just concentrate on the Elm Street conversion from B1 to M2 and then the ones on the southern end. So, North Main Street stays B1 and this can be moved forward to see if they can get some redevelopment along Main Street in the vicinity of Elm and Main and some redevelopment or new development on the south end.

Diane Hardy stated she was looking at the map showing lots with future development potential. In looking at the density and size of the lots, there really is a cluster of lots in one area. Her suggestion is, if they are going to limit the size, they should just be looking at that one area. Most of the southern end has already been developed into a commercial area. Chairman Shelton stated there was the DeWitt property, the vacant lot next to Rite Aid, and from that point north you have three or four duplex or triplex units. Across from there are single families. She would recommend including the vacant lot by Rite Aid in the change. Diane Hardy stated they could leave McDonald's and that area as B-1. That area was successful in the fact that it was developed the way it was envisioned when the zoning was set up. Chairman Shelton stated the cutoff should be the property to the northwest of the road going into Great Hill Terrace, as a transition point. The vacant lot next to Rite Aid could be the transition point on that side.

Chairman Shelton stated they have the B-1 Zone in place for many years there has been no commercial development

Elizabeth Dudley stated the problem she has is Newmarket has more than 50% multi-family and that is way out of line with comparable towns. She felt they should try to realign that as best they can. That is part of her reluctance to go forward with this. There are a lot of people in the downtown area now. Chairman Shelton stated, if they take out North Main Street, her point is addressed.

Chairman Shelton stated she wants to move this forward. Their job is to recommend changes to move the town forward. They have been working on this change for a year and a half. The town is not going to move forward, if they do not get to the point where they can present changes to the Town Council. Projects have come before the Zoning Board and for consultation with Planning Board and the current zoning does not allow them.

Diane Hardy will make the changes, as suggested by the Planning Board members, and have them reposted for another hearing.

The Board decided to meet on Tuesday, January 8, 2013 at 7:00 pm.

Action

4 of the

Motion: Eric Botterman made a motion to continue the hearing to
Zoning Ordinance and Chapter 6 of the Site Plan Review

amend the Lan
Regulation

Second: Ed Carmichael

Vote: All in favor

Agenda Item #5 – New/Old Business

Chairman Shelton asked about the report on Landscaping Regulations. Elizabeth Dudley stated it was still in progress and she had no news. Chairman Shelton stated they will continue that to January 22.

Chairman's Report

Chairman Shelton stated they have regrettably received a notification from Justin Normand that he is resigning from the Planning Board due to time commitments. That leaves an open position to fill the seat until the next election.

Action

Motion: Ed Carmichael made a motion for Eric Botterman to fill the

vacancy

Second: Jane Ford

Motion: Eric Botterman made a motion for Jane Ford to fill the seat

Jane Ford stated Eric Botterman had more experience and Eric Botterman withdrew his motion. The Board voted to have Eric Botterman fill the vacancy until the next election Town election.

Vote: All in favor

Town Council Report

Ed Carmichael stated the Town Council passed some resolutions including some to establish a Charter Commission, to

acquire Channel 13 webstream equipment, and to transfer \$56,878 in school impact fees to lease the modular building.

Capital Improvement Program

Rick McMenimen stated everything has been forwarded to the Budget Committee.

Advisory Heritage Committee

Elizabeth Dudley stated they had not met.

Economic Development Committee

Chairman Shelton stated the Town Administrator was trying to coordinate a meeting in January. They are still looking for at-large members.

Planner's Report

Diane Hardy stated she and Chairman Shelton met with the Town Administrator and talked about some of the Planning Board issues that fell by the wayside during the transition between Town Administrators. One of them is the Planning Board's recommendation on impact fees. Steve Fournier would like them to come before the Town Council at their January 16 work session to re-present their recommendations and move this forward. They could also present the rezoning recommendation at the same time, if it is ready.

Agenda Item #6 - Adjourn

Action

Motion: Eric Botterman made a motion to adjourn at 9:31 p.m.

Second: Janice Rosa

Vote: All in favor