**NEWMARKET PLANNING BOARD MEETING**

**NOVEMBER 12, 2019**

**MINUTES**

Present: Eric Botterman (Chairman), Val Shelton (Vice Chairman), Diane Hardy (Town Planner), Jane Ford, Bill Doucet, Sarah Finch, Michal Zahorik (Alternate), Ted Seely (Alternate), Gretchen Kast (Town Council ex officio)

Absent: Jamie Bruton

**Agenda Item #1 - Pledge of Allegiance**

**Agenda Item #2 – Public Comments**

None.

**Agenda Item #3 - Review & Approval of Minutes - 10/08/19**

**Action**

**Motion: Sarah Finch made a motion to approve the minutes of 10/08/19**

**Second: Val Shelton**

Val Shelton stated there was a portion of the recording that had no audio and the recording secretary was not able to type out that section. Diane Hardy stated she added language about Eric DeWitt presenting his waiver request. She stated there had been nothing substantive where the gap in the recording was to the best of her recollection.

**Vote: Jane Ford and Bill Doucet abstained due to absence**

**All others in favor**

**Agenda Item #4 - Regular Business**

Eric Botterman appointed Ted Seely to replace Jamie Bruton.

**Consideration of appointment to Alternate – Thomas Howard for a term to expire 2021.**

Thomas Howard stated he was in the commercial construction industry and had been for about 23 years. They just purchased a home in Newmarket in March. He was on the Planning Board in Henniker. He wanted to contribute to the community.

**Action**

**Motion: Val Shelton made a motion to approve the application of appointment for an alternate position on the Newmarket Planning Board for Thomas W. Howard with a term expiring 2021**

**Second: Bill Doucet**

**Vote: All in favor**

**77 Hersey Lane, LLC/Walter Cheney/Chinburg Builders, Inc. – Continuation of a public hearing for an application for Special Use Permit for an open space single family subdivision, on a twelve + acre lot. The lot is located at Hersey Lane, Tax Map R4, Lot 3, R2 Zone.**

Bill Doucet recused himself. Eric Botterman appointed Michal Zahorik to fill his position.

Alexx Monastiero represented 77 Hersey Lane LLC. They have been before the Board with this application a couple of times. They did a site walk in August. They had a conceptual plan done by Underwood Engineers and they had a Technical Review Committee (TRC) meeting in October and now they were here to discuss the motion to approve the Special Use Permit. They can then finalize the design of the conceptual final plan for the January meeting. They would gladly take comments. They believe the yield plan meets the requirements and purposes of the Special Use Permit, by conserving open space of 8.95 acres of a 12 acre parcel.

Diane Hardy had provided a recommendation to the Board. She stated the TRC did meet on this application and based on that meeting and a follow-up changes to the plan, she recommends the application be approved subject to the following findings of fact and conditions:

1. The Planning Board has the authority to interpret and apply the Zoning Ordinance as part of its jurisdiction related to the review of Special Use Permit applications;

2. The Technical Review Committee and the Planning Board have reviewed, discussed and deliberated the question of whether this project meets the type of development envisioned in the R-2 District zoning and by the criteria for a Special Use Permit under Article VI of the Zoning Ordinance and has found the application meets the criteria;

3. The Planning Board has set forth the following findings:

a Residential Open Space Design Developments with single family homes as detached homes are permitted by a Special Use Permit in the R-2 District;

b. The proposed Residential Open Space Development is consistent with the purposes of the R-2 District;

c. This project results in the best development option permitted for the land to meet the following objectives, as stated in Sec 32-192 of the Zoning Ordinance and Section 3.14 of the Newmarket Subdivision Regulations as follows:

1. protects natural resources and environmental sensitive areas including wetlands, wetland buffers, and steep slopes;

2. preserves and maintains mature woodlands and creates upland buffers;

3. maintains visually appealing aspects of the landscape.

4. minimizes the fragmentation of open space by connecting regional open space areas and adjoining parcels;

5. to the extent possible, designs around existing stonewalls and attempts to reuse and relocate stonewalls;

6. protects rural roadside character by avoiding development directly fronting on public roads. The woodland site is set significantly away from public roads, including Route 108 and will be preserved through the establishment of vegetated “no build-no cut” buffers.

4. The conceptual plan shows a lot area of 12.81 acres, with 8.95 acres, being proposed as open space, which will be protected within the development, shown on the “Open Space Site Plan” as deed restricted conservation land, to be owned and held in common by a Homeowners Association which will have enforcement rights to preserve said land in perpetuity through a deed restriction, conservation easement, or other legal restriction.

5. The Applicant has provided an environmental yield plan that shows a density of 14 lots could be built as a conventional development, which is reasonably achievable with respect to environmental impacts, economic realities and sound land use planning. The open space site plan calls for the creation of 11 lots. The applicant is not requesting any density bonuses, pursuant to Section 32-200. The applicant is providing 8.95 acres of open space, as conservation land, which exceeds the minimum amount of “developable land base” required for an open space development, pursuant to *Section 32-196. Standards for Approval.*

6. The following documents were reviewed as part of this process:

1. “Existing Conditions Plan” for 77 Hersey Lane, LLC prepared by Doucet Survey, dated August 7, 2019.
2. “Environmental Yield Plan”, dated March 2019, updated November 6, 2019, prepared by Beals Associates, LLC.
3. Proforma for Yield Plan Review, dated August 28, 2019
4. “Open Space Site Plan”, dated March 2019, updated October 31, 2019 prepared by Beals Associates, LLC.
5. Wetland Delineation Report for Hersey Lane Subdivision, prepared by Gove Environmental Services, Inc., dated July 2019.
6. Revised “Yield Plan” calculations provided by Christian Smith, per email to the Planning Department, dated Wednesday, November 6, 2019.

7. A Site Walk was held on August 20, 2019; Public Hearings were held on the application on Tuesday, July 9, 2019 and August 13, 2019; and the Technical Review Committee meet on Thursday, October 24, 2019 to review the Special Use Permit Application.

8. The Applicant has met all requirements for a Special Use Permit for an Open Space Development in accordance with the Town’s Zoning and Subdivision Regulations.

**Action:** The Newmarket Planning Board voted unanimously to approve this application subject to the following conditions:

1. All easement and deeds pertaining to open space, drainage structures, and best management practices to be reviewed and approved by the Town’s legal counsel.

2. A Land Stewardship plan, in narrative form, shall be professionally prepared which focuses on the long-term management of the open space and addresses items such as measures for correcting potentially destructive measures, such as erosion, a maintenance and operations plan needed to maintain the stability of the resources, the management of woodlands and buffer area landscaping, and the preservation of wetlands.

3. The applicant provide an application for a subdivision plan for Planning Board approval which meets the requirements of the Town’s subdivision regulations, including those in Appendix A. Section 3:14 Residential Open Space Design.

Gretchen Kast asked who would carry the Land Stewardship Plan forward. Diane Hardy stated the applicant’s consultant will prepare it. The mechanism for implementing the Plan would be stated in the document depending on whether the land is owned by a Homeowners Association or a conservation entity, such as a land trust. Eric Botterman stated, if best management practices change in ten years, there is no mechanism to go back and change the plan and make the applicant conform. Diane Hardy stated the project would be vested at that point.

Alexx Monastiero stated they hoped to be before the Board at the January meeting with their subdivision application. Eric Botterman stated they would give the applicant 90 days to get the subdivision application in.

***Eric Botterman opened the public hearing.***

No comments.

***Eric Botterman closed the public hearing.***

**Action**

**Motion: Val Shelton made a motion they approve the application for Special Use Permit for an open space single family subdivision located at Hersey Lane, Tax Map R4, Lot 3, R2 Zone subject to the conditions as outlined in the Planner’s report dated 11/06/19 and that said conditions 1 and 2 run concurrent with subdivision application and, on 3, the application be submitted within a 90 day period**

**Second: Sarah Finch**

**Vote: All in favor**

**Skyfall LLC/Erik Potts – Continuation of a public hearing for an application for Site Plan, regarding a 32’x12’ addition of one garage bay to the right side of the current building. The lot is located at 82 Exeter Road, Tax Map U4, Lot 2-2, B1 Zone.**

Erik Potts stated he and Diane Hardy thought the setbacks were going to be closer than originally thought, so he had a survey and site plan done. The garage bay will be 15’x32’. It is still within the setbacks.

Diane Hardy stated this was originally approved in 1997. Over the years there have been a few changes, including expansion of the building and the paving of the parking area. The original plan showed room for 17 cars. There were changes in the occupancy of the building. It was originally a full auto repair business and there is retail sale of vehicles and some office space associated with that use now. She stated the application, as presented, is substantially complete.

**Action**

**Motion: Val Shelton made a motion to accept the application as substantially complete**

**Second: Jane Ford**

**Vote: All in favor**

Diane Hardy stated the applicant has requested two waivers. The parking lot has 17 spaces including space for one ADA space. The applicant would like to use up to four of the parking spaces to continue the retail component of the business. There is room on site to accommodate that and she recommends granting the waiver. The second waiver request is from the transit and bicycle amenities. The applicant does not anticipate pedestrians or bike transits. People arrive with their vehicles. She recommends approval. She did want to point out, because the lot was paved and they do not have any indications of striping of spaces. She recommends, when the applicant repaves the lot in the future, there would be striping done at the time to define the parking spaces.

***Eric Botterman opened the public hearing.***

No comments.

Bill Doucet suggested, when the parking lot is repaved someday, the parking that is shown be pulled out of the setback. Erik Potts stated he could do that.

Bill Doucet stated the gravel lot could possibly be pulled back from 25’ to 26’ to avoid encroachment over the setback line, as well. Erik Potts agreed to do that.

***Eric Botterman closed the public hearing.***

**Action**

**Motion: Val Shelton made a motion to approve the waiver request from Section 3.02(A) regarding number of spaces to reduce the 16 spaces provided with up to four of those vehicles provided parking spaces for retail sales.**

**Second: Jane Ford**

**Vote: All in favor**

**Action**

**Motion: Val Shelton made a motion to grant the request for a waiver of Section 3.04 regarding pedestrian, bicycle, and transit amenities**

**Second: Jane Ford**

**Vote: All in favor**

**Action**

**Motion: Bill Doucet made a motion to conditionally approve the site plan for Tax Map U4, Lot 2-2, for the addition of one garage bay, with the Planner’s recommended conditions and additional conditions that upon repaving the parking lot the parking lot be brought into compliance with the setback lines and that, in the area of the proposed gravel expansion, that be constructed to 26’ off the sideline instead of 25’ as shown and upon repaving the parking lot it would be striped.**

**Second: Val Shelton**

**Vote: All in favor**

**Eric DeWitt – Continuation of a Request for a Waiver of Impact Fees for the residential units in the mixed use building at 81 Exeter Road, Tax Map U3, Lot 137, B1 Zone. The proposal was to remove the existing buildings and driveways and build a 2,920 square foot, two-story, mixed use (commercial/residential) building, with municipal water and sewer. The site plan included associated parking, drainage, and landscaping improvements**

Eric DeWitt referred to a letter from Bruce Mayberry, Planning Consultant, he had sent to the Board. He stated this was a letter commissioned by the Town to do a study on impact fees and the conclusions are in the letter. They set out minimum sizes for the apartment assessment for the impact fees. The studio apartments of his project do not meet the minimum requirements for impact fees, as suggested in the letter. The public school fee has a 600-650 sq. ft. minimum size and all of his apartments are below that. The recreation fee was originally computed for per capita. They are saying it is a minimum residential unit of 300 sq. ft. should have a fee of $140/unit. The majority of his apartments are below that. He is requesting he be assessed at that fee per unit. Wastewater and water supply shows a fee schedule that takes into consideration the more people in an apartment, the more wastewater generated and more water supply is needed. He is requesting he be assessed at the minimum is outlined for them.

Bill Doucet asked what the square footage of the proposed units was. Eric DeWitt stated they vary in size. The smallest are 273 sq. ft. and those are the majority. There are a couple that are 340 sq. ft. and there is one larger one at 537 sq. ft.

Bill Doucet asked about a previously requested waiver that was granted. Eric DeWitt stated, at the time, he had language that talked about dual flush toilets and other things in his apartments and the Board said, whenever he had additional information, he should come back for reconsideration. He has the letter this time. Three out of nine were waived. Val Shelton stated the vote was taken without prejudice.

Gretchen Kast stated none of the square footage is near the minimum. She was fine with waiving the fees. Other Board members were in agreement. Val Shelton stated he would still be required to pay tie in fees for water and sewer.

**Action**

**Motion: Val Shelton made a motion to approve the request for waiver of impact fees for the remaining residential units in a mixed use building at 81 Exeter Road, Tax Map U3, Lot 137, B1 Zone, based upon the information provided by the applicant, which allows this Board to grant said waivers and waivers to be in the amounts as requested by the applicant in his 11/04/19 memo**

**Second: Jane Ford**

**Vote: All in favor**

The Planning Board has agreed to assess impact fees in the following amounts for the project:

Public Schools $ 0

Recreation Facilities 140

Wastewater 346

Water Supply $ 222

$708 per unit 6 new units @ $708 =$4,248

**Newmarket Holdings LLC/Greg Bird & Matt Lyle – Public hearing for Site Plan review regarding the addition of two studio apartments to a mixed use building within the existing footprint and structure of the building. The lot is located at 72 Main Street, Tax Map U2, Lot 51, M2 Zone.**

Greg Bird and Matt Lyle were present, along with Mike Sievert from MJS Engineering. They have owned the building for three years and want to add two apartment units. They got approval to do that from the Zoning Board and now they are in the site plan process.

Diane Hardy stated the application was complete and the Board could accept the application for technical review.

**Action**

**Motion: Val Shelton made a motion to accept the application as complete**

**Second: Ted Seely**

**Vote: All in favor**

Mike Sievert stated he handed out a revised site plan. They added an ADA space and bike racks, as well as screening to the dumpster and delineation of parking spots. He had spoken with Diane Hardy about striping the lot in the future, when it gets paved.

Val Shelton stated this plan shows multiple lots and the application is for one lot. Mike Sievert stated it is for 72 Main Street. He indicated it on the plan. U2 51 is shown as a corner lot on the plan down the street from the lot for the application, but U2 51 is the lot shown as the applicant’s lot on the public notice. Mike Sievert stated the applicant’s lot was U2 53. Val Shelton stated it was in their application as Lot 51. Mike Sievert stated it was correct on the plan. The application had the wrong lot number. Bill Doucet stated Lot 51 was not listed on the abutters list in the application. He stated there are two U2 52 lots noticed. He asked if one of those might be lot 51. Eric Botterman stated the applicant needs to re-notice the abutters and correct the list. Bill Doucet stated the Board cannot discuss this tonight. There was discussion of lot ownership. Diane Hardy left to use her computer to research and confirm the ownership.

The Board moved on to the next agenda items, while waiting for Diane Hardy to return.

Diane Hardy returned after the other applications on the agenda were addressed.

The applicants were not able to continue without re-noticing abutters.

**CRC Future Corp - Public hearing for an application for a modification of a final subdivision and major site plan approved on February 24, 1987 and modified by the Newmarket Planning Board on June 12, 2012.  The proposal is for a re-configuration of Lot 132, Phase 2  (The balance of land available following the completion of Phase 1 which created 10 units within five duplexes) to allow the construction of 28 single family units, whereas the Planning Board previously approved a total of 22 duplex units in Phase 2 for a total of 44 units. The lot is located at Hersey Lane, Tax Map R5, Lot 123, R2 Zone.**

Scott Gove, Gove Group, stated he represented Chinburg. They would like to build 28 detached condominiums. There is limited common area. The footprints are typical, but not cast in stone. They just wanted to show a possible footprint. They like the standards. They are here mostly to put the abutters on notice. They are not age restricted, but most of them will be age targeted, with first floor master bedrooms. They will be maintenance free living on the exterior. The lawns will be taken care of.

***Eric Botterman opened the public hearing.***

No comments.

Eric Botterman appointed Michal Zahorik to fill in for Bill Doucet.

**Action**

**Motion: Val Shelton made a motion to approve on the condition that Walter Cheney amend his letter of authorization for Scott Gove representing him tonight**

**Second: Ted Seely**

**Vote: All in favor**

Scott Gove stated this was contingent on Chinburg closing on the parcel. They do not want to take Walter Cheney Jr’s rights away. Val Shelton stated, if they never sign the Mylar, the approval will expire and Cheney’s will still be in effect. Diane Hardy agreed.

**55 Tarah Dev Co LLC – Public hearing for subdivision at 6 & 8 Beech Street Extension, Tax Map U2, Lot 107, R3 Zone. The proposal is to convert the existing apartment units into condominiums.**

John Chagnon, Ambit Engineering, represented the applicant. The property received all of the necessary from the NH Department of Environmental Services (NH DES). There are two separate water services.

**Action**

**Motion: Val Shelton made a motion to accept the application as complete**

**Second: Jane Ford**

**Vote: All in favor**

Val Shelton asked why they were not tied into Town sewer. The distance is from it is further than the regulations require.

Bill Doucet stated regarding the limited common areas will be used similar to a lot line. For neighbor harmony, maybe they should monument those.

John Chagnon stated Diane Hardy had outlined conditions of approval.

1. That the Town’s legal counsel review and approve the condominium documents prior to recording, the cost of which shall be paid by the applicant.

2. That the water services be separated as required by the Newmarket Water Department prior to the signing of the plan and conveyance of the condominiums units.

3. NH DES subdivision and construction approval be submitted to the Town of Newmarket prior to plan signing and recording of condominium documents.

4. (Added by Board) Prior to the signing of the site plan by the Chairman the surveyor shall add the metes and bounds (distances and bearings) along the side and rear lines to define the LCA (Local Common Areas) and monumentation along rear and side lines so the LCA boundaries can be located in the future.

**Action**

**Motion: Val Shelton made a motion to approve the application for minor subdivision requested by 55 Tarah Dev Co LLC, at 6 & 8 Beech Street Extension, Tax Map U2, Lot 107, R3 Zone to convert the existing apartment units into condominiums subject to the conditions as outlined in the Town Planner’s memo of 11/08/19 and the applicant putting metes and bounds on the limited common area boundaries and monumenting the rear and side property boundaries.**

**Second: Jane Ford**

**Vote: All in favor**

**Agenda Item #5 - New/Old Business**

**Committee Reports**

***Town Council***

Gretchen Kast stated there was a Planning Board/Town Council joint meeting on November 20. The Town Council approved the Town budget. The Council created an ad hoc Riverfront Advisory Committee. The Council entered into a contract authorizing additional construction phase engineering services with GZA Environmental for the Macallen Dam.

***Planner’s Report***

Diane Hardy stated the Water Resource Master Plan Subcommittee will meet on 11/25/19 at 5:30 pm in the Town Council chambers.

**Agenda Item #6 - Adjourn**

**Action**

**Motion: Jane Ford made a motion to adjourn**

**Second: Val Shelton**

**Vote: All in favor**