**DRAFT**

**NEWMARKET PLANNING BOARD MEETING**

**MARCH 16, 2021**

**MINUTES**

Present: Eric Botterman (Chairman), Val Shelton (Vice Chairman), Diane Hardy (Town Planner), Bill Doucet, Jane Ford, Michal Zahorik (Alternate), Jamie Bruton, Scott Blackstone (Town Council ex officio)

Absent: Sarah Finch, Ted Seely

Eric Botterman read the virtual meeting information and did a roll call for attendance.

1. **Pledge of Allegiance**
2. **Public Comments**

None.

Eric Botterman appointed Michal Zahorik to fill in for Sarah Finch.

1. **Review and Approval of Minutes**
   1. 02/09/21 Minutes

**Action:**

**Motion: Val Shelton**

**Second: Jamie Bruton**

Val Shelton corrected page 3, Diane Hardy’s statement about the single family home on a Class VI road. It should say this was not the first time for this type of application.

**Vote: All in favor by roll call vote**

1. **Regular Business**
   1. Appointments to Chair & Vice Chair

Val Shelton nominated Eric Botterman for Chair. Bill Doucet seconded. Unanimous roll call vote.

Jamie Bruton nominated Val Shelton for Vice Chair. Unanimous roll call vote.

* 1. ***Dennis & Earline Pratte - Notice of Merger at 79 & 81 Dame Road, Tax Map R2, Lots 9 & 9A***

Diane Hardy explained the Merger process.

**Action**

**Motion: Val Shelton made a motion to authorize the Chair to execute the Notice of Merger for parcels located at 79 and 81 Dame Road, Tax Map R2, Lots 9 and 9A subject to the owner signing with a witness signature**

**Second: Bill Doucet**

**Vote: All in favor roll call vote**

* 1. ***Request from John Tyson of Hampton, NH, who has a purchase and sales agreement for property at 75 Neal Mill Road. Pursuant to RSA 674:41 he is requesting permission from the Town Council to build a single family home and driveway access for a single family home at the property at 75 Neal Mill Road, Newmarket, NH 03857 at Tax Map R7, Lot 1. The Town Council has requested review and comments from the Planning Board regarding this request and the Planning Board is holding a duly noticed public hearing on this request at its meeting scheduled for Tuesday, March 16, 2021 in order to receive commentary from abutters, the public and other stakeholders who may have an interest in this request.***

There was discussion of a scribner’s error on the public notice where the first date shown for the hearing said 2020, but the date in the content of the notice was 2021. The Town Attorney had said this was okay, as it was clear what the hearing date was. The Board and the Applicant’s attorney agreed.

A member of the public, Joe Lamattina, had asked for the rules of the hearing. Eric Botterman explained the process.

Chris Albert, CSA Environmental, represented the applicant. Attorney James Scully, John Tyson, Sue Spinelli, wife of John Tyson, Julie Tyson daughter, were also present. They appreciated the Board hearing their request.

Mr. Albert put a drawing up of the approved septic plan for the site. The septic plan has been approved by NH DES. He also presented a driveway plan. From the gates and bars (where the Class V road ends), they are looking to upgrade the existing Class VI road with a 14’ wide gravel road. There are trees that will need to be cut, as well as a few which will remain. He showed a plan showing the lot. A boulder would have to be hammered. They propose a 50’ by 70’ gravel pad for turning. There will be a conifer buffer between the single family house and road. They are maintaining a buffer of 25 feet around the old cemetery on the lot. He spoke to Glen Greenwood, the Newfields Town Planner. He has received no comments yet from him and the Julie LaBranche from the Rockingham Planning Commission. The Strafford Regional Planning Commission staff has no comments, as they view this as a local matter. Mr. Albert stated it is a controversial project. It is a highly trafficked regional trail. They have met with the Conservation Commission. They would like to schedule a site walk with them soon.

There were comments and questions from the Board. Bill Doucet asked when a Professional Engineer would design the driveway. Mr. Albert stated it was up to the Board. Val Shelton asked if they had Fire Department’s input on the 14’ gravel road. Mr. Albert stated that would be part of TRC process which will be followed. Diane Hardy is putting together a list of items needed to start the TRC process. She has gone through comments from the Board and public and has summarized them. The driveway needs to be designed by a Professional Engineer, with a stamped plan, and they should have a survey of the ROW and to do a full engineering evaluation of the adequacy of the road, including turning radius of the turnaround, and drainage and grading details, and impacts on wetlands and their buffers.

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

Arlon Chaffee, a concerned citizen, went over the recreational aspects of the area. The recent South Gateway discussions (at Newmarket/Newfields Town Line) with the Town’s development consultant has acknowledged the impact of recreation. It is an economic driver for the Town bringing visitors and dollars to the area. Neal Mill and Old Lee Roads are an integral part of the Town’s recreational ecosystem. There are an average of 240 users a day at Rockingham Junction rail trail according to a recent study by Rockingham Planning Commission (RPC). He showed what is called a heat map showing the intensity of usage on the rail trail. It shows the same degree of use at Old Lee and Neal Mill Road and into the Greenway, as on the main stem of the rail trail leading to Manchester. This is an important gateway. Development along this Class VI road would have an adverse impact on usage.

Patrick Reynolds, Chairman of the Conservation Commission, reviewed their perspective. Mr. Albert attended their last meeting and gave an overview of the project. They will be at the site walk and they will provide recommendations after that. He asked if the ownership of a Class VI road by abutters was to the centerline. (In theory, but not necessarily.) Diane Hardy stated she is making a list of legal questions and she will review these with legal counsel. Her understanding is ownership is to the centerline and the Town has a right of way over it. She needs legal counsel to advise on legal rights to the road.

Duane Hyde, SELT (Southeast Land Trust), went over his March 10 letter to the Board. He had a site walk with the applicant’s representatives. They have questions on accessing the Greenway through any new gate system and about maintenance. Right now they can open it and they want to make sure they still have access in the future. He had concerns about more people using the road when it is upgraded and whether parking issues would result. They had concerns about the level of use of the road. He was concerned about SELT’s liability. A woods road would be reparable should equipment damage it, but a driveway could be more expensive. They are concerned about the cost, and that increased usage would make the management of their land cost prohibitive and increase their liability. He had questions about whether private utilities can be installed on a publicly owned roadway.

Sheila Lane, 80 Halls Mill Rd, Newfields, said she utilizes that area for recreation frequently. She asked about the possibility of subdividing the land or having a family compound there. She is against this proposal. Diane Hardy stated a boundary survey of the property is in order. The tax maps say this is 48 acre tract and the application says 33 acres. She explained how under the Town’s subdivision regulations, there are frontage requirements. In order to create a new lot you have to have 200 feet of frontage on an approved Town road, which means the road would have to be further upgraded to a Class 5 standard, which could then pave the way for more development in the future. That is why it is critical this be looked at from a broader long range perspective and not just as a driveway over a Class VI road to build a single family home.

Geoff Barrnett, who owns land on the other end of Neal Mill, including both sides of the road, shared many of the concerns about the engineering, access to his land, increased use of the trails, handicap accessibility and the gate preventing him from having access to his land. He helped build a bridge on Old Lee Rd and takes his tractor there. He hoped the Tysons would extend the liability agreement they made with SELT to him. They did not bring up two issues. He had noticed increased use by disabled people or elderly. They will now have a 2 foot rise in the road. He asked that they make sure not to create barriers for ADA access and create hazards.

Elizabeth “Lizzie” Franceschini, 14 Riverbend Road, echoed the importance of the recreational area. She said it was used all the time and was a gem. She showed a photo of a tree taken there.

Glen Dodds stated he grew up in that area and worked in that field for a couple of farmers who owned it. He did not want to see a house, but felt the hurdles in front of the buyers were not fair. That is private property and there should not be so many obstacles in the owners’ and buyers’ way.

Attorney Scully responded. He stated he was cognizant of the concerns. He referred too RSA 231:21-A(i) that would require gates on a Class VI road to be maintained by private landowners, but they can’t interfere with public access. The owners will be wonderful stewards of the land, wants it to be used for recreation and wants a single family home.

Diane Hardy stated they needed to set up a TRC. She explained TRC for the public. Bill Doucet, Val Shelton, Jane Ford volunteered.

Diane Hardy suggested a site walk. The Board wanted a design first.

Diane’s comments will go to the Board and they will respond back to her. She stated Mark West is waiting for more info.

The Board discussed the Class VI road.

**Action**

**Motion: Bill Doucet made a motion to continue the public Hearing to April 13, 2021**

**Second: Jamie Bruton**

**Vote: All in favor - roll call vote**

***d. There will be a public hearing for an application for Design Review, requested by CRC Future Corp, for revisions to the Phase Two Site Plan for Hersey Green Condominium that approved by the Planning Board on 11/12/19. The Applicant proposes to increase the number of units in Phase 2 from 28 units to 38 units. In the revised plan, there will be six (6) single family homes in the cul-de-sac, where seven were previously approved and the remaining previously approved single family homes lots along the proposed through road will become 16 duplexes ( 32 units). The total number of units in Phases 1 and 2 of the Hersey Green Condominium Development will be 48 units if the proposed revision is approved upon completion. The lot is located at Hersey Lane, Tax Map R5, Lot 132, R2 Zone.***

Bill Doucet recused himself.

Paul Kerrigan, Chinburg Builders, presented the application. He stated this project has seen several revisions. The proposed arrangement seems to make the most sense. In a previous application, they had failed to notify the abutters on Green Road. They have been working with the owners to make amendments to the plan in response to some of their concerns. They slid the detention pond further away from the Hersey Green owners. They left more space between the new buildings and the existing buildings. They redesigned several single homes into duplexes. They are currently proposing 16 duplexes on the lower road and they have 6 singles on the cul-de-sac in the uplands. They eliminated a unit from the upper road. They have provided screening and buffer areas.

Christian Smith went over the revisions. He showed the chronology and history of submitted plans.

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

Joseph Lamattina, 13 Great Hill Drive, opposed the project, based on increased traffic and increase growth in that area of Newmarket.

Tom Grilli, 7 Green Road, President Hersey Green Association, worked with Mr. Kerrigan and they are on board with the new plan.

Diane Hardy stated they to go through a site plan review as this is a revision to an approved plan. They will need a new hearing.

***There will be a public hearing for an application an amended Site Plan review requested by Walter Cheney Jr/Cheney Property Management Corp. The proposal is to amend the site plan design for the previously approved site plan. The owner has purchased an additional adjacent lot and is proposing to add 15 residential units. Two units are on the ground floor and will be accessible units and the other 11 units will be on the new proposed third floor. The lot is located at 60 Exeter Rd, Tax Map U3 & U4, Lots 11, 15 138-1, M2A Zone.***

Diane Hardy questioned whether they could go forward with application acceptance and a public hearing this evening. She stated the application was incomplete. They need a Special Use Permit pursuant to Sec. 32-46A. – M-2A as they are increasing the number of multi-family units by 15 units. They haven’t submitted the proper application paperwork which includes a Fiscal Impact Study and Market Analysis. She had spoken to the applicant and engineer about it and suggested they withdraw the application this evening and re-submit at a later date when all the pieces were in place.

Val Shelton stated they also needed a variance as they were proposing two (2) residential units on the first floor. According to Section 32-46 (b) (2 no residential units shall be located in the street level space if there is frontage on Exeter Road. Val Shelton stated that the Planning Board can’t act on this yet. It is their policy that the Planning Board can only act on the application after the Zoning Board of Adjustment has granted any variances that may be required. Diane Hardy stated that was a good point. Val Shelton had concerns about taking this up, as there was no variance for ground level residential units in an M2A zone. They talked about this at the conceptual meeting in August. They would be required to secure a variance for any residential use on the first floor, because it is on Exeter Road. Diane Hardy stated that is another step in the process for the applicant, unless they want to change the plan. She indicated that this application came in at the 11th hour and she had no meaningful contact with the applicant’s engineer regarding the plan details in advance, which she normally does. She usually meets with them in advance of them submitting an application and public hearings to sort out these types of issues like identifying variances. This didn’t happen with this application.

Bill Doucet recused himself.

The Board agreed this was premature to be in front of them.

Mike Sievert stated if that is the requirement, they need to decide if they are going to move forward. They understand the Board cannot hear it at this point.

Eric Botterman moved to the next agenda item.

**New/Old Business**

* 1. Discussion of remaining openings on Planning Board

Tim Rossignal is a new full member. There are two other candidates and their names will be drawn from a hat tomorrow at 8:00 a.m.to determine who is the winning candidate.

1. **Chairman's Report**

None.

1. **Committee Reports**

Val Shelton acknowledged departing members Sarah Finch and Jamie Bruton’s service on the Board.

1. **Planner's Report**

Diane Hardy mentioned the NH OSI Virtual webinar is coming up on May 15, 2021 from 9:00 am to 12:00 pm. Susan Jordan will send out the information to everyone.

**8. Adjourn**

**Action**

**Motion: Jamie Bruton made a motion to adjourn at 9:11 p.m.**

**Second: Jane Ford**

**Vote: All in favor - roll call vote**