

 PLANNING BOARD

November 8, 2022 at 7:00 PM

 **APPROVED MEETING MINUTES**

**Members Present:** Eric Botterman (Chair), Val Shelton (Vice-Chair), Bart McDonough (Director of Planning & Community Development), Jeff Goldknopf, Patrick Reynolds, Michal Zahorik (alternate), and Scott Blackstone (Town Council Ex officio)
**Members Absent**: Jane Ford and Timothy Rossignol

Chair **Eric Botterman** opened the meeting at 7:00PM. [time on DCAT 0:17]

**Michal** **Zahorik** was appointed as a voting member this evening.
**Agenda Item #1 - Pledge of Allegiance**

**Agenda Item #2 - Public Comments**The Chair opened the Public Comments for any non-agenda items at 7:00.
Seeing no one wishing to speak, Public Comments were closed at 7:01.

**Agenda Item #3 - Review & Approval of Minutes** [time on DCAT 1:02]

a. October 11, 2022

**Motion: Val Shelton** moved to approve the draft minutes of 10-11-2022
 as written.  **Second: Patrick Reynolds
Discussion:** none **Vote: Approved 4-0-2** (abstaining were **Michal Zahorick** and **Eric Botterman**)

**Agenda Item #4 – Regular Business**Read by Chair: [time on DCAT 1:44]

a. **Pursuant RSA 676:4I(d) and Appendix A – *Subdivisions* of the Municipal Code of the Town of Newmarket, New Hampshire, there will be a public hearing for an application for Boundary Line Adjustment, requested by James & Holly Geekie of 27 Great Hill Drive, Tax Map U5, Lot 66, R2 Zone & Gregory & Catherine Brashear of 29 Great Hill Drive, Tax Map U5, Lot 67, R2 Zone. The proposal is to adjust the boundary to decrease Lot 66 and increase Lot 67 by .05 acres.**The Planner stated that the application is substantially complete.

**Motion #1: Val Shelton** moved to approve the application as substantially
 complete.  **Second: Jeff Goldknopf
Discussion:** none **Vote: Approved Unanimously 6-0-0**The Chair opened the public hearing at 7:03 PM. [time on DCAT 3:27]Jim and Holly Geekie were present at the meeting tonight. Jim Geekie rose to speak about the application for a boundary line adjustment to solve an encroachment issue. He described the situation which has been present for some time. In particular, the lot next door (Lot 67) is elevated and, for privacy to both parties as neighbors, they have agreed to adjust the boundary to decrease Lot 66 and increase Lot 67 by .05 acres at this time.With no comments from the audience, the Chair closed the public hearing at 7:04 PM
The Vice-Chair asked **Bart** if he had any recommendations. He does and those conditions are described in the staff report and are listed below:

1. The Applicants, James W. & Holly J. Geekie and Gregory R. & Catherine E. Brashear have requested approval to convey from Tax Map U5-Lot 66 to Tax Map U5 67 2,238 square feet of land. Both parcels are located within the R-2 zoning district. No new development at the time of this application is proposed on either lot, and the lots, as a result of the boundary line adjustment, are not becoming more nonconforming.

2. The Planning Board accepted this application for subdivision as being complete at the November 8, 2022 Planning Board meeting. And subsequently determined at the meeting the application did not require a technical review.

3. At the meeting of November 8, 2022, the Planning Board reviewed the application for minor subdivision against the standards as enumerated in Appendix-A *Subdivisions* and Chapter 32 *Zoning* of the Municipal Code of the Town of Newmarket, New Hampshire (“Municipal Code”) and it was determined through a vote November 8, 2022 that the application met all the requirements.

4. At the time of the Planning Board’s decision, the Town Engineer, Chief of Police, Public Works Director and Fire Chief did not have any comments on the application.

**Conditions Precedent:**

All conditions precedent as enumerated below must be met prior to the endorsement of the boundary line adjustment plan:

1. The applicant shall submit a draft deed that completes the conveyance of the affected parcels to the Planning Department for review and approval prior to recording at the Rockingham County Registry of Deeds.

2. Update the plan set reflecting the comments made at the November 8, 2022 Planning Board meeting and the staff notes, dated November 8, 2022.

3. ~~The surveyor shall provide a certificate of monument installation to the Planning Department, pursuant to §3.05(C)~~ *~~Certificate of Monument Installation~~*~~.~~ The Planning Board does not require a Certificate of Monumentation, but the pin set must be indicated on the updated plan when submitted.

**Conditions Subsequent and General Terms:**

1. All the precedent conditions are met;

2. Pursuant to RSA 676:3(III), the final notice of decision, the plat, and new deed shall be recorded at the Rockingham Country Registry of Deeds.

**Motion #2: Val Shelton** moved to approve the application for Boundary Line Adjustment, requested by James & Holly Geekie of 27 Great Hill Drive, Tax Map U5, Lot 66, R2 Zone and Gregory & Catherine Brashear of 29 Great Hill Drive, Tax Map U5, Lot 67, R2 Zone to adjust the boundary to decrease Lot 66 and increase Lot 67 by .05 acres being subject to the recommended conditions of approval by the Town Planner with the addition that monumentation be set and the plan be updated according to the monument set prior to the Chair signing the plan.
**Second: Patrick Reynolds
Discussion:** none **Vote: Approved Unanimously 6-0-0

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**Jeff Goldknopf** recused himself from the next discussion at 7:09 PM.
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Read by Chair: [time on DCAT 8:23]
b. **Pursuant RSA 674:35 and 676:4I(d) and Appendix A – *Subdivisions* of the Municipal Code of the Town of Newmarket, New Hampshire, there will be a public hearing for an application for Minor Subdivision, requested by Chinburg Development LLC, for property located at Tanner Circle, Tax Map R4, Lot 3-8 & 10, within the R2 Zoning District. The proposed application seeks approval for the duplex to become a condominium in ownership.**

The Planner stated that the application is substantially complete.

**Motion #1: Val Shelton** moved to approve the application as substantially
 complete.  **Second: Patrick Reynolds
Discussion:** none **Vote: Approved Unanimously 5-0-0**
The Chair opened the public hearing at 7:09 PM. [time on DCAT 8:27]
Present this evening is Alexx Monastiero, The Gove Group Real Estate LLC, representing Chinburg Development LLC. The proposed development application seeks approval to create a condominium association on a lot hosting a duplex. No new development is proposed in this application, rather only the legal establishment of a new association to govern the parcel. The Condominium Association is located within the Mill Town Open Space Subdivision with a former address of 77 Hersey Lane (now known as Tanner Circle). The proposed condominium association will also be a part of the Milltown Green Homeowners Association, which governs all the responsibilities of the properties as it relates to common elements amongst other requirements.

With no comments from the audience, the Chair closed the public hearing at 7:10 PM.

**Bart** had several recommendations for the minor subdivision application which are described in the staff report and detailed below:

Findings of Fact

1. The Applicant, Chinburg Development LLC has requested approval to establish on Tax Map R4-Lots 3-8 and 3-10 a distinct condominium association. Both dwelling units (duplex) are located within the R-4 zoning district and wetland protection overlay district on a lot with an area totaling 0.569 acres. No new development other than what was previously approved (December 22, 2020 & September 13, 2022) is proposed on the lot.

2. The Planning Board has accepted this application for subdivision as being complete. The application does not require a technical review.

3. At the meeting of November 8, 2022, the Planning Board reviewed the application for minor subdivision against the standards as enumerated in Appendix-A *Subdivisions* and Chapter 32 *Zoning* of the Municipal Code of the Town of Newmarket, New Hampshire (“Municipal Code”) and it was determined through a vote November 8, 2022 that the application met all the requirements.

4. The applicant did not request waivers from Appendix - A *Subdivisions*. Further the Planning Board, based on the information presented for review, determined that no additional permits were required to move forward with a final determination.

5. At the time of the Planning Board’s decision, the Town Engineer, Chief of Police, Public Works Director and Fire Chief did not have any comments on the application.

Conditions Precedent

All conditions precedent as enumerated below must be met prior to the endorsement of the boundary line adjustment plan:
 1. The draft condominium association declaration shall be reviewed and approved by the Town’s Legal Counsel prior to recording at the Rockingham County Registry of Deeds.

2. Applicant shall submit all state approvals prior to the endorsement of the approved plan, if any.

3. Update the plan set reflecting the comments made at the November 8, 2022 Planning Board meeting and the staff notes, dated November 8, 2022 recommending an updated plan set after approvals were granted at the September 13, 2022 meeting.

Conditions Subsequent and General Terms
1. All the precedent conditions are met;

2. Pursuant to RSA 676:3(III), the final notice of decision, the plat, and new deed shall be recorded at the Rockingham Country Registry of Deeds.

Vesting of Minor Subdivision
The recommended vesting period for this project:
 1. The minor subdivision approval shall be deemed to have permanent vesting rights, exempting it from all subsequent changes in subdivision regulations and zoning regulations, excepting impact fees and those regulations that expressly protect public health standards, after the date of final approval of the plans, provided the plan is properly recorded in the Rockingham County Registry of Deeds within 24 months after the Conditions Precedent have been met.

**Motion #2: Val Shelton** moved to approve the application for the Minor Subdivision for the property located at Tanner Circle, Tax Map R4, Lot 3-8 & 10, within the R2 Zoning District to approve the duplex to become a condominium in ownership subject to the Town Planner’s recommended conditions of approval and that the properties remain subject to impact fees. **Second: Patrick Reynolds
Discussion:** none **Vote: Approved Unanimously 5-0-0**
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**Jeff Goldknopf** returned to the meeting at 7:14 PM.
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Read by Chair: [time on DCAT 13:35]

c. **Pursuant to §24-1 *Zoning ordinance amendment procedures*, of the Municipal Code of the Town of Newmarket, New Hampshire, Planning Board shall continue 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 7:15 PM. [time on DCAT 14:10]
Jon Kiper, 170 Main Street, rose to speak at the podium. He discussed his past history of service to the town beginning with the ZBA and moving to the Town Council. He spoke about the need for changes to the ordinance to permit DADUs to allow families to help parents and children remain near to one another. Many people he spoke with commented that that was their hope. He also noted that 50% of the properties in Newmarket are rental units and many people are finding rental prices more challenging. He also mentioned that in the past, he was able to hire employees from Newmarket for his restaurant, but now too many cannot afford the increased rents and he has been hiring people from places like Rochester or Somersworth. In order to make that situation work, he has to compensate in salary and travel costs and that additional cost is passed on to his customers. It appears to be a vicious circle and the economics which allow restaurants in Newmarket to remain open and thrive is becoming more difficult. Restaurants are not the only businesses in Town having issues with hiring and retaining employees because of housing. He looks forward to seeing the ordinance change.

No one else asked to speak this evening.
 [time on DCAT 22:35]
**Bart** began by going through the marked copy of the ordinance with the changes made to date and reviewed the format changes. On page 3 line 129, changes were made after discussion with the Board in regard to *(e) Recertification and Retirement of ADU*. The entire draft ordinance may be seen at: [proposed\_zoning\_and\_planning\_board\_regulation\_amendments\_updated\_11-4-2022.pdf (newmarketnh.gov)](https://www.newmarketnh.gov/sites/g/files/vyhlif3536/f/uploads/proposed_zoning_and_planning_board_regulation_amendments_updated_11-4-2022.pdf) .

The members discussed how the staff would deal with any violations. The violation would be in the form of a Chapter 32 Zoning Violation where the owner would have 30 days to appeal the administrative decision.

Page 3 line 143 was discussed next with regard to changes to *(2) Dimensions*The members discussed the 1,000 sq ft upper limit and any applicant could seek a variance for a larger unit in an existing structure.

The Chair asked for a consensus for two units per lot. The members were mostly in favor of one ADU or DADU per lot.
 [time on DCAT 51:54]The discussion moved to page 5 line 232 the *(vi) Open space* requirements chart. The members thought that ‘*Pervious surface’* would be a better descriptor.

**Bart** will be making changes to this section based on Board discussions from page 5 line 232 through page 7 line 341.

**Bart** and **Eric** will be contacting DPW on the regulations for additional curb cuts and report back.

The members had differing opinions on the number of allowable bedrooms. The ordinance currently allows two. Some felt that market demand should dictate the number allowed. This will be addressed further at a later date.

**Val** would like **Bart** to reconsider the language in the sections on fire escapes and external stairways. In particular, that fire escapes and external stairways would not be allowed to be visible from the street. He agreed to do that for the next meeting.

The letter from the Conservation Commission commenting on the proposed ordinance changes was entered into the record by **Bart** and is attached to the minutes as Addendum #1 . The members addressed the concerns of the Conservation Commission.
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**Patrick Reynolds** needed to leave the meeting at 9:00 PM this evening, but wanted everyone to know about a community forum, organized by the **Energy and Environment Advisory Committee,** which will be held on Wednesday, November 9 at 7:00 PM in the Town Hall Auditorium. They will be hosting a guest speaker, Henry Herndon, the administrator for the Community Power Coalition, who will be making a presentation followed by a question and answer period. The meeting will air on DCAT and livestream on Facebook. For more information go to: [Members | Community Power Coalition of New Hampshire (cpcnh.org)](https://www.cpcnh.org/about).

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**Motion: Val Shelton** moved to continue the public hearing on §24-1 *Zoning ordinance amendment procedures*, of the Municipal Code of the Town of Newmarket, New Hampshire to the next meeting on December 13, 2022.  **Second: Jeff Goldknopf
Discussion:** none **Vote: Approved Unanimously 5-0-0**

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Read by Chair: [time on DCAT 2:00:47]

d. **Pursuant to RSA 675:7, the Planning Board shall continue 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 Plans*, or take any other action relative thereto.**

The Chair asked for a motion to continue the public hearing to the next meeting.

**Motion: Val Shelton** moved to continue the 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*  to the next meeting on December 13, 2022.  **Second: Jeff Goldknopf
Discussion:** none **Vote: Approved Unanimously 5-0-0

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**Agenda Item #5 - New/Old Business** [time on DCAT 2:01:19]

***Chairman’s Report:*** The Chair had nothing to report this evening. ***Committee Reports:*** *Conservation Commission:* **Jeff** had nothing to report beyond the letter sent.***Planner’s Report:* Bart** attended the ZBA meeting to review the proposed ordinance amendments on Oct. 24, 2022. Members of the ZBA were pleased with the changes being proposed as-well-as being removed from the ADU approval process.

The Chair said that he would be pleased to be removed in any future Planning Board jurisdiction over condominium conversions and asked **Bart** to draft something to address this request. **Bart** will look at other communities and report at the next meeting as to how to streamline the process.

**Val** would like the Town Planner to sign plans once conditions are met which would expedite the process. In addition, she would like to see a reduction in unnecessary paper provided at each meeting – applications, list of abutters, etc. **Bart** askedthe members if they are comfortable with an 11x17” plan in the packet with the applicant providing a few copies of full-size plans for the meeting. **Bart** plans to make significant changes to the application process which would reduce paper and make more sense. **Bart** will also be creating a tab at the Planning Board page to provide information on current site plans – including both review and approval status which will help the public find this information quickly.

**Agenda Item #6 – Adjourn** [time on DCAT 2:08:50] **Motion: Jeff Goldknopf** moved to adjourn at 9:10 PM. **Second: Val Shelton
Discussion:** none **Vote: Approved Unanimously 5-0-0**Respectfully submitted,

Sue Frick

Recording Secretary

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

**ADDENDUM #1:**

