

Planning Board Minutes 05/14/13

NEWMARKET PLANNING BOARD MEETING MAY 14, 2013 MINUTES

Present: Eric Botterman (Chairman), Rick McMenimen (Vice Chairman), Diane Hardy (Planner), Val Shelton, John Brackett, Dan Wright (Town Council ex officio), Elizabeth Dudley, Jane Ford (Alternate). Janice Rosa arrived at 8:08 p.m. due to her attendance at a Veterans Committee meeting.

Called to order: 7:03 p.m.

Adjourned: 8:12 p.m.

Agenda Item #1 – Pledge of Allegiance

Agenda Item #2 – Public Comments

None.

Agenda Item #3 – Review & approval of minutes: 03/19/13 & 04/09/13

03/19/13

Action

necessary Motion: Rick McMenimen made a motion to approve the Planning Board minutes necessary

Second: Elizabeth Dudley

Vote: Val Shelton abstained, as she had not had a chance to review them

All others in favor

04/09/13

Action

necessary Motion: Rick McMenimen made a motion to approve the Planning Board minutes necessary

Second: Elizabeth Dudley

Rick McMenimen stated, on page 4, line 12, the very end says, "letter and he". He asked if it should have said "letter and she". Val Shelton said it should read that Chairman Botterman was comfortable with Diane Hardy's response. The minutes were corrected to state that.

Vote: All in favor

Agenda Item #4 – Regular Business

Newmarket Mills, LLC – Continuance of a public hearing for an application for Major Site Plan, at Main Street, Tax Map U2, Lots 60A and 61, B1 Zone (a proposed zoning amendment to change the zoning from B1 to M2 is under consideration by the Town Council at the time of this notice). The proposal is to construct a single story, 9,600 sq. ft. commercial building near Spring St at the west end of the Newmarket Mills parking lot. The structure will house various businesses, including a small grocery, restaurant, and retail shops.

Chairman Botterman stated the Board had received a letter from the applicant requesting a continuation. Diane Hardy stated Mr. Assia, who works from Mr. Chinburg, was present and asked him if he wanted to give the Board an update.

Matt Assia stated they met with the Technical Review Committee (TRC) on May 2 and received a number of comments to which they are in the process of responding. They are requesting a continuation to the June 11 Planning Board meeting. Diane Hardy stated they met today with the Library Trustees, per request of the TRC that Chinburg Builders meet with them to work out their concerns. She stated it was a very positive meeting. There was a revision to the plan and the Library Trustees were very receptive. They had some suggestions on additional signage to clarify where the municipal spaces are. Under the new plan, there will be additional parking set aside for the library to use. There will be two spaces added that will go along with reconfiguring the lot in a safer way. Chairman Botterman stated the outcome will be that the Library Trustees and the developer will be in front of the Town Council saying they have agreed on a parking configuration for the library.

Action

Motion: Val Shelton made a motion to continue the public hearing for an application for site plan review requested by Newmarket Mills LLC, at Main Street, Tax Map U2, Lot 60A and 61, for the proposal to construct a single story 9,600 sq. ft. commercial building near Spring Street at the west end of the Newmarket Mills parking lot. The structure will house various businesses, including a small grocery, restaurant, and retail shops.

Second: Rick McMenimen

Motion: Val Shelton amended her motion to state the hearing would be continued to the date of June 11, 2013

Second: Rick McMenimen

Vote: All in favor

Newmarket Mills, LLC - Public hearing for an application for a lot line adjustment at Main Street, Tax Map U2, Lots 56C, 57, and 61. The proposal is to decrease Lot 56C by a total of 944 sq. ft. by adding 338 sq. ft. to Lot 61 and 606 sq. ft. to Lot 57. Also, 1617 sq. ft. will be taken from Lot 61 and added to Lot 57. The zone is currently B1 (a proposed zoning

amendment to change the zoning from B1 to M2 is under consideration by the Town Council at the time of this notice).

Matt Assia stated they were previously in front of the Board for the conversion of the Riverdale garage to a restaurant. They are now requesting a lot line adjustment. The three parcels involved are all owned by Newmarket Mills LLC. The adjustment is to make the building conform to current zoning and the proposed M2 zoning amendment.

Dan Wright asked if this would add or take away parking. Mr. Assia stated it would not impact parking at all. The area involved is currently a landscaped area. The adjustment takes the lot line from the landscaped area to the edge of the curbing.

Dan Wright asked about the question from the last meeting regarding ADA parking. Diane Hardy stated she reviewed it with the accessibility coordinator at the Governor's Commission on Disability. They said it was not an ideal situation, but there is such a low volume of traffic going into that driveway, they were not particularly concerned provided there was sign near the crosswalk that would clarify that was not an area where people are supposed to park. If that were a condition, they were satisfied with the change. The plan reflects the crosswalk and will be appropriately marked.

Action

Motion: Rick McMenimen made a motion to accept the application for a lot line adjustment requested by Newmarket Mills LLC, Main Street, Tax Map U2, Lot 56C, 57, 61. The proposal is to decrease Lot 56C by a total of 944 sq. ft. by adding 338 sq. ft. to Lot 61 and 606 sq. ft. to Lot 57. Also, 1617 sq. ft. will be taken from Lot 61 and added to Lot 57. The zone is currently B1 (a proposed zoning amendment to change the zoning from B1 to M2 is under consideration by the Town Council at the time of this notice).

Second: Val Shelton

Vote: All in favor

Chairman Botterman opened the public hearing.

There were no comments.

Chairman Botterman closed the public hearing.

Chairman Botterman stated Diane Hardy's memo references a waiver request.

Action

Motion: Val Shelton made a motion that they waive Section 4.10(B)(2)

Soils Mapping

Second: Rick McMenimen

Vote: All in favor

Diane Hardy stated she would like to see the actual B-1 zoning setback shown on the second plan that shows the positioning of the building with respect to the property lines, so it is clear in the future what setback was referred to.

Action

Motion: Val Shelton made a motion to approve the Newmarket Mills LLC application for a lot line adjustment at Main Street, Tax Map U2, Lots 56C, 57, and 61. The proposal is to decrease Lot 56C by a total of 944 sq. ft. by adding 338 sq. ft. to Lot 61 and 606 sq. ft. to Lot 57. Also, 1617 sq. ft. will be taken from Lot 61 and added to Lot 57, subject to the condition that the required side and rear setbacks be added to Sheet 2 of 2 showing the building conforms to both the setback requirements for the M2 and the B1 zoning districts.

Second: Rick McMenimen

Vote: All in favor

The Wajda Family Real Estate Trust/ Cathleen A. Zocchi & Karl M. Wajda Trustees and the Town of Newmarket - Public hearing for an application for a lot line adjustment, at 18 Lamprey River Park & Heron Point, Tax Map R2, Lots 86-18 and 119, R2 Zone. The proposal is for an equal area land swap of a 50' x 100' area.

Val Shelton recused herself, as she is an abutter to the property.

Chairman Botterman stated that his company did some work for the Wajdas last year. It was to locate utilities. He is not going to recuse himself. He did not feel it had any impact on this application. It was not a boundary survey or anything like that.

Chairman Botterman appointed Jane Ford to replace Val Shelton for this application.

Action

Motion: Rick McMenimen made a motion to accept the application for a lot line adjustment, at 18 Lamprey River Park & Heron Point, Tax Map R2, Lots 86-18 and 119, R2 Zone as complete. The proposal is for an equal area land swap of a 50' x 100' area.

Second: Dan Wright

Vote: All in favor

Chairman Botterman opened the public hearing.

Steve Michaud, Doucet Survey, represented the Wajda Family Real Estate Trust. Their objective this evening was primarily application acceptance. He stated, beyond that, Diane Hardy enumerated a number of concerns in her memo. These will need to be taken up by the Wajda's attorney and the Town's counsel. Because of those issues, they are requesting a continuance to the next meeting. Depending on the complexity of the issues that come back, it may be July before they are ready to be heard, but they would certainly let the Planning Department know in advance of the June

meeting, if that was the case.

Chairman Botterman asked, with the issues that Diane Hardy brought up, if there was a general consensus that everyone will work together to resolve those. Steve Michaud stated that was his understanding. Diane Hardy stated it was also her understanding.

Drew Kiefaber, Conservation Commission, provided some background on the lot line adjustment. He stated, when this mobile home was located in 1984, it was located where it was half on Lot 86-18 and half on Lot 119. At that time, all of that property was owned by the Wajdas. Through a series of transactions and passage of time, in 1997 Lot 119 was transferred to the Town of Newmarket as a donation. The Conservation Commission has been a steward of the property. The Wajdas are in the process of selling their property to a cooperative of the mobile home owners. In the due diligence process, it was discovered that this mobile home is encroaching on Lot 119. One option is to try and move the mobile home. It has been there since 1984 and there is not a compelling reason to do that. When Lot 119 was transferred to the Town, the Town installed a gravel driveway to provide access to a parking area from which the public can walk and use Heron Point. That gravel driveway was installed on Lot 86-18, currently owned by the Wajdas. The Town installed gravel driveway on the Wajdas property (Lot 86-18). So, there are two encroachment issues that, in an ideal world, should be resolved in a way that is compatible for both. That is what they are trying to achieve.

He stated there are also some other related issues that are a result of history or lack of compliance based on today's standards that, as long as we are trying to do this, we might as well try and take care of all of them and clean up everything to the extent reasonably possible. Unfortunately, this delays the whole process and adds expense.

Chairman Botterman stated, if this is a land swap, the Town Council will have to approve it also.

Dan Wright asked who was responsible for the costs of the survey work. Drew Kiefaber stated the Wajdas have been paying those costs.

There were no other comments and Chairman Botterman closed the public hearing.

Action

Motion: Rick McMenimen made a motion to continue the application for a lot line adjustment requested by The Wajda Family Real Estate Trust/ Cathleen A. Zocchi & Karl M. Wajda Trustees and the Town of Newmarket 18 Lamprey River Park & Heron Point, Tax Map R2, Lots 86-18 and 119, R2 Zone. The proposal is for an equal area land swap of a 50' x 100' area.

Second: Jane Ford

Vote: All in favor

Bronstein & Stubendorff - Public hearing for an application for lot line adjustment and subdivision, requested by Arna B. Bronstein at 2 Gonet Drive, Tax Map R2, Lot 12, and James Melvin Stubendorff Rev. Trust, 6 Gonet Drive, Tax Map R2, Lot 11-22, both lots located in the R1 Zone. The proposal is to adjust the lot line such that 0.321 acres is transferred from Lot 11-22 to Lot 12, then Lot 12 will be subdivided into two residential lots.

Val Shelton came back as a full board member for this application.

Action

Motion: Val Shelton made a motion to accept the application for a lot line adjustment and subdivision, requested by Arna B. Bronstein at 2 Gonet Drive, Tax Map R2, Lot 12, and James Melvin Stubendorff Rev. Trust, 6 Gonet Drive, Tax Map

R2, Lot 11-22, both lots located in the R1 Zone. The proposal is to adjust the lot line such that 0.321 acres is transferred from Lot 11-22 to Lot 12, then Lot 12 will be subdivided into two residential lots.

Second: Rick McMenimen

Vote: All in favor

Chairman Botterman opened the public hearing.

Steve Michaud, Doucet Survey, represented the applicants. He stated there is a long appendage of land that sits between the Bronstein's property and Gonet Drive. That is a result of the Bayfields subdivision that went in during the late 1990s. This appendage, at one time, extended all the way to Dame Road. There was a prior lot line adjustment that made it smaller and conveyed a portion of it to the Bronsteins. They are now looking to create a more uniform lot on the Stubendorff's property, which will give some additional frontage to the Bronsteins, allowing them to subdivide into two parcels, creating one new house lot. He showed the configuration on a plan.

Steve Michaud reviewed NH Department of Environmental Services (NH DES) regulations on subdivisions.

He stated they have done test pits on the new residential lot and the Bronstein's property.

Val Shelton stated, if the approvals were granted, all of the lots would meet the R-1 zoning regulations. Steve Michaud stated that was correct. Val Shelton asked if there were any covenants relative to subdividing lots in the subdivision. She stated she realized this was not within Planning Board's jurisdiction. Steve Michaud stated the Bronstein's property was not part of the Bayfields subdivision. It is an abutting tract. The Stubendorff's property is part of the subdivision. He stated he did not know if there were any covenants for that.

Val Shelton asked if the Bayfields subdivision was an open space subdivision. Diane Hardy stated there was open space set aside, but it was not "an open space subdivision".

Chairman Botterman stated there were letters sent by the applicant to Department Heads. He asked Diane Hardy if she had any response. Steve Michaud stated he did get an email from Code Enforcement a couple of weeks ago requesting the 4 square foot areas for a septic fields be shown on the plan, but he believed when that comment was made the Code Enforcement Officer didn't realize there was a second sheet to the plan set with that info.

Chairman Botterman stated, if the Board is going to approve this, there are some conditions that should be part of this. He stated they should condition that NH DES grants subdivision approval. He would also like to see the plan stamped by the Wetlands Scientist.

Diane Hardy stated, when she was looking at the topographic plan, the scale was such that it was difficult to follow the contours. She asked if it could be better labeled. Steve Michaud stated they could do that. Diane Hardy stated there were no elevations. Steven Michaud stated only the 10 footers are currently labeled, but realized it does lead to some confusion.

Chairman Botterman closed the public hearing.

Janice Rosa had not yet arrived. Chairman Botterman appointed Alternate Jane Ford, who had been sitting with the

Board throughout the application's hearing, to fill in for her for this application.

Action

Motion: Val Shelton made a motion to approve the application for lot line adjustment and subdivision, requested by Arna B. Bronstein at 2 Gonet Drive, Tax Map R2, Lot 12, and James Melvin Stubendorff Rev. Trust, 6 Gonet Drive, Tax Map R2, Lot 11-22 (both lots located in the R-1 Zone) to adjust the lot line such that 0.321 acres is transferred from Lot 11-22 to Lot 12, and the subsequent subdivision of Lot 12 into two residential lots as proposed with the following conditions:

1. The applicant providing better labeling of contour lines on the plan.
2. The plan be stamped with the certification of poorly and very poorly drained soils by the Wetlands
3. There be a note indicating the NH DES subdivision approval number be added when the approval h and prior to the signing by the Planning Board Chair.

Second: Rick McMenimen

Vote: All in favor

Agenda Item #5 – Old/New Business

Chairman's Report

Chairman Botterman stated he just received a memo from Matt Angell, Finance Director, regarding the impact fees. He stated it shows the Town does not have to refund much money in the next year or so. Val Shelton stated the whole impact fee ordinance is still outstanding at the Town Council level particularly relative to our ordinance being out of date from a compliance standpoint. She asked if there was any update. Dan Wright stated he would get back to her about it. Val Shelton went over the history of what is before the Town Council at this time relative to impact fees. Chairman Botterman stated he would talk to the Town Administrator about getting this on an agenda, so they could move it one way or another.

Planner's Report

Diane Hardy stated she and Elizabeth Dudley will be getting together in the next couple of weeks to go over landscaping changes and they will go over the report at the June meeting.

Diane Hardy stated, at one of the past Planning Board meetings, there was talk about updating the Master Plan. The Board asked for a list of all of the chapters in our current Master Plan. She made up a spreadsheet showing the chapters they currently have. In the State RSA, there are two chapters that are mandatory. Those are Land Use and Vision Statement. The rest of the chapters are optional. The spreadsheet gives an overview of the chapters Newmarket has, the chapters that could be included under the RSAs and a timeline on where we are with different pieces of it. The plan is supposed to be updated every ten years. This Board has tried to tackle at least one chapter per year. In the last couple of years, our funding has been cut and they have not been able to keep on track that way. The Economic Development Committee is working with a consultant. There will be some public meetings to help identify community goals with respect to economic development. She and Val Shelton, the Planning Board's representative on the Economic Development

Committee, have talked about the possibility of piggy backing with that effort and have a broader visioning that would include economic development, but future land use and land use.

Chairman Botterman stated the issue is that Diane Hardy needs to ask for money every year to get these done and the budget has been cut.

Val Shelton asked what the Community Design category was about. Diane Hardy stated it is referenced in the Master Plan. It was sort of a prelude to the downtown revitalization program that the Town was involved with. The Newmarket Tomorrow Committee made recommendations for the streetscape improvements and public amenities in the downtown. Community Design is more about urban design features on a specific scale rather than a community scale.

Diane Hardy stated the Vision Statement is about what the community views as issues that need to be addressed by the Master Plan, a vision for the future for all chapters. It should be very broad. There are planning techniques that can be utilized to develop a Vision Statement, including a design charette.

Val Shelton stated the Board needed to get some of these critical chapters updated before they could update the Vision Statement. Some would probably not be big projects.

Chairman Botterman asked Diane Hardy what it costs to update the chapters. He thought it might be \$6,000 to \$10,000 a chapter to update. Diane Hardy stated it was more than that now. They had \$10,000 available when they did the Economic Development Chapter and that was used to have someone put it together, but some of the research was done in-house. She stated she had done research and put the first draft together and did the final editing. \$10,000 is a minimum per chapter. The Town of Merrimack recently updated their Master Plan and it was \$150,000 for the entire Master Plan. The process is very labor intensive.

Chairman Botterman asked if Diane Hardy could give them a recommendation of what chapters should be updated next. Diane Hardy stated a lot of it in the past was driven by what was available for funding. The Land Use chapter got money from the Coastal Program.

Dan Wright asked if any interns might be available to do some of the work. Diane Hardy stated someone still had to manage and coordinate the project. She stated she has written Master Plans as a consultant and it is very labor intensive and difficult for a staff person working full time doing planning to take on a project of that nature. You can get interns who can assist, but you have to manage the project.

Val Shelton stated the Planning Board is responsible for updating the Master Plan under NH RSAs. They also have the right to submit to Town Council for funding. It would be good to get a process going where we get estimates on updating chapters and then submit those to the Budget Committee so the voters understand that "x" number of dollars is going into the budget in order to keep the Master Plan updated on a ten year basis in conformance with the State statutes. Chairman Botterman agreed.

Val Shelton stated they could find they want to take some of the chapters out of the Master Plan. Chairman Botterman asked Diane Hardy to come back with a list of prioritizations and they will discuss it. She stated they put in a request for funding every year and the last two years they have not gotten anything.

Janice Rosa arrived at 8:08 p.m.

Val Shelton mentioned that Diane Hardy's memo was extremely helpful in preparing for the meeting tonight. Diane Hardy stated she was putting together different models. In the past, she had done a narrative and it was very time-consuming. If the Board was happy with this memo, she could continue to use that format. Chairman Botterman stated that anyone was always welcome to go to the Planning Office and go through the whole file if they do not feel they have enough information, too.

Action

Motion: Janice Rosa made a motion to adjourn at 8:12 p.m.

Second: Rick McMenimen

Vote: All in favor