

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38



PLANNING BOARD

December 12, 2023 at 7:00 PM

Town Hall Auditorium

DRAFT MEETING MINUTES

Members Present: Eric Botterman (Chair), Val Shelton (Vice-Chair), Bart McDonough (Director of Planning & Community Development), Abigail Bachman (Alternate), Jane Ford, Timothy Rossignol, and Michal Zahorik (Alternate)

Member Absent: Scott Blackstone (Town Council- Ex officio), Jeff Goldknopf, and Patrick Reynolds.

Guest: Barbara Hall (Newmarket Housing Authority) *via zoom*

The Chair opened the meeting at 7:01 PM. [time on DCAT 5:22]

The Chair appointed **Abigail Bachman** and **Michal Zahorik** as a voting members this evening.

The six voting members this evening will be **Eric Botterman, Val Shelton, Abigail Bachman, Jane Ford, Tim Rossignol, and Michal Zahorik**

1. Pledge of Allegiance

2. Public Comments

The Chair opened public comment at 7:02 PM. There were no public comments relevant to items not on the agenda this evening. The Chair closed public comment at 7:03 PM

3. Review & Approval of Minutes [time on DCAT 5:56]

a. October 10, 2023

Action

Motion: Val Shelton moved to approve the Draft Minutes of the October 10, 2023 meeting.

Second: Jane Ford

Discussion: none

Vote: Approved 4-0-2 (Tim Rossignol and Michal Zahorik abstained)

4. Regular Business

a. Read by the Chair: [time on DCAT 6:24]

1 Pursuant to RSA 676:4, and Appendix-A Subdivisions, Appendix-B Site Plans,
 2 and §32-236 Affordable elderly housing of the Municipal Code of the Town of
 3 Newmarket, New Hampshire, a continuation of a public hearing shall be held for
 4 an application filed by DR Lemieux Builders LLC requesting Minor Subdivision,
 5 Major Site Plan, and Special Use Permit approval for a proposed development
 6 seeking to create a split lot subdivision with the original lot (0.54 acres) retaining
 7 an existing single-family housing unit and the new lot (7.22 acres) constructing a
 8 32-unit, age-restricted, multi-family development with associated utilities,
 9 parking, landscaping and stormwater mitigation infrastructure located on real
 10 property with an address of 242 South Main Street, Tax Map U4 – Lot 69 within
 11 the R2 zoning district.

12 **Attorney F.X. Bruton**, Bruton & Berube PLLC of Dover, rose to represent the applicant.
 13 He introduced the applicant **Dave Lemieux**, Principal, and **Heather Droesch**, General
 14 Manager, of D.R. Lemieux Builders LLC.. Also present are members of the design
 15 team: **Daniel LaCivita**, Vanasse & Associates, Inc., **Robbi Woodburn**, Woodburn &
 16 Co., **Michal Kaleta**, Lassel Architects.

17
 18 Attorney Bruton stated that the presentation this evening would be about the proposed
 19 changes after the previous discussions and correspondence with abutters and the
 20 Planning Board. After the discussions, the plans were altered and now reflect 1) a fence
 21 was added to the block the car headlights in the parking area from the road and 2) the
 22 rock wall will be kept by the road in the Town ROW. Further, the applicant has decided
 23 to make this housing conform to the Fair Housing Act to allow 62+ age restriction to the
 24 units and all residents must meet the age restriction of 62+ years of age.

25
 26 The Chair asked for a brief recess to adjust the sound equipment at 7:12 PM.
 27 The Chair called the meeting back to order at 7:18 PM.

28
 29 #1 Mike Renahan, 22 Tanner Circle. He has lived in Newmarket for a year or so and
 30 wanted to live here because of the residential/rural character and the small downtown
 31 feel. He believes that a 3-story multi-unit building does not fit into the residential area
 32 where it is proposed.

33 #2 Gail Wasiewski, 236 S. Main Street. She says that she never received a letter of
 34 notification. *(After reviewing the abutters list, **Christian Smith** confirmed that a notification was*
 35 *sent to the abutter.)* She is very concerned about safety. The speed limit is not observed
 36 and there are no sidewalks. She is also concerned about the residents having visitors –
 37 where will they park?

38 #3 Steve Suraci, 240 S. Main Street. He believes that the developer and team have
 39 made good progress. However, the rural character of the community will be gone with
 40 this three story building. He would like to encourage the PB to seriously consider the
 41 zoning in this area.

42 #4 Mike Renahan, 22 Tanner Circle. He rose to add to Mr. Suraci's comments. He
 43 believes that the Planning Board is responsible for the development in this area i.e.
 44 what they think about investment in the community and what will attract people to the
 45 town. He wished to implore the PB to take their time to look long at the zoning. This
 46 building would make sense on almost any other street in Town except where it is

1 proposed as it does not add to the character or match the other houses in the area.
 2 #5. Linda Doshier, 249 South Main Street. Although the team has done a good job in
 3 modifying the project after listening to their concerns/comments, this building is still too
 4 big & tall. She would like to see single family homes instead of this 3-story multi-unit
 5 building.

6
 7 **Bart** told us that he was hoping to have Barbara Hall, Executive Director of the
 8 Newmarket Housing Authority, zoomed into the meeting. Unfortunately, she was
 9 disconnected. She previously submitted a letter of support for this project detailing the
 10 need for housing in Newmarket. She noted that 52 elderly disabled applicants were
 11 waiting for assistance with housing. Attorney Bruton synopsised her letter for the record.

12
 13 The Chair closed the public hearing at 7:41 PM.

14 [time on DCAT 43:25]

15 **Christian Smith**, Principal at Beals Associates, PLLC, made the following request:
 16 "[Waiver to Subdivision Regulations Section 3.02.B.5.B.1.a.2 Parking Lot Design –](#)
 17 [Dimensional standards.](#) We respectfully request that the ADA handicap accessible
 18 parking stalls be allowed to be 8'x18' where 20' long stalls are required in the regulation.
 19 We feel the waiver is justified as the dimensional standard for all other parking stalls is
 20 18' in length, it seems illogical to have the ADA compliant stalls extend an additional two
 21 feet into the drive aisle, and the ADA deems 18' long parking stalls compliant with their
 22 requirements. Finally, the largest non-commercial wheelchair van we were able to find
 23 was just under 17' in length which will fit completely within the 18' long stall. Based on
 24 these factors, granting of the waiver will not conflict with the intent of the regulation."

25 26 Action

27 **Motion #1:** **Val Shelton** moved to grant the Waiver Request to reduce the ADA
 28 handicap accessible parking stalls to 8'x18', where 20' long stalls
 29 are required in the regulation, based on the information from the
 30 applicant supporting this request.

31 **Second:** **Tim Rossignol**

32 **Discussion:** none

33 **Vote:** **Approved 6-0-0**

34 35 **Special Permit Request:**

36 The Chair addressed the Special Permit Criteria one at a time while polling the
 37 members. **Bart** detailed the requirements.

38 **32-236(E)(2)** That the public interest will be served generally if the proposal were to
 39 establish affordable elderly housing on the site and the establishment of an affordable
 40 elderly housing complex on the site would not cause a diminution in the property values
 41 of surrounding parcels.

42 Although a few concerns were expressed, in general, the PB members agreed that the
 43 criteria has been met.

44 **32-236(E)(3)** That any conflicts with the character of the adjacent properties will be
 45 minimal in terms of the size and bulk of the visible buildings, through the use of buffers,
 46 landscaping or location of the buildings on site. This provision is meant to assure that

1 facilities are reasonably consistent either with residential style buildings or sufficiently
 2 secluded so as to minimize negative impacts to abutting property.

3 All members agreed that the criteria has been met

4 **32-236 (E)(4)**The property will be landscaped to add to compatibility with the Town with
 5 emphasis given to the use of natural features as possible.

6 The was resolved at the last Planning Board meeting.

7 **32-236(E)(5)** The design and site layout of the development shall 1) emphasize the rural
 8 character of the town, 2) maximize the privacy of the dwelling units, 3) preserve the
 9 natural character of land, 4) provide for the separation of parking and neighboring
 10 residential uses, and consider such factors as orientation, energy usage, views, etc.

11 **Eric, Val, Abigail, Tim, and Jane** all agreed that, with the new site plans provided and
 12 applicant testimony, this criteria is satisfied. **Val** also mentioned that this project was
 13 proposed and care was taken not to intrude into the abundant wetlands on the back of
 14 this property. **Michal** believes that 1 & 3 are met, but agrees with many of the speakers
 15 this evening that the project does not emphasize the rural character of the town nor
 16 preserve the natural character of the land.

17
 18 **Action**

19 **Motion #2:** **Val Shelton** moved to grant the Special Use Permit for the proposed
 20 development of an existing single-family housing unit and the new lot
 21 (7.22 acres) constructing a 30-unit, age-restricted, multi-family
 22 development with associated utilities, parking, landscaping and
 23 stormwater mitigation infrastructure located on real property with an
 24 address of 242 South Main Street, Tax Map U4 – Lot 69 within the R2
 25 zoning district based on the finding of facts presented at the meeting this
 26 evening relevant to the discussion by the Planning Board members and
 27 the Staff Notes by the Town Planner that the applicant has met all the
 28 criteria for the Special Use Permit.

29 **Second:** **Abigail Bachman**

30 **Discussion:** none

31 **Vote:** **Approved by Roll Call vote 5-1-0 (Eric, Val, Tim, Jane, & Abigail voted Yea,**
 32 **Michal voted Nay)**

33
 34 **Action**

35 **Motion #3:** **Val Shelton** made a motion to approve the proposed Subdivision for map
 36 U4 Lot 69 into two parcels with one parcel being 6.92 acres and the
 37 remaining parcel being .84 acres.

38 **Second:** **Abigail Bachman**

39 **Discussion:** none

40 **Vote:** **Approved by Roll Call vote 5-1-0 (Eric, Val, Tim, Jane, & Abigail**
 41 **voted Yea, Michal voted Nay)**

42
 43 **Bart** read into the record the Conditions of Approval from the Staff Report:

44 All conditions precedent, as enumerated below, must be met prior to the issuance of a
 45 building permit:

46 1. The site plan shall undergo a final review and receive approval from Director of
 47 Planning and Community Development, the Director of Environmental Services and

1 Town Engineer as it relates to development's water, sewer and stormwater systems
 2 and compliance with the Planning Board's decision issued on December 12, 2023.
 3 2. The applicant shall submit the revised site plan that has received final approval from
 4 Town Staff and have it endorsed by the Planning Board Chair and subsequently
 5 recorded at the Rockingham County Registry of Deeds.
 6 3. The applicant shall submit an updated I&M Plan to the Planning Department
 7 and Town Engineer for review and approval, pursuant to the standards
 8 enumerated in Section H. *Stormwater BMP Inspection and Maintenance Plans*
 9 of Appendix C.- *Stormwater Management Regulations* of the Municipal Code of
 10 the Town of Newmarket, New Hampshire.
 11 4. The applicant shall submit deed restrictions to the Town's legal counsel showing all
 12 approvals that all residents must be 62 yrs or older per the requirements of the Federal
 13 Fair Housing Act.

14
 15 **Bart** read into the record the Conditions Subsequent from the Staff Report:

16 The following conditions subsequent, as enumerated below, must be met prior to the
 17 commencement of construction:

- 18 1. Prior to the pre-construction meeting, the applicant shall submit an updated
 19 construction schedule.
- 20 2. Prior to the preconstruction meeting, all erosion control measures must be in place
 21 along with appropriate flagging along the limit of clearing and grading and ensure no
 22 impacts to wetland buffers.
- 23 3. Prior to the pre-construction meeting, applicant shall enter into an agreement with
 24 the Town for inspectional services in order to determine compliance during
 25 construction with the Planning Board decision and approved plans.
- 26 4. Applicant shall have a pre-construction meeting with Town staff and consultants.
- 27 5. If applicable, the applicant shall submit all state and federal approvals..
- 28 6. The applicant record a 62 or older occupancy deed restriction as approved by the
 29 Town's legal counsel.
- 30 7. There shall be no parking on Route 152 or South Main Street during construction.

31
 32 The following conditions subsequent, as enumerated below, must be met prior to the
 33 issuance of a certificate of occupancy:

- 34 1. An as-built plan shall be submitted for review and approval by the Town of
 35 Newmarket, or its designee, in order to determine compliance with the Planning
 36 Board's decision.
- 37 2. Applicant shall submit all applicable impact fees and water and sewer system
 38 development charges. The following see schedule shall apply:
 - 39 a. Residential Impact Fees Multifamily 5 + (per unit)
 - 40 i. Public schools: \$743.00 x 30 = \$22,290
 - 41 ii. Recreation facilities: \$279 x 30 = \$8,370
 - 42 b. System Development Charges
 - 43 i. Water connection fee (per unit): \$3,164 (subject to confirmation of anticipated
 44 gallons per day usage)
 - 45 ii. Wastewater connection fee (per unit): \$3,526 (subject to confirmation of
 46 anticipated gallons per day usage)

1
2 **Attorney Bruton** asked for a waiver of the school impact fee. He quickly wrote the
3 application down and read it into the record. **Bart** received the hand written application.

4 **Action**

5 **Motion #4:** **Val Shelton** made a motion to approve the waiver of the school impact
6 fees because the project will be 62+ age restricted housing units only
7 therefore no occupants will have an impact on the schools.

8 **Second:** **Abigail Bachman**

9 **Discussion:** none

10 **Vote:** **Approved 6-0-0**

11
12 **Action**

13 **Motion #5:** **Val Shelton** made a motion to approve the application for the residential
14 site plan for 242 South Main Street Tax Map U-4 Lot 69 to permit construction of 30-
15 units of elderly affordable housing, age-restricted to 62 yrs of age or older,
16 subject to the conditions outlined in the Planner's Report dated December 12, 2023, as
17 amended this evening to include #4 under Conditions Precedent and by adding #6 & #7
18 under Conditions Subsequent and deleting the public school impact fees.

19 **Second:** **Tim Rossignol**

20 **Discussion:** none

21 **Vote:** **Approved by Roll Call vote 5-1-0 (Eric, Val, Tim, Jane, & Abigail**
22 **voted Yea, Michal voted Nay)**

23
24 The Chair thanked all the presenters and, especially, the abutters/neighbors. He
25 believes that the Town has a much better project today because of their participation in
26 the many meetings with the PB and discussions with the applicant.

27
28 **Bart** read into the record the Subdivision Vesting Requirements as outlined in the
29 Planner's Report:

30 "This subdivision and site plan approval shall be deemed to have lapsed forty-eight
31 (48) months after the date of approval, unless active and substantial development has
32 commenced within said period as provided by RSA 674:39. For purposes of vesting,
33 the site plan approval shall be deemed to have temporary vesting rights for a period of
34 five years after the date of final approval of the plans, provided that the site
35 improvements—excluding the approved landscaping— and building's foundation and
36 exterior are constructed within 24 months after the date of this approval. Permanent
37 vesting shall be granted upon substantial completion as shown on the plans and
38 conditional approval at the December 12, 2023 meeting. Substantial completion shall
39 occur after grading and foundation work is completed, installation of its supporting
40 infrastructure (parking, water, sewer, drainage structures, and underground utilities),
41 and landscaping."

42 **Bart** read into the record the Appeal Decision as outlined in the Planner's Report:

43 "This conditional approval is subject to all representations and statements made by the
44 Applicant and engineer to the Planning Board during the review process. Any appeal of
45 the Planning Board's decision. Pursuant to RSA 677:15, any person aggrieved by any
46 decision of the Planning Board may appeal that decision to the Superior Court within

1 30 days, after the date upon which the Planning Board voted to approve or disapprove
2 a site review application.”
3

4 **Val** proposed that the temporary vesting would be the 24 months and would include all
5 side improvements. Dave Lemieux believes that the project will begin in the spring and
6 he would like to ask the Board for 36 months. The project will still be completed
7 externally within 5 years. All members and the applicant agreed to 36 months.
8

9 **Action**

10 **Motion #6:** **Val Shelton** made a motion that this subdivision and site plan approval
11 shall be deemed to have lapsed forty-eight (48) months after the date of approval,
12 unless active and substantial development has commenced within the period as
13 provided by RSA 674:39. For purposes of vesting, the site plan approval shall be
14 deemed to have temporary vesting rights for a period of five years after the date of final
15 approval of the plans, provided that the site improvements and building’s foundation
16 and exterior are constructed within 36 months after the date of this approval. Permanent
17 vesting shall be granted upon completion as shown on the plans and conditional
18 approval at the December 12, 2023 meeting.

19 **Second:** **Tim Rossignol**

20 **Discussion:** **none**

21 **Vote:** **Approved 5-0-1 (Michal abstained)**
22

23 [time on DCAT 1:25:57]

24 The Chair asked for a brief 5 minute recess.
25 The Chair called the meeting back to order.
26

27 *****

28 b. Read by the Chair: [time on DCAT 1:31:47]
29 Pursuant to RSA 676:4, I(b) & I(d), and Appendix-A Subdivisions, Appendix-B Site
30 Plans, and Section 32-45A(b)(2) of the Municipal Code of the Town of Newmarket,
31 New Hampshire, notice is hereby given that a public hearing shall be held for an
32 application filed by CC Railroad Street Newmarket LLC requesting a boundary line
33 adjustment, site plan review and special use permit approval for a 11,100 sf.
34 mixed-use, three-story building comprising 41 one-bedroom apartments and 2,500
35 sf. of commercial space with associated utilities and parking facilities located on
36 real property with an address at 3 Railroad Street, Tax Map U3, Lot 138A and 5
37 Railroad Street, Tax Map U4, Lot 16, M2A zoning district.

38 The Chair invited the applicant, Mr. Ben Stebbins, to come forward and present a brief
39 discussion of the proposed project. He came before the Planning Board approximately
40 1 ½ yrs ago and he received approval for a different project (8 units) on just one
41 property (see the PB Minutes of August 9, 2022). Tonight he is asking for an approval
42 for a different project proposed on two lots which he owns – both 3 and 5 Railroad
43 Street. He introduced Mike Sievert and Ryan Hudock, from Horizons Engineering, and
44 Adam Morrill, the lead architect for the project. **Bart** brought up the drawings on the
45 monitor of the project as Ryan Hudock rose to speak. The project is for 41 apartments
46 with some commercial space on the first floor (mixed-use). They intend to combine the
47 two lots and demolish the former B&M RR building and the office/house that Horizon

1 Engineers occupies. Horizon Engineers will them relocate into the commercial space on
2 the ground floor of the new building. He believes that the project is well
3 designed/planned and efforts to reduce light pollution, to provide a traffic impact study,
4 and to address water runoff (especially with regards to Moonlight Brook). They have
5 also provided a market analysis and a financial impact report. He discussed the waivers
6 being requested. Adam Morrill, architect with PROCON, rose to briefly address the
7 architecture. The building has three primary entrance/exit points.
8 **Bart** was asked by the Chair for his recommendation. The applicant has agreed to
9 provide an updated boundary survey – one that will show the consolidation of the lots
10 and conditions. The market analysis was completed in 2022. The fiscal impact report
11 has been updated. The traffic analysis was also provided. **Bart** thinks these can be
12 tabled for the time being – until the TRC. Otherwise, the application is substantially
13 complete.

14 **Action**

- 15 **Motion #1:** Val Shelton made a motion to accept the application as
- 16 substantially complete based upon the report from the Town Planner.
- 17 **Second:** Jane Ford
- 18 **Discussion:** none
- 19 **Vote:** Approved 6-0-0

20
21 **Bart** would like to ask that the TRC be scheduled for early January so the everything
22 can be ready for the Planning Board meeting on February 13. The Chair described the
23 TRC process for the abutters present this evening. Previously, **Jeff Goldknopf** told **Bart**
24 that he was interested in serving on the TRC. **Abigail** and **Tim** also volunteered. **Bart**
25 will coordinate the meeting with all parties including the abutters.

26
27 The Chair opened the public hearing.

28
29 #1 Jillian Arquette, 79 Railroad Street. She is an abutter, but was not contacted by the
30 contractor to discuss the project. She mentioned that they had met with ‘some’ abutters
31 and she wished to know who they spoke with. The Chair confirmed that she had
32 received a notice for this meeting.

33
34 **Action**

- 35 **Motion #2:** Val Shelton made a motion to continue the Public Hearing to the
- 36 meeting scheduled for February 13, 2024 at 7:00 PM in the Town
- 37 Council Chambers.
- 38 **Second:** Jane Ford
- 39 **Discussion:** none
- 40 **Vote:** Approved 6-0-0

41
42 *****

43 **5. New/Old Business** [time on DCAT]

44 **Chairman’s Report:** No report this evening,

45
46 **Planner’s Report:** **Bart** wanted to let everyone know that the Master Planning

1 Subcommittee has been hopping on the task! The Open Space/Housing Survey has
 2 been launched online and he would like to encourage everyone to take the time to
 3 complete it. If they need a paper/hard copy, please stop by the Planning Office or
 4 contact him directly. **Bart** will be dropping hard copies off at various sites in the
 5 community this week. Just click on the link at the homepage of the Town website.
 6 Please help the Town plan for the future!

7
 8 **Michal** wanted to suggest that, when people from the public are attending meetings, the
 9 Chair or Vice-Chair give a brief tutorial of the process. Just in a way of making them
 10 more comfortable and knowledgeable. The Chair agree with the request. **Bart**
 11 mentioned that the Town is considering an initiative using some short educational
 12 videos on “how Town government works, how the PB works, how the ZBA works, etc.”.
 13 These will be very informative for the community. **Bart** will be dropping hard copies off
 14 at various sites in the community this week.

15
 16 **6. Adjourn**

[time on DCAT 1:50:14]

17 **Action**

18 **Motion:** **Jane Ford** moved to adjourn the meeting at 8:43 PM.

19 **Second:** **Tim Rossignol**

20 **Discussion:** none

21 **Vote:** **Approved 6-0-0**

22
 23
 24 Respectfully submitted,

25
 26 Sue Frick

27 Recording Secretary

28
 29 **DCAT:**

30 https://videoplayer.telvue.com/player/XSekdEeRsk0JHQVHAvKJVka7_5VjxKP/videos