



PLANNING BOARD
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MINUTES OF THE PLANNING BOARD MEETING

Thursday, September 17, 2020 – 6:30 p.m., Virtual via Zoom

Members Present: Frank Catapano, Stu Gerome, Steve Gerrato, John McDevitt, Catie Medeiros, David Moore, Bob Dion (Alternate), Steve Smith (Selectmen's Rep)

Staff Present: Mark Fougere - Consultant

Vice Chair Gerrato opened the Planning Board meeting at 6:30 p.m. A roll call was taken by the Vice Chair; he announced a quorum was present and the meeting was being held virtually through Zoom and recorded by audio. A checklist to ensure meetings are compliant with the Right-to-Know Law during the State of Emergency was read into the record by Vice Chair Gerrato.

Attendance of Planning Board members was taken by roll call: Frank Catapano - aye, Stu Gerome - aye, Steve Gerrato - aye, John McDevitt - aye, Catie Medeiros - aye, David Moore - aye, Bob Dion – aye, Steve Smith – aye.

1. Projects of Regional Impact

There were no projects of regional impact.

2. Conditional Use Permit: 97 Waters Edge (R13, 15)

Owners/Applicants: David Hagner & Nancy Elliott

The owners/applicants are proposing a tidal docking structure with access landing and stairway, fixed pier, gangway, and float for an overall structure length of 74 ft., providing one slip on approximately 112 ft. of frontage along Great Bay.

Steve Riker, Ambit Engineering, joined the meeting by Zoom. He represented the owners/applicants David Hagner and Nancy Elliott. They are proposing to construct a tidal dock at 97 Waters Edge. S. Riker reviewed the Permit and Details Plans with the Board.

The owners have approximately 112 ft. of frontage along Great Bay. A tidal docking structure was designed to give the owners recreational boating access to the Bay. There will be a 4 ft. x 4 ft. access landing, a 4 ft. x 8 ft. access stairway, a 4 ft. x 20 ft. fixed wood pier, a 4 ft. x 20 ft. fixed wood pier, a 3 ft. x 46 ft. aluminum gangway to an 8 ft. x 16 ft. float which will be secured with helical moorings and chains. The fixed pier will be a permanent structure that will be supported by four piles. The stairway and access landing are wooden-type structures providing foot access to the pier. The pier, gangway and float are the structure components that will be located over jurisdictional wetlands with NHDES. The project requires permits from DES and Army Corps of Engineers; if those are granted, the applications will move to final approval by Governor's Council.

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The dock was located on the property for the least amount of impact. There is an area of salt marsh that the structure will cross to get to water where the float lands and a boat will be secured. This location is the narrowest portion of salt marsh to be crossed. DES requires that a 20 ft. setback is maintained from property lines extended; the nearest float is 22 ft. away.

S. Riker explained Sheet D1 to the Board. In addition, they are required to predict the sea level rise in 2100 (elevation 10.56). In addition to the four piles supporting the pier, there will be four piles driven that will be cut and capped 24 inches above the mud; they will act as float stops, keeping the float off the mud at low tide (DES and Army Corps of Engineers requirement). Pier construction and float stop detail are included on Sheet D1.

Riverside and Pickering Marine Contractors will be constructing and installing the dock. All work, with the exception of the access landing and stairway which require some work on land, will be done by barge from the water. There will be no wetland impacts or associated vegetation; all work will be done from the barge. Expected completion time is three to four days.

S. Riker reviewed the information available in the Conditional Use Permit application. They have been to the Conservation Commission (Wednesday, September 09, 2020); their recommendation was positive. The DES application has been submitted and accepted and is currently being reviewed by DES.

MOTION: F. Catapano moved to accept the application for the Conditional Use Permit for 97 Waters Edge (R13, 15) as complete. Second – J. McDevitt; roll call vote: Frank Catapano - yes, Stu Gerome - yes, John McDevitt - yes, Catie Medeiros - yes, David Moore - yes, Bob Dion – yes, Steve Smith – yes, Steve Gerrato - yes. All in favor. MOTION CARRIED

Completion time is expected to be three to four days. However, work must be done at low tide and piles driven at low tide. M. Fougere noted the application was thorough and they received approval from the Conservation Commission. M. Fougere's only stipulation was they needed NHDES approval.

B. Dion commented that on Sheet D1 he noticed mooring chains on the proposed dock plan, but there was nothing on the elevation—and what are they? S. Riker responded they typically do not show mooring chains on the elevation plan. He explained how the mooring chains are secured to the dock. B. Dion also questioned Sheet D2, NHDES Permit Plan: how far do the property lines extend? S. Riker explained that the property line extended is an imaginary line created by DES. It does not mean anything from a land ownership standpoint. It has some representation on people's rights to wharf out while providing plenty of navigation space between themselves and their neighbors. Responding to a question from M. Fougere, S. Riker stated that all ownership in New Hampshire is to mean high water. Tidal docks are located in the public trust and applications from the DES level must be approved by the Governor's Council. Vice Chair Gerrato clarified the dock extends 74 ft. That length gives the property owner use during the tide cycle. Discussion continued regarding the boundary line and mean high water. S. Riker further explained that the fixed pier portion of the dock is permanent, the gangway and the float are seasonal structures and will be removed in the non-boating season. At the float location, there will be 12 inches of the piling out of the ground during the off season. Float stops cannot be attached to the float due to DES rules.

MOTION: S. Gerome moved to grant the waiver from Zoning Ordinance Article 18 – Wetlands Protection Ordinance, Section 18.6.2(H) – Development of a Stormwater Management Plan, to the NHDES Permit Plan, submitted by Ambit Engineering, dated August 2020, Project 3050.23. Second – D. Moore; roll call vote: Frank Catapano - yes, Stu Gerome - yes, John McDevitt - yes, Catie Medeiros - yes, David Moore - yes, Bob Dion – yes, Steve Smith – yes, Steve Gerrato - yes. All in favor. MOTION CARRIED

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Vice Chair Gerrato opened the hearing to public comments. Leonard Schwab, 103 Waters Edge, stated he was in support of the application. He commented that on Sheets C1 and C2, Waters Edge is noted as a private way; it is a Town road and should be corrected. Laura Byergo, Caswell Drive and Conservation Commission Chairman, stated the Conservation Commission asked the that Nature Conservancy be contacted about the oyster bed restoration project in the Bay if dredging is being done in that area, especially in June/July/August which is the spawning season. S. Riker stated they would check with the Nature Conservancy.

MOTION: F. Catapano moved to approve the Conditional Use Permit for a tidal structure at 97 Waters Edge (R13, 15), according to the NHDES Permit Plan, submitted by Ambit Engineering, dated August 2020, Project No. 3050.23, with the following conditions: the applicant shall obtain all necessary NHDES permits as required prior to commencing any work; the NH Department of Environmental Services permit number and date of permit must be shown on the plan; remove 'private' from Waters Edge on Sheets C1 and C2; the Nature Conservancy must be contacted prior to start of any work; all waivers must be keyed to the plan; the applicant must submit a digital copy of the plan set, a final full plan set (22"x34") and an 11"x17" plan copy as part of the Planning Board file. Second – S. Gerome; roll call vote: Frank Catapano - yes, Stu Gerome - yes, John McDevitt - yes, Catie Medeiros - yes, David Moore - yes, Bob Dion – yes, Steve Smith – yes, Steve Gerrato - yes. All in favor. MOTION CARRIED

3. Conditional Use Permit: 188 Newington Road (R22, 7A)
Owners/Applicants: Donald & Carol Jones, Trustees – Beatrice Family Revocable Trust
The owners/applicants are proposing to construct a residential dwelling, driveway access and septic system with minimum wetland buffer impact for the driveway, grading around the house and septic system. There are no wetland impacts.

S. Gerome chaired this application review; S. Gerrato and S. Smith recused themselves.

Steve Haight, Civilworks New England and representing the owners/applicants, joined the meeting via Zoom. Also present were the owners/applicants, Donald and Carol Jones, Trustees. S. Haight stated they were applying for a Conditional Use Permit for impact to the wetlands buffers to construct a single-family home on an existing lot of record since 1997. The impact is along the proposed driveway, which is an existing gravel road, and slopes for the septic system and around the proposed home. A Special Exception was granted by the ZBA on August 18, 2020. They were before the Conservation Commission on September 09, 2020 and received a positive recommendation. The Conservation Commission recommended not paving the driveway and leaving it gravel as well as to plant native vegetation on the side slopes of the septic system and house that are within the buffer.

The existing lot is 9.4 acres; the impact is approximately 5% or 20,000 sq. ft. The septic system was approved in 1997 and has since expired. A new septic system plan was submitted and approved by the State. S. Haight explained the Conditional Use Plan to the Board. There are no wetland impacts proposed. The only impacts are to the wetland buffers. S. Haight reiterated the property has been a lot of record since 1997.

MOTION: J. McDevitt moved to accept the application for the Conditional Use Permit for 188 Newington Road (R22, 7A) as complete. Second – F. Catapano; roll call vote: Frank Catapano - yes, Stu Gerome - yes, John McDevitt - yes, Catie Medeiros - yes, David Moore - yes, Bob Dion – yes, Steve Smith – abstain, Steve Gerrato - abstain. Six in favor, two abstain (S. Smith, S. Gerrato). MOTION CARRIED

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The septic will be an Elder and Drain System to minimize the footprint of the leach field. The driveway will be shared with the house located on the left. A water line will be brought down the driveway to the house.

S. Gerome opened the hearing to public comments. L. Schwab questioned the existing topo contour of 24 ft. going through the proposed leach field and house and out the other side. He thought there may be more fill involved. F. Catapano explained that the foundation of the house had to sit above the seasonal high-water table. The hatched areas near the septic and around the sides are fill impact areas to be graded. The solid lines around the house indicated the final grading. F. Catapano explained the fill and grading. L. Byergo asked how they insured the quality of the fill next to wetlands. S. Haight explained that the proposed house is of significant value and good fill was necessary. It would not be in the best interest of the homeowner to skimp on the construction. There would be good quality backfill around the house.

There being no further comments, S. Gerome closed the public hearing and returned to the Board.

MOTION: F. Catapano moved to approve the Conditional Use Permit for 188 Newington Road (R22, 7A), according to the plan submitted by Civilworks New England, dated June 22, 2020, Project No. 19043, with the following conditions: the applicant shall install fencing along non-disturbed areas and buffer zones not impacted with a fence or other barrier prior to any tree cutting; appropriate erosion control measures shall be installed and maintained until the site is fully stabilized; the driveway shall remain gravel; the ZBA Special Exception must be keyed to the plan; the applicant must submit a digital copy of the plan set, a final full plan set (22"x34") and an 11"x17" plan copy as part of the Planning Board file. Second – J. McDevitt; roll call vote: Frank Catapano - yes, Stu Gerome - yes, John McDevitt - yes, Catie Medeiros - yes, David Moore - yes, Bob Dion – yes, Steve Smith – abstain, Steve Gerrato - abstain. Six in favor, two abstain (S. Smith, S. Gerrato). MOTION CARRIED

4. Subdivision of Land: 177 Winnicut Road (R10, 12A)

Owners: Brian and Maria Beck

Applicant: 177 Winnicut Road LLC

The owners/applicant are proposing a three-lot subdivision to consist of one existing house lot of 1.42 acres, one new building lot of 1.39 acres plus 1.12 acres of contiguous upland, and one remaining lot of 12.42 acres.

Christopher Berry, Berry Surveying & Engineering and representing the owners and applicant, joined the meeting via Zoom. At the July 16, 2020 Planning Board meeting, the Board agreed that a single-family home subdivision was preferred at this property. The owners and applicant have submitted a plan that will subdivide the corner parcel and existing home from the remaining land. They are proposing one new building lot, a lot created around the existing home and the remaining 12.42 +/- acres for future development.

The site is serviced by onsite well and septic; they have provided for four wells, 4,000 sq. ft. of leaching areas, and a number of adequate test pits. There is a sewage disposal system and construction approval number for the existing home. Required easements for a shared accessway will be provided. The property is located on a DOT road; there will be a shared access point with the existing driveway, which is permitted.

Responding to M. Fougere's comments: they have finalized their hydric soil analysis and LOMA study. They have confirmed that the flood zone is approximately 6 ft. above the base elevation of the Winnicut River. The LOMA was recently submitted to FEMA. The original flood line on site was shown on the plan

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because they have not received a response from FEMA. The site requires State subdivision approval; this has been submitted for both small lots that are under 5 acres. Lots have adequate frontage and land mass. When the original driveway was permitted through DOT, the accessway was permitted.

Vice Chair Gerrato clarified that they qualified for the three-driveway rule with the State (no more than three driveways and 500 ft.). C. Berry stated they have the required driveway permits from the State; they need two driveway permits for this property.

MOTION: J. McDevitt moved to accept the application for the Subdivision of Land at 177 Winnicut Road (R10, 12A) as complete. Second – D. Moore; roll call vote: Frank Catapano - yes, Stu Gerome - yes, John McDevitt - yes, Catie Medeiros - yes, David Moore - yes, Bob Dion – yes, Steve Smith – yes, Steve Gerrato - yes. All in favor. MOTION CARRIED

F. Catapano requested that the Planning Board Engineer review the plans. The plans were engineered well and the well radius was shown. S. Gerome agreed; the applicant was at the beginning of the process of a large project and the Planning Board Engineer should be involved. Vice Chair Gerrato felt the driveway could be a problem. F. Catapano noted that the driveway had been permitted through the State. C. Berry stated that the driveway cuts were permitted for the two lots.

C. Berry asked the Board for clarification on sending plans to the Planning Board Engineer for review. F. Catapano responded that this project warranted a quick review by the Planning Board Engineer because it would be coming back to the Board. In addition, it was larger lot. S. Gerome noted it was the beginning of a major project as well as along the water and in a sensitive area. J. McDevitt agreed, adding it was an ecologically sensitive site; the small subdivision looked fine but the whole lot should be reviewed. There was a very brief discussion about Southeast Land Trust having a possible interest in the property.

Vice Chair Gerrato opened the hearing to public comment. L. Schwab owns the parcel at 176 Winnicut Road (across the street). He asked if there were specific numbers on the NH Highway Bounds. C. Berry explained that the NH Highway Bounds do not have specific numbers. Other bounds on the site have the land surveyor's number on them. Chip Hussey, 207 Winnicut Road, commented this proposal was much better than the previous. His concern was that owners may build right down to the Winnicut River; he wanted to prevent it from happening in the future. He did not think homeowners understood the wetland buffers when they purchased the property. C. Hussey added there is nothing that indicates a wetland boundary. C. Berry noted that the wetland buffer on the Winnicut Road property was mainly in the wood line. There are small placards that can be put up along the buffer line: "Greenland Wetland Buffer". That would be a way of documenting the line on paper to the ground. C. Berry will make sure they are installed along the wetland buffer. M. Fougere stated it would be a good practice to use placards to mark the wetland buffers moving forward. F. Catapano stated placards should be put up every 50 ft. along the no cut buffer.

There being no other comments, Vice Chair Gerrato closed the public hearing and returned to the Board.

MOTION: S. Gerome moved to continue the application for the Subdivision of Land, 177 Winnicut Road (R10, 12A) to the meeting on Thursday, October 15, 2020, pending review by the Planning Board Engineer. Second – J. McDevitt; roll call vote: Frank Catapano - yes, Stu Gerome - yes, John McDevitt - yes, Catie Medeiros - yes, David Moore - yes, Bob Dion – yes, Steve Smith – yes, Steve Gerrato - yes. All in favor. MOTION CARRIED

5. Approval of Minutes

MOTION: F. Catapano moved to approve the minutes of Thursday, September 03, 2020. Second – J. McDevitt; roll call vote: Frank Catapano - yes, Stu Gerome - yes, John McDevitt - yes, Catie Medeiros – abstain, David Moore - abstain, Bob Dion – yes, Steve Smith – abstain, Steve Gerrato - yes. Five in favor, three abstain (C. Medeiros, D. Moore, S. Smith). MOTION CARRIED

6. Approval of Invoices

There were no invoices to be approved.

7. Other Business

188 Newington Road: L. Byergo noted that in the Conditional Use Permit approval for 188 Newington Road, the Board did not include the gravel driveway. M. Fougere asked she write a letter from the Conservation Commission stating their approval was contingent upon the driveway remaining gravel; it will be attached to the Planning Board Notice of Decision.

Planning Board Rules of Procedure: The Board reviewed the proposed change to the Planning Board Rules of Procedure to adopt the role of Co-Chairmen. There will be a public hearing at the work session on Thursday, October 01, 2020 if posting requirements can be met. If not, the public hearing will be held at the Planning Board Public Hearing on Thursday, October 15, 2020.

MOTION: F. Catapano moved to approve the revised Planning Board Rules of Procedure for the role of Co-Chairmen and forward to public hearing on at the work session on Thursday, October 01, 2020. Second – J. McDevitt; Frank Catapano - yes, Stu Gerome - abstain, John McDevitt - yes, Catie Medeiros - yes, David Moore - yes, Bob Dion – yes, Steve Smith – yes, Steve Gerrato - abstain. Six in favor, two abstain (S. Gerome, S. Gerrato). MOTION CARRIED

Land Use Attorney: M. Fougere updated the Board that the current land use attorney used by the Planning Board was cutting back on his practice. Attorney Loughlin has recommended Attorney Sharon Somers of Donahue, Tucker & Ciandella. M. Fougere has spoken to Attorney Somers; she will call in at the beginning of the Work Session on Thursday, October 01, 2020 to introduce herself to the Board. She has strong credentials and represents many communities. Land use law is a specialty. M. Fougere did share with her that the Board is watching the issue with Pease closely; she is conflicted out of that issue. If counsel is needed in the future with the Lonza issue, the Board will be using the attorney from Concord who has been vetted. Attorney Somers will make sure working with the Planning Board will not be an issue at DTC (they represent Lonza).

8. Topics for Work Session: Thursday, October 01, 2020

Topics were briefly reviewed.

9. Adjournment

MOTION: S. Gerome moved to adjourn at 7:52 p.m. Second – D. Moore; roll call vote: Frank Catapano - yes, Stu Gerome - yes, John McDevitt - yes, Catie Medeiros - yes, David Moore - yes, Bob Dion – yes, Steve Smith – yes, Steve Gerrato - yes. All in favor. MOTION CARRIED

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NEXT MEETING

Thursday, October 01, 2020 – Work Session, 6:30 p.m. via Zoom

Submitted By: Charlotte Hussey, Administrative Assistant