

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, March 25, 2024

- Call to Order:** Chair Denis Hebert called the March 25, 2024, meeting at 6:03 p.m., followed by the pledge of allegiance.
- Present:** Chair Denis Hebert; Vice-Chair Christopher Cross; Board Members: Rick Stern and Jim Weiner; Alternate Board member, Jill Semprini; Board of Selectmen's Representative, Bob Blonigen; Town Planner, John Krebs and Jane Kendall, Recorder (remotely)
- Absent:** Board Members: Russ Cooke, Ben Johnson, and Peter Welch
- Public Guests:** Bill Gregsak, P.E. with Gregsak and Sons; John and Jeremy Bernier with Bernier Construction; Brad Sterl; Mark Gianniny with McHenry Architecture; Dennis Graham with Tighe and Bond; Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering; Town Counsel, Attorney John Ratigan

1) Public Hearings:

A) **Site Plan Review for 25 Piscataqua Drive, LLC, (Wilcox Industries)** to remove +/-16,150 s.f. of the existing 1-story office building, and reconstruct a +/-23,100 s.f. footprint, 3-story building (+/-69,3000 total s.f.) of manufacturing and office space on the front of their existing facility located at **25 Piscataqua Drive, Tax Map 27, Lot 22.**

Bill Gregsak, P.E. with Gregsak and Sons presented Wilcox Industry's latest proposal to remove the existing one-story office building, and replace it with a three-story manufacturing and office space, and a shift of the existing parking lot in the front.

Mr. Gregsak stated that all construction would be accessed on the Piscataqua Drive side, and no dredge and fill would be required.

Mr. Gregsak said they would utilize the existing pavement from previous uses on their Woodbury Avenue parcel for temporary parking during construction, and would complete a larger parking area there after they received permitting.

Mr. Gregsak said they would be asking for a waiver from the parking requirements as discussed during their preliminary consultation as their operation did not require as many spaces.

Mr. Gregsak said he had submitted plans and calculations to Town Planner, John Krebs, and would address the missing items in Mr. Krebs' comments. Town engineering

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consultant, Eric Weinrieb, P.E. with Altus Engineering read comments and would address missing items.

Vice-Chair Cross asked if they intended on installing underground drainage in lieu of a swale in the front. Mr. Gregsak replied that they were proposing concrete chambers in the northeast corner of the lot that would act the same as a drainage pond.

Board member, Jim Weiner asked Town Planner, John Krebs and Town counsel, Attorney John Ratigan if the Board should change the parking regulations to take circumstances such as these into account when fewer spaces were needed for fewer employees. Mr. Krebs replied that the Planning Board parking regulations were based on industry wide standards, but the Planning Board could grant waivers to according to needs, and the Planning Board had already expressed a willingness to grant a waiver in their previous meeting. Mr. Krebs reiterated that the applicant would only hurt themselves if they did not provide sufficient parking.

Attorney John Ratigan agreed that the Planning Board had the authority when following the criteria for granting a waiver, and the authority was listed in the Town's Site Plan Regulations.

Chair Hebert noted that waivers for good cause had been discussed with Board members, and other applications before, and referenced page SP 56 in the regulations.

Mr. Weiner commented that he didn't think everyone knew about waiving parking regulations, and suggested his questions were an opportunity for learning and to make meetings shorter.

Mr. Weinrieb noted that he had written bullet items with concerns, but had not done an in-depth drainage study.

Mr. Weinrieb asked if a variance had been granted for the building setback. Mr. Krebs said setback variances for the building and parking area on both lots had been granted. Mr. Weinrieb said he wanted good site notes on the plan so anyone could see what happened.

Mr. Krebs said they needed adequate parking during construction, and needed to show their access plan.

Mr. Gregsak said some people were using the old parking area now because there was a high security fence

Jeremy Bernier with Bernier construction said they were hoping to spread some gravel in the temporary parking area, and would put in a temporary fence with a turnstile, to maintain the perimeter security.

Mr. Weinrieb asked if they would access from Piscataqua Drive. Mr. Gregsak replied that they would enter through the gated entrance off Piscataqua Drive, or the secure entrance off Fort Knox Way.

Mr. Krebs went on to say that they had two lots, and were proposing a lot line adjustment to keep one lot for future development. Mr. Krebs said would like to see the lot line adjustment approved soon, and would like to see parking developed at the same time.

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Mr. Gregsak said they would install a high security fence, and new entry gate after the lot line adjustment was complete.

Mr. Krebs suggested creating 100 temporary spaces during construction to avoid parking on the side of the road.

Chair Hebert said he wanted to see the construction phasing.

Mr. Weiner said previously discussed queuing, so discussed passport/internal queuing.

Mr. Gregsak said no new entrance on Piscataqua Drive would be added for this proposal, and the only new entrance added to Woodbury Avenue would be to the temporary parking, which would then become permanent, where there would be a secure turnstile to the facility.

Attorney Ratigan wondered if the fencing next to the parking area would interfere with winter plowing to avoid removal of snow from the site. Mr. Gregsak said they would make provisions for snow.

Board of Selectmen's representative, Bob Blonigen, asked if parking would exit onto Woodbury Avenue. Mr. Gregsak said he imagined that most would want to exit Woodbury Avenue.

Chair Hebert said they had previously discussed a right turn only onto Woodbury Avenue, so they should do a traffic study to be sure that traffic was not competing for the same lane. Mr. Gregsak said they did a traffic study for the previous proposal, but they could update it.

Mr. Weiner asked if there was an island on Woodbury Avenue across from the access point. Mr. Gregsak said it was only a painted island.

Chair Hebert commented that there had been discussion about raising the center island to prevent recommended to prevent cross cutting. Mr. Blonigen added that there was signage indicating a right turn only into the Olive Garden.

Vice-Chair Cross asked if the applicant intended to initiate site work on the existing lot soon. Mr. Krebs responded that the bank wouldn't allow demolition until they had received the Board's approval.

Vice-Chair Cross commented that the Board was willing to move forward quickly, but couldn't without complete engineering and legal information.

Chair Hebert commented that there had been so many changes to their plans that it was hard to keep track. Chair Hebert said he anticipated that the applicant would need a couple of weeks to update the plans, Mr. Weinrieb would need a couple of weeks for review, and then the Board would need to receive the packet of updated plans and comments a week before a meeting. Mr. Gregsak stated that he could provide updated plans in a week.

Jim Weiner moved to continue the Site Plan Review for 25 Piscataqua Drive, LLC, (Wilcox Industries) to Monday, April 29, 2024. Rick Stern seconded, and all were in favor.

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Mr. Krebs reminded the applicant that temporary parking needed to be addressed, and they needed to provide a traffic study when they returned for their parking lot project.

Mr. Weinrieb also reminded them that they needed to go through the set of regulations and provide explanations for all waiver requests.

B) Continuation of Subdivision Application for Norman and Cara Walker to subdivide their existing property located at 315 Newington Road, Tax Map 53, Lot 6-1 from 120,828 s.f. into two lots of 60,414 and 60,414 s.f. each.

A Variance was granted by the Newington Zoning Board of Adjustment to allow two 60,000 s.f. lots where 80,000 was required on June 29, 2023.

Mr. Krebs informed the Board that the applicant had sent in a letter stating that he was still working with the New Hampshire Department of Transportation and Eversource, and had requested a continuation of the public hearing.

Rick Stern moved to continue the Subdivision Application for Norman and Cara Walker to Monday, April 29, 2024. Jim Weiner seconded the motion, and all were in favor.

II) Preliminary Consultation with applicant, Brad Sterl to discuss the conversion of the former Asia/Shogun Restaurant into an integrated restaurant, bar, and indoor dog park at property located at 347 Shattuck Way, Tax Map 13, Lot 1A.

Mark Gianniny with McHenry Architecture presented a preliminary proposal for a partial change of use for the former Asia Restaurant to an integrated restaurant and dog park.

Mr. Gianniny stated that the site was originally developed for the Asia Restaurant in 1975, expanded the building footprint and additional parking in the late 1980's, and again more recently for the Shogun Restaurant. Mr. Gianniny said the heating, cooling and plowing of the property had been maintained since it closed.

Mr. Gianniny stated that their sitework would be limited to converting some of the impervious parking area to exterior dog areas, and patio dining space.

Brad Sterl, the proposed owner, said he had lived in Rye for the last 35 years, and operated several restaurants over the years. Mr. Sterl said he had seen good results in similar operations in Boston, and other areas in the United States in the last five years, and had been looking for such a site that could be a destination for patrons.

Mr. Sterl said dogs would not be allowed in the restaurant, but they would provide takeout to on and off leash areas outside that would be overseen by trained park managers for people to interact. and would be leashed in a contained area before

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being allowed to the next area. Mr. Sterl said there would be a separate area for small or timid dogs, and there would be a limited count area for dog daycare. Mr. Sterl said dogs could also be watched while members were eating if desired. Mr. Sterl added that a majority of parks allowed 12-year-olds, but no one under 18 would be allowed in the dog area.

Mr. Sterl said the habits of dog activities has changed drastically with dog park concerns, so they would require proof of vaccination, neutering, and temperament tests for intermingling.

Mr. Sterl said his wife was qualifying for canine CPR, specialized in dog training, and his daughter was a canine officer, and there would be private rooms to do training, and then engagement with community, as well as opportunities for host fund raisers.

Mr. Sterl said he had sold all his restaurants, including Foodee's Pizzas that he used to own, and intended to bring back high end, stone oven pizzas, burgers, and handheld items for casual, budget friendly dining, as well as a coffee area.

Board member, Rick Stern asked what their hours of operation would be, and Mr. Sterl said he hoped to be in operation until 10 p.m., but could close as early as 9 p.m.

Mr. Blonigen pointed out that the home on the abutting Lot 13-3 had young children with a working mother, so hours and noise would be a concern.

Mr. Sterl said it was in the nature of dogs to bark occasionally, but he had visited a similar site near a residential complex, and the periodic noise never went about 75 decibels.

Mr. Stern said the sounds from the dog day care on Gosling Road could be heard, but no one lives there on Gosling. Mr. Weinrieb agreed that the dog run was out the back and could only be heard when visiting the treatment plant.

Mr. Weiner commented that sound barriers can sometimes reverberate noise to make it louder, which could be a problem for a nearby resident after business hours.

Chair Hebert said the Town had regulations regarding loud sounds near a residential area, and Attorney Ratigan agreed that statutes prohibited high noise levels from any source.

Mr. Sterl said it was hard to guess how frequently some dogs might bark, but he would have to withdraw his proposal if he couldn't have outside activity after 5 p.m. because that would be part of the draw for customers.

Chair Hebert asked how many full-time employees they expected to need. Mr. Sterl replied that they expected to need 8 to 15 employees for different shifts through the week with 10 to 20 on evenings and weekends while running the dog park and day care from Monday through Friday, and have the restaurant closed on Mondays.

Chair Hebert asked if they could move the outside park area from the residential area. Mr. Sterl replied that he chose the area because there was enough room for a car, and it was more shaded from the sun in that area, so he would have to move parking spaces if he moved the outside dog park area to the front.

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Mr. Weinrieb asked if he intended to make any changes to the parking lot stripping. Mr. Sterl said they intended on using the current layout, with four spaces removed for the dog area, unless they needed to move the dog area to the front, and then they would adjust the layout.

Vice-Chair Cross said the building had been built with a 360-degree fire lane, and said they would need input from the fire department. Mr. Krebs said they had already talked with the fire department, and they were good.

Vice-Chair Cross asked if the outside area would be covered or open. Mr. Sterl said currently they planned for it to be open with a six-foot chain link with privacy slats.

Vice-Chair Cross asked Mr. Sterl to describe the outdoor dog park further. Mr. Sterl said they intended on placing astro-turf on top of built-up crushed stone, pellets and sand below for drainage.

Vice-Chair Cross commented that they were 20 feet from the wetlands, and suggested a plan for an underground collection system because they should have some kind of barrier.

Mr. Weiner said a sound wall over concrete would make sounds louder, and would be absorbent. Mr. Weiner suggested they look into O'Neill Systems for fencing that could create a sound barrier with a roof for inside and outside space.

Mr. Weinrieb said he thought potential noises could easily be managed with careful handling, and by limiting hours to 8 p.m.

Mr. Weinrieb said there also might be ways to handle dog waste, but he was not sure if it should go into the municipal treatment system because they would also be collecting stormwater.

Mr. Sterl said another site installed astroturf inside, but it caused odors, and there was no way to flush it clean. Mr. Sterl stated that they would run an automated floor cleaner in the indoor area that would be concrete with epoxy for sanitation. Mr. Sterl said the FRP material walls would be four feet high, and they would handle sanitation much the same as another USDA regulated site with proper practices.

Alternate Board member, Jill Semprini asked if their stormwater plan would be upgraded. Mr. Weinrieb stated that the entire area had poor drainage, but they already met the requirement, and were removing 25 spaces so there was no further treatment unless they made the entire parking lot porous, so replacing with the pavement with pervious would be best.

Chair Hebert stated that the Town was working on drainage with the New Hampshire Department of Transportation (DOT) on Shattuck Way because of flooding on abutting properties. Mr. Weinrieb asked if they might be willing to work with them. Mr. Sterl said he could see the drainage behind his property, and would be willing to work together.

Vice-Chair Cross wondered if they might consider contributing to a bike or walking path down to River Road. Mr. Sterl responded that he would look into it, but

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they were already over budget with building and exterior upgrades for reuse, and would be concerned that it would be cost prohibitive.

Mr. Blonigen added that he thought that the manmade swamp surrounding the property mostly drained under the entrance in the front, and was too close to the road to allow for expansion of a bike lane. Mr. Weinrieb added that bike traffic across the bridge from Dover was supposed to go through the new DOT facility, and he didn't think it would be a good idea to encourage foot traffic in the mostly industrial area of Shattuck Way.

Mr. Weiner asked if they might be able to make a path on the property itself. Mr. Sterl said walking paths would be of interest, but the area looked very wet. Mr. Krebs said he thought it would be impossible because the lot was an island surrounded by wetlands.

Mr. Weiner asked if they might consider using a bushhog attachment to create a four-foot-wide pathway area on the abutting parcel with greenery as a walkway for dogs. Mr. Sterl responded that they needed to determine if the three-acre area was available. Mr. Krebs added that the other lot might be surrounded by wetlands as well.

Chair Hebert said he wanted to be sure the seating/parking ratio was sufficient. Mr. Gianniny responded that they calculated three to four seats per vehicle, and there were 100-125 seats in the restaurant.

Mr. Stern asked if there would be tables on the outside patio. Mr. Sterl said the hibachi area had a plaque listing a limit of 343 patrons, but they were rounding it out to 125 seats, and six tables for takeout.

Mr. Weinrieb asked about a lighting plan for the outside area. Mr. Sterl said there already was lighting in the existing parking area, and they would use multi-soffit lighting for any additional needs. Mr. Weinrieb said they needed to provide a statement that they would maintain the existing lighting, and provide a plan for upgrades.

Mr. Krebs advised them to return with a procedure and location for dog waste, parking calculations, and consider removing some parking for more green space and storm water drainage.

Mr. Krebs said he hoped they could return for the Monday, April 8, 2024, meeting because the Board might be booked on the Monday, April 29, 2024, meeting

III) **Old Business:** Discussion regarding minor modifications to Site Plan for property located on Woodbury Avenue, Tax Map 20, Lot 4-C.

Dennis Graham with Tighe and Bond appeared before the Board on behalf of Choice Hotels. Mr. Graham said they were continuing as planned with granite curbing in the right-of-way, but the applicant was asking to substitute concrete curbing around the building, as part of the sidewalk, and change to asphalt for the exterior.

Mr. Krebs informed the Board that the hotel development between Woodbury Avenue and Shattuck way needed the Planning Board's input for material substitutions

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for curbing because the Planning staff didn't have the authority to approve material substitutions to site plans.

Mr. Krebs said he had no problem with sloped, concrete curbing, but he did have a problem with a Cape Code berm around the exterior because he didn't think it would have the same longevity as granite curbing.

Mr. Weinrieb agreed, and said there were general maintenance issues with Cape Cod berms that required more maintenance, and then the Town could say the drainage didn't work. Mr. Weinrieb said he recommended sloped granite, but it was up to the owner, and they could agree to an annual maintenance review.

Mr. Weinrieb said he would also suggest modifying the stormwater plan and maintenance to include the condition of the curb.

Mr. Krebs said he would be fine with concrete curbing in the front, but thought the perimeter in red should remain sloped granite.

Chair Hebert said several variances were granted for the wetlands setbacks, and part of their approval as that granite curbing would provide the highest stormwater management protection of the wetlands, but he thought concrete around the building was an acceptable compromise.

Mr. Krebs said the concern was that the curbing might topple in heavy rain, so he agreed that they could keep granite curbing around the perimeter of the building, but go with monolithic concrete curb in the other area indicated. Mr. Weinrieb agreed.

Mr. Graham noted that vertical granite was backlogged through Swenson Granite.

Rick Stern moved to allow minor modifications of concrete curbing around the building, and maintain the granite curbing as previously approved on the Site Plan for the Choice Hotel property located on Woodbury Avenue, Tax Map 20, Lot 4-C. Jim Weiner seconded, and the motion passed.

Mr. Weinrieb and Attorney Ratigan left at this point in the meeting at 8:25 p.m.

IV) Report from Town Planner

Mr. Krebs informed the Board that they would discuss Planning Board fees, and temporary storage containers at Habitat for Humanity's ReStore at the Monday, April 8, 2024, meeting.

V) Other Business and Discussions

Mr. Weiner said he thought important items were not captured in the Minutes, and asked for a review from minute 46 to one hour and 18 minutes because he felt the Minutes were summarized and "whitewashed", even if that was not the intent.

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Vice-Chair Cross said these were probably some of the most detailed Minutes of any board, and suggested that Mr. Weiner would need to give specifics with line items on corrections, and if the rest of the Board feels it sufficient, then it should suffice. Mr. Weiner agreed that he could do that.

Chair Hebert said he thought the Minutes met and exceeded the RSA requirements for meetings with members and applicants present, and the topics discussed, and is not required to capture discussions verbatim.

Mr. Weiner said he thought the discussions and questions regarding the Zoning Ordinances during the last meeting were important for his education and understanding, and should be included.

Chair Hebert said Board members could bring up questions, and he often responds to questions regarding the Rules and Regulations that Board members should know.

Mr. Weiner said he asked the attorney a question, and was interrupted, and said he thought it important that he be allowed to ask questions.

Vice-Chair Cross said he thought Mr. Weiner had a different interpretation of his discussion at the last meeting, and said it would not be worth holding up Minutes requiring the level of detail that was already recorded.

Mr. Krebs asked how long the streamed meeting recordings were kept. Mr. Blonigen said they were never destroyed. Mr. Krebs suggested adding a note with the link in the Minutes that the entire meeting could be viewed.

Mr. Stern said Minutes were just a summary of discussions.

Mr. Weiner said his concern was that written Minutes could be presented in court, and the video would be irrelevant. Mr. Krebs said the court would use the full record, and any attorney with concerns over a contentious issue often brought their own recorder to meetings, as the technical details are what win cases in court. Mr. Krebs added that people say things in board meetings all the time that they shouldn't say, so they needed to be extremely careful so it could go both ways.

Jim Weiner moved to have Mr. Krebs ask Recording Secretary, Jane Kendall to the listen to the recording again for the exact words that he asked about exparte communications at the end of the February 12, 2024, meeting for corrections. There was no seconded to the motion, so the motion was not moved.

Mr. Weiner stated that he asked Mr. Krebs if any member of the Board had any exparte communications with any member of the Board, and any future or existing applicant, or a person with an interest in an application or future application. Chair Hebert said those words had not been said. Mr. Weiner said it could be listened to on the tape.

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Mr. Weiner said his question was not whether Mr. Krebs had spoken with an applicant with a Board member present, but if he had spoken with any applicant, or preliminary applicant.

Chair Hebert asked if everyone agreed with Mr. Weiner's statement on exparte communications, but there was no answer. Chair Hebert asked Mr. Krebs what his response had been, and Mr. Krebs said his response was no.

Minutes: *Chris Cross moved to approve the Minutes for the February 12, 2024, meeting with corrections as agreed to by the majority of the Board. Bob Blonigen seconded. The motion passed 5-1 with Jim Weiner opposing.*

V) Other Business and Discussions (continued)

Mr. Weiner asked Mr. Krebs, and read "As stipulated by the restrictions in the Planning Board Rules and Procedures, has there been any exparte communication with any members of this Board, and a future or existing applicant, or any communications between members of this Board and a person with interest in or interest or affected by any pending or future case since the last Planning Board meeting. Mr. Krebs said he did not know. Mr. Weiner then rephrased his question by asking Mr. Krebs if he had met with any applicant with any Board members with him, and Mr. Krebs said he had not.

Mr. Weiner then asked Mr. Blonigen if he intended on sitting on the Walker case, and Mr. Blonigen said he didn't know, and asked why. Mr. Weiner said he had been at the dump, and overheard something.

Adjournment: *Bob Blonigen moved to adjourn the meeting. Chris Cross seconded the motion and the meeting adjourned at 8:57 p.m.*

Next Meeting: Monday, April 8, 2024

**Respectfully
Submitted by:** Jane K. Kendall, Recording Secretary