**Planning Board**

**November 13, 2018**

Final

Approved December 18, 2018

**Members Present:** Bruce Healey, Chair; Michael Beaton, Vice Chair; Regina Cockerill, Howard Maurer, Bill Weiler, Richard Wright, Members; Deane Geddes, Alternate; Ken McWilliams, Advisor.

Mr. Healey called the meeting to order at 7:00 p.m.

**Hearings:**

**7:00 p.m. – Case 2018-010 – Continued Conceptual Consultation**

Alteration of Terrain After-the-Fact Permit Application for property located at 274 South Road.

Mr. Healey proposed a list of questions that he would like the Board to ask Mr. Mark Hilton and Mr. David Eckman.

Mr. Healey asked the following questions:

1. What is the current status of AoT permit? Mr. Eckman said it is pending.

What is the length of the permit? Mr. Eckman said a permit for AoT for a gravel pit is forever.

Mr. Healey stated that the Board will need to receive a copy of final approved AoT permit from NHDES with all updated plans for the Planning Board file. Mr. Eckman agreed to this request.

1. Permit requires – from date of issuance reporting to the state on the status:

Mr. Healey said that every two years they need to issue a ‘progress status’ report and every six years they need to issue an ‘updated plan of project’. Mr. Healey said the Board would like copies of both of these reports for the town files. Mr. Eckman stated that he will make sure this happens.

1. On Plan Rev. dated 10/18 dated – Mr. Healey noticed that the sedimentation basin and sediment retention pond is marked as temporary. Mr. Healey thinks this should be permanent. Mr. Eckman will clear up the note and make sure it is clear that it reads permanent.
2. Rev Plans of 10/18 - Mr. Healey asked Mr. Eckman to review the changes that were made and discussed at the 10/18 site walk. Mr. Eckman said that the aquifer is a drinking water aquifer. There was a report from USGS, so they changed it to that say that it is a stratified drift aquifer as indicated in the 1996 USGS report. Mr. Eckman said that another revision is that the silt fence will not be removed until after there is 85% vegetation. He also said the stock pile will be removed early on in phase one. Mr. Eckman said there is no fertilizer allowed in the first 25 ft. and then from 25 ft. to 250 ft. it is low phosphorous, slow release fertilizer. Mr. Eckman also said the pond became permanent.
3. In Chapter 155-E of the New Hampshire Statutes, it stipulates that, with some exceptions, all commercial earth excavations in the State are subject to regulation by the town in which the operation occurs. Further, in Newbury, the Planning Board is regulator. Mr. Eckman acknowledged this.

Mr. Healey asked that Mr. Hilton complies with State RSA 155-E and local Earth Excavation Regulations before the operation becomes commercial. Mr. Hilton must receive from the Planning Board a local permit before any earth excavation for commercial use/sale. The owner must allow 4-6 months for final application process. Mr. Eckman acknowledged this process and appreciated the information.

1. Based on their plan, Mr. Healey asked what the timetable for the below is:

E-1 – Excavation 1

R-1 – Reclamation 1

E-2 – Excavation 2

R-2 – Reclamation 2

Mr. Hilton said he would like to start as soon as possible. It is difficult to give a time table due to the fact that it depends whether he is selling the materials to one person at a time or selling to a bigger company that will take more. The time table will be slower if it is one person at a time. Mr. Healey said he doesn’t want Mr. Hilton to feel like he has to file right away if he wants to wait. Mr. Hilton said he would like to start in the spring.

Mr. Healey explained that a letter will be sent outlining understandings reached during this Conceptual Consultation. Mr. Healey asked if there would be commercial activity in the spring/summer of 2019. Mr. Eckman said yes. Mr. Healey wanted Mr. Hilton to know that an earth excavation permit process is a relatively lengthy process.

Mr. Healey asked the Board if they had any questions for Mr. Eckman or Mr. Hilton. There were no other questions. Mr. Healey said they can have another conceptual if they feel that is necessary and helpful. Mr. Eckman said they will be thorough and should be ready by February.

**7:15 p.m. – Case 2018-011 – Final Approval – Annexation – Albert & Diane Cretella** for properties located on Lakewood Manor Place, Newbury, NH, Tax Map # 019-624-446 and 019-573-443. The application is to annex 3285 sq. ft. from Tax Map #019-573-443 (Kindick) to 019-624-446 (Cretella).

Mr. Healey read the public notice.

Mr. Healey checked to see if the application was complete and the fees and plans were submitted. Mr. Healey found the application to be complete and made a motion to accept the application. Mr. Weiler seconded the motion. All were in favor.

Mr. Cretella gave an explanation of his proposed annexation. He explained that the property was owned by him since 1969. He said he is looking to do some renovations to his home. As per the request of the Code Enforcement Officer, he looked into boundaries. He noticed that his shed is encroaching on a neighbor’s property). Mr. Cretella said that he would like to purchase a triangular piece of land and add it to his current property. Mr. Healey said that both properties are changing so there will need to be two deeds submitted. Mr. McWilliams said this can be found under section 7.3 in the annexation section of the zoning ordinances in which it states that within 30 days of the annexation, the deeds for both lots need to be submitted to the land use coordinator. Mr. McWilliams said that there needs to be a deed of what the new property will be as well as the new Kindick deed. These two new deeds need to be recorded. Mr. Healey said that this approval will be based on receiving these two deeds. Mr. Weiler suggested giving him a book and page of another deed that had an annexation to use as an example. Mr. Healey said that the condition that would need to be met before final approval is that within thirty (30) days after the date of Planning Board conditional approval the applicant shall deliver the Lot Line Adjustment plat and signed deeds for the two (2) lots involved in the annexation/lot line adjustment to the Land use Coordinator ready to be recorded. Additionally, the applicant will provide the Land use Coordinator with payment for all recording fees associated with filing the plat and the deeds with the Registry of Deeds of Merrimack County. Mr. Weiler made a motion to accept and approve the lot line adjustment with the conditions set precedent by the Planning Board for final approval of this Application. Mr. Maurer seconded the motion. All were in favor.

Mr. Healey said he will have the Land Use Coordinator get him some examples of a deed of another lot line adjustment.

**7:30 p.m. – Case 2018-012 – Final Minor Site Plan Review – Newbury Plaza LLC (owner)**

**Debra Morse** (Agent), for property located at 976 Route 103, Newbury, NH, Tax Map #020-200-298 – Proposing a new retail business named Black Diamond Kitchens & Baths in unit 2.

Mr. Healey read the public notice.

Mr. Healey checked to see if the application was complete. Mr. Healey found the application complete and made a motion to accept the application as complete. Mr. Wright seconded the motion. All were in favor.

Debra Morse presented an overview of the proposed project. She is interested in putting in a showroom to exhibit kitchen and bath items in unit 2 of the Newbury Plaza. The showroom will have cabinetry, counters and hardware for kitchens, bathrooms and other spaces. Signage will be identical in size to what exists already. The hours will be Monday-Friday 9-5 and Saturdays 9-1. She expect about 20 clients per week. Mr. Maurer asked why she needs a 3 bay sink. The owner explained that the 3 bay sink is already there and will be used in the break room. Mr. McWilliams asked what the previous use was prior to this. The owner explained that it used to be a retail store known as the Newbury News.

Mr. Healey opened it up to public input. There being none, Mr. Healey closed the public input. Mr. Maurer asked why she is limiting the hours to what is listed. He suggested that she might want to open the hours up longer. Mr. Maurer suggested that she increase her hours so she is not locked in. Mr. Healey suggested putting 7:00 a.m. – 9:00 p.m. from Monday – Friday and Saturdays from 9:00 a.m. – 5:00 p.m. Mr. Weiler made a motion to approve the application. Mr. Wright seconded the motion. All were in favor.

**Minutes:**

The Board reviewed the minutes of September 18, 2018. Corrections were made.

Mr. Wright made a motion to accept the minutes as corrected. All were in favor.

The Board reviewed the minutes of October 16, 2018. Corrections were made.

Mr. Wright made a motion to accept the minutes as corrected. Mr. Geddes seconded the motion. All were in favor.

The Board reviewed the minutes of October 30, 2018.

Mr. Weiler made a motion to accept the minutes as corrected. Mr. Wright seconded the motion. All were in favor.

**Other Business:**

**Proposed Zoning Amendments** – Mr. Healey distributed the proposed zoning amendments and asked if there are any changes. Mr. Weiler had a change on page two in the last paragraph. He suggested taking out the word ‘won’t’ and replacing it with ‘will not’. Ms. Cockerill pointed out that on the first page on the top the word ‘proposed’ had an extra ‘d’ that needs to be removed.

Mr. Healey proposed that the Board schedule a public hearing for the proposed amendments.

Mr. Weiler made a motion to move the proposed amendments to a public meeting on December 18th. Mr. Geddes seconded the motion. All were in favor.

**Home Occupations – NH Open Doors**

Mr. Healey explained there is a potter in town that adheres to the home occupation ordinance. She is compliant with the home occupation requirements which are that there are no occupant employees on the premises, no signs, and all equipment or material is enclosed in a building and no customer traffic. Mr. Healey explained that the state is running a program named NH Open Doors to make an effort to allow home businesses all across the state to annually be able to open their doors and offer tours of these businesses. The owner is wondering if it would be okay for this one weekend to be noncompliant with this ordinance so that she can be included in this one weekend event. The Board agreed that this should be fine.

**Accessory Dwelling Units (ADU’s) –** Under 5.7.1, Mr. Healey said that it states that ‘an owner or owners of a single family dwelling shall be required to apply for and receive approval for a building permit for the certificate of occupancy of an accessory apartment.” Mr. Healey says that this implies that if someone wants to build an ADU, you have to have a primary dwelling on the lot. He said that there is currently property owners who have applied for a building permit to put up a garage and put up an ADU in the garage before any principal dwelling unit is built. Mr. Healey’s question is if someone wants to do this, should they be required to get a variance since they do not have a principal dwelling on the lot. Mr. Healey said that if this is the interpretation, then they would need to get a variance before the primary dwelling is built. Mr. Healey said that this particular owner has two lots and the primary residence is on one lot and the other lot would have the ADU. The owner would not be occupying the ADU.

Mr. Beaton made a motion to adjourn. Mr. Geddes seconded the motion. All in favor.

The meeting adjourned at 9:14 p.m.

Respectfully submitted,

Donna S. Long

Recording Secretary