

**NEWRY PLANNING BOARD
MINUTES OF BOARD MEETING
Wednesday, August 5, 2020
Raymond C. Foster Municipal Building**

Full discussion on topics below is available on audio recording at the Newry Town Office.

Members Present: John (aka Gootsch) Gauthier (Board Chair), Kenny Young (Board Vice Chair),
Becky Bean (Board Secretary & Recording Secretary)

Members Late:

Members Absent:

Staff Present: Shelley Norton of AVCOG (via Zoom)

Call to Order: Chairman John Gauthier called the meeting to order at 7:00 PM.

Current Attendance/Quorum: The Chair took attendance and confirmed the presence of a quorum.

The Board proceeded to connect Shelley via Zoom. The audio was not working properly, so the Board proceeded to connect the audio by calling her cell phone with the Town's conference speaker phone.

Prior Attendance/Voting Eligibility: With no recent absences, all members are eligible to vote.

Previous Meeting's Minutes: The Board reviewed the previous meeting's minutes. **Kenny moved to accept the minutes of the July 15, 2020 meeting as written; Becky seconded. With no discussion, the motion passed unanimously.**

Old Business

- a) **Sunday River Skiway Corporation— Shoreland Zone Permit Application (#20-256)—Pumphouse #1 Intake Pipe Replacement:** Peter Roberts distributed copies of the revised site plan showing the changes requested by the Board at the previous meeting. After reviewing the updated site plan and confirming the revisions, the Board proceeded to review the criteria for approval.

SHORELAND ZONING CRITERIA FOR APPROVAL (page 25, section D):

1. Will maintain safe and healthful conditions – **Becky moved that this project will maintain safe and healthful conditions; Kenny seconded. The motion passed unanimously.**
2. Will not result in water pollution, erosion, or sedimentation to surface waters – **The Site Plan shows the planned use of silt fences and notes that soil stabilization measures will be used on soils exposed for more than 72 hours; therefore, Kenny moved that project 20-256 will not pollute water, cause erosion, or result in sedimentation of surface waters. Becky seconded, and the motion passed unanimously.**
3. Will adequately provide for the disposal of all wastewater – **Gootsch moved that this item is not applicable because there is no wastewater to be disposed of; Kenny seconded. The motion passed unanimously.**
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat – **Since this project is not in the river nor on the riverbank, Becky moved that this project will not have an adverse impact; Kenny seconded. The motion passed unanimously.**
5. Will conserve shore cover and visual, as well as actual, points of access to inland waters – **There are no plans to cut trees within the 75' setback, and the area does not include any public points of access to the river. With that in mind, Becky moved that this project will conserve the shore cover and**

visual, as well as actual points of access to the inland waters; Kenny seconded. The motion passed unanimously.

6. Will protect archeological and historic resources as designated in the comprehensive plan – **With no archeological nor historical resources in the area, Gootsch moved that this item is not applicable to project 20-256; Kenny seconded. The motion passed unanimously.**
7. Will avoid problems associated with flood plain development and use – **Since this project is underground, Becky moved that item 7 has been met; Kenny seconded. The motion passed unanimously.**
8. Is in conformance with the provisions of Section 15, Land Use Standards: **Becky moved that after reviewing Section 15, Land Use Standards, that this project is in conformance with the provisions of that section; Kenny seconded. The motion passed unanimously.**

Section 15, Land Use Standards (page 10):

- A. Minimum Lot Standards – *see motion below*
- B. Principal and Accessory Structures – *see motion below*
- C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line of a Water Body or Within a Wetland – *see motion below*
- D. Campgrounds – *see motion below*
- E. Individual Private Campsites – *see motion below*
- F. Commercial and Industrial Uses – *see motion below*
- G. Parking Areas – *see motion below*
- H. Roads and Driveways – *see motion below*
- I. Signs – *see motion below*

Becky moved that items A through I are not applicable to this project; Kenny seconded. The motion passed unanimously.

- J. Storm Water Runoff – **Kenny moved that this item has been met in the plan with the silt fence and temporary stabilization of soils exposed for 72 hours; Becky seconded. The motion passed unanimously.**
- K. Subsurface Wastewater Disposal – *see motion below*
- L. Essential Services – *see motion below*
- M. Mineral Exploration and Extraction – *see motion below*
- N. Agriculture – *see motion below*
- O. Timber Harvesting – *see motion below*

Becky moved that items K through O are not applicable to this project; Kenny seconded. The motion passed unanimously.

- P. Clearing or Removal of Vegetation for Activities Other than Timber Harvesting – **Kenny moved that since the applicant is not clearing any vegetation other than what was already cleared in the past nor any more than what is allowed by the ordinance this item has been met; Becky seconded. The motion passed unanimously.**
- Q. Erosion and Sedimentation Control – **Becky moved that erosion & sedimentation control requirement has been met by the notations on the site plan; Kenny seconded. The motion passed unanimously.**
- R. Soils – **Becky moved that the requirements for item R have been met by the applicant; Kenny seconded. The motion passed unanimously.**
- S. Water Quality – **Becky moved that the planned activity will not deposit on or into the ground, nor discharge into the water any pollutants; Kenny seconded. The motion passed unanimously.**
- T. Archeological Sites – **Kenny moved that this project site is not on nor eligible to be listed on the registry, and therefore item T is not applicable; Becky seconded. The motion passed unanimously.**

Becky moved that the Board approve # 20-256; Kenny seconded. The motion passed unanimously.

With no signature required on Shoreland Zoning site plans, the plan was stamped with the Town of Newry date of approval, and the Board members signed below the stamp.

- b) **Sunday River Skiway Corporation— Site Plan Amendment Application (#20-257)—Dream Maker Lodge Condominiums (original app #17-235):** Peter Roberts distributed a revised application and revised site plan correcting the errors found on the previously submitted documents. He also distributed a copy of an email from Christine Woodruff of DEP explaining the resort's permit review process with the State of Maine as requested at the previous meeting. Peter explained the correction in the square footage of the building; the original calculation was incorrect.

The Board reviewed and discussed various aspects of the revised application and site map submitted at tonight's meeting.

Shelley confirmed that, per page 7 of the UDRO, the approval of this amendment application would restart the clock for project deadlines. The project will need to be started within 36 months following the approval of this amendment application (#20-257), and then the project will need to be completed within 18 months of the start date.

Kenny moved that the application is complete; Becky seconded. The motion passed unanimously.

It was clarified that the applicant used the original application document (#17-235, which was approved in 2018) and just struck through and entered the revised information being submitted in this amendment application (#20-257).

Becky moved that neither a site visit nor a public hearing are necessary for this amendment application; Kenny seconded. The motion passed unanimously.

Kenny moved that no new waivers are being requested for Amendment application #20-257; Becky seconded. The motion passed unanimously.

No new conditions of approval are required for this Amendment application #20-257.

The Board proceeded to review the Criteria for Approval.

CRITERIA FOR APPROVAL FOR THE UNIFIED DEVELOPMENT REVIEW ORDINANCE

- A. **Pollution** – see motion below
- B. **Erosion** – see motion below
- C. **Traffic** – see motion below
- D. **Sewage Disposal** – see motion below
- E. **Municipal Solid Waste Disposal** – see motion below
- F. **Aesthetic, Cultural and Natural Values** – see motion below
- G. **Financial and Technical Capacity** – see motion below
- H. **Sufficient Water** – see motion below
- I. **Public Water Supply** – see motion below
- J. **Surface Waters** – see motion below
- K. **Ground Water** – see motion below
- L. **Flood Areas** – see motion below
- M. **Freshwater Wetlands** – see motion below
- N. **River, Stream or Brook** – see motion below
- O. **Storm Water** – see motion below

- P. Spaghetti-Lots Prohibited – *see motion below*
- Q. Municipal Services – *see motion below*
- R. Lake Phosphorus Concentration – *see motion below*
- S. Impact on Adjoining Municipality – *see motion below*
- T. Land Subject to Liquidation Harvesting – *see motion below*
- U. Conformity with Local Ordinances and Plans – *see motion below*

Since this is an amendment to an application that was previously approved by the Planning Board on April 4, 2018, (original application # 17-235), and since this amendment has minimal changes (a small increase in the footprint of the building and the elimination of an overflow parking lot), Becky moved that the Board does not need to go through the Criteria for Approval for this amendment application. Kenny seconded the motion, and the motion passed unanimously.

Kenny moved to approve application # 20-257. Becky seconded. The motion passed unanimously.

The Board proceeded to sign the final plans.

New Business

- a) **Red Arrow Subdivision-Michael Orlov & Temkin Realty LLC; Gary Inman, agent—Site Plan Application (#20-258):**
Gary Inman explained the proposal for a three-lot subdivision off Sunday River Road across from the fire station. The subdivision was initially going to be named Fox Run subdivision, but the CEO informed the applicant that “Fox Run” is already being used as a road name in Newry. The subdivision name was then changed to Red Arrow subdivision. Gary stated that one lot of the three-lot subdivision (Lot #1) has already been sold and a house has been built on the property. The driveway to access Lot 1 is on a deeded right-of-way through Lot 3, and is already existing. The applicant would like to divide the remainder of the property into two more lots; each lot size will be just over one acre. Each lot will have its own septic and its own water supply. No road associations will be created. The applicant is requiring one condition for the buyers, and that is a minimum building size of 1500 sq. ft. for the home.

Becky mentioned some items that she noticed that were missing from the application packet as she reviewed the packet. Per # 10 on the application, a Secretary of State Registration is needed since one of the owners is a corporation licensed in Maine and per #11, letters of authorization are needed from each owner authorizing Gary to represent them. Gary handed the Board an authorization letter from Temkin Realty LLC authorizing Gary to represent them. After the meeting, it was discovered that the Secretary of State Registration for Temkin Realty LLC was copied on the back of that letter. A letter of authorization is still needed from the second owner, Michael Orlov. Also missing from the packet is a letter from the Town administrator regarding any tax liens on the property. When reviewing the site plan, no notations showing proposed well locations and the soil test locations for septic systems were shown; these are needed on each lot. A number of waivers were requested with no reason mentioned on item #83; the waiver requests were revisited later in the meeting.

As a point business: The Chair confirmed that the Board does have jurisdiction to review this minor subdivision. The applicant provided a letter of authorization from one of the two owners; he will provide a letter from the second owner at the next meeting. The Chair asked the Board about any conflict of interest or bias; all members replied in the negative. The application fee of \$350 was paid with check # 5993. It was decided that Shelley’s assistance in reviewing this application is not needed since it is a fairly simple, minor subdivision, and therefore, no additional escrow is needed for this application. The application was numbered 20-258; Red Arrow Subdivision.

The applicant was asked to locate the driveway for Lot 2 on the site plan, note if a culvert is needed, and note the size of the culvert to be installed if one is needed.

The applicant was asked to provide the Board with copies of the soils tests and a letter confirming availability of water, and also note the proposed septic and well locations on the plan.

The Board proceeded to discuss the various waivers being requested.

#39 – Fire protection – following discussion, it was decided that the Board and the applicant can revisit this requested waiver at the next meeting.

#43 – Traffic – **Since no additional traffic is expected for this minor subdivision, Kenny moved that the Board waive the requirements for the vehicular traffic study; Becky seconded. The motion passed unanimously.**

#45 – Storm Water Management Plan waiver – **Since there will not be more than an acre of impervious area, Becky moved to waive the requirement for a storm water management plan; Kenny seconded. The motion passed unanimously.**

#46 -- Erosion Control and Sedimentation Plan – The applicant was asked to add notes to his plan in regards to basic requirements for erosion & sedimentation controls measures. This waiver will not be given.

#50 – Statement of Financial Capacity – **Since the developer is not building any roads or utility improvements (homes will be built by individual owners and those owners will need to get a Building Permit from the CEO), Becky moved to waive the requirement of a financial capacity statement; Kenny seconded. The motion passed unanimously.**

#65 List of Construction Items – **Since the developer is not proposing to build anything, and the individual homeowners will need to come before the CEO for a Building Permit, Becky moved to waive the requirement for a list of construction items; Kenny seconded. The motion passed unanimously.**

Kenny moved that there is no need for a public hearing for Application # 20-258 Red Arrow Subdivision; Becky seconded. The motion passed unanimously.

In regards to abutter letters, the applicant will write a letter and contact the Town Office to ask who sends the letters to the abutters. Shelley suggested that the letter include the fact that no public hearing is being scheduled for this project and that a copy of the plan may be viewed at the Town Office during regular business hours.

Becky moved that a site visit is not needed for this project; Kenny seconded. The motion passed unanimously.

Gary stated that he will notify the Board when he is ready to be added the agenda again.

- b) **Bingham Forest Hiking Trail-Gabe Perkins:** For the record, Gootsch stated that Gabe Perkins is married to Gootsch's niece. At this point, Gabe is before the Board looking for advice. If a decision needs to be made, this perceived bias will be revisited.

Gabe explained he is before the Board at the suggestion of the CEO, Dave Bonney. Gabe works for Mahoosuc Pathways, the organization that owns the Bethel Community Forest, which is wholly in the Town of Bethel. The Bethel Community Forest is an abutter to Bingham Forest. Bingham Forest is owned by the Town of Bethel, but lies completely in the Town of Newry. Mahoosuc Pathways is proposing to build a hiking trail in the Bingham Forest in honor of Brent Angevine who recently passed away. The proposed hiking trail would connect the Bethel Community Forest network of trails to the Bingham Forest property.

After reviewing page 1 of the UDRO under Section C (Applicability), the Board felt that they do not have jurisdiction to review hiking trails, and that therefore, the project does not need to come before the Planning Board for a decision. Shelley and the Board suggested that Gabe may want to contact the Newry Select Board (or send an email to the Town Administrator) to see if they have any concerns with the proposed project.

At 9:30, Kenny moved to extend the meeting for no more than another 15 minutes; Becky seconded. The motion passed unanimously.

Findings of Fact - none

Mail – *All emails listed below (received between the July 15th meeting and tonight's meeting) were forward to the Board prior to tonight's meeting. The emails were not read at the meeting. No USPS mail was received.*

- Email from Gary Inman, dated 7/16/2020 RE: Subdivision Application Fox Run (later named Red Arrow)
- Email from Dan Davis, dated 7/19/23020 RE: Newry Local Food & Self-Governance Ordinance
- Email from Gabriel Perkins, dated 7/23/2020 RE: Addition to the next planning board meeting (trails in Bingham Forest)
- Email from Gary Inman, dated 7/24/2020 – providing page 1 of his application which was missing from his previous email
- Email from Rick Dunton, dated 7/28/2020 RE: 20-125 Preliminary or sketch plan meeting
- Email from Gary Inman, dated 7/30/2020 RE: Subdivision Application Fox Run (informing the Board of the name change to Red Arrow Subdivision)
- Email from Rick Dunton, dated 8/4/2020 RE: 20-125 Preliminary or sketch plan meeting (confirming that he will be on the August 19 agenda)
- Emails from MMA regarding:
 - Understanding Implicit Bias Live ZOOM Webinar – July 28 at 10:00am
 - Managing Freedom of Access Requests Live ZOOM Webinar – August 26 at 2pm (Register before Aug 25)

Open Discussion

- a) Since there is only one other item on the next agenda (Rick Dunton in a pre-application conference), an Ordinance Workshop was schedule for August 19th to be held during the regular meeting following New Business.

Next Meeting – Wednesday, August 19 – 7pm

Adjournment Becky moved to adjourn; Kenny seconded. Motion passed with all voting in favor. The meeting adjourned at 9:35 PM.