

**NEWRY PLANNING BOARD**  
**MINUTES OF BOARD MEETING**  
**Wednesday, February 15, 2023**  
**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), Bruce Pierce (Board Vice Chair), Ted Baker (Secretary)

**Members Late:**

**Staff Present:** Joelle Corey (Code Enforcement Officer)

**Members & Staff Absent:** Randy Akers (Alternate)

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**Call to Order:** Chairman John Gauthier called the meeting to order at 6:00 PM.

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

**Prior Attendance/Voting Eligibility:** With no absences from the prior meeting, all members are eligible to vote.

**Previous Meeting's Minutes:** The Board reviewed the previous meeting's minutes. **Ted moved to accept the minutes of the Board's meeting held on February 1<sup>st</sup>, 2023, as written. Bruce seconded. There was no discussion. The motion passed with all voting in favor.**

**Business**

- a) **Chase Hill Subdivision Amendment, Bill Fisher, applicant, R-5/30:** William (Bill) Fisher explained that he would like to split Lot 5 in half to make two lots so he can build another camp; it was clarified later in the meeting that the original lot is fully developed with a well, etc.; the new lot that would be created "is a blank slate". Gootsch confirmed with the applicant that the new lot will not have road frontage. Bill stated that they plan to put a driveway in that leads to the back lot; the driveway will be a right-of-way, which will be stated in both deeds. There is no plan to put either lot up for sale.

Ted explained to the applicant the option to have a pre-application conference. Bill confirmed that he is bypassing that option.

The Chairman read the letter addressed to the Planning Board from William Fisher and Gene Bahr dated Feb 15, 2023, requesting the Board waive any 2022 UDRO criteria when reviewing this amendment since the amendment does not violate any legal non-conformance in the UDRO or Deed Covenants; a copy of this letter will be included in the file for this application. The Board discussed the letter and the original approval of the Chase Hill subdivision in 1975, prior to the Town's adoption of the UDRO.

Following discussion, **Ted moved that the Board find that this potential application for Lot 5 is a non-conforming lot in regards to the UDRO, citing specifically Section 1.D.1., Exemptions, and Section 23.I.a., which deals with non-conforming land uses.** In discussion, Ted noted that, when the Board reviews this Application, this will allow specific line items of the Application to be measured against conforming/non-conforming so the Board may determine whether they are applicable to the application. **Gootsch seconded the motion.** Brooks Morton, who was present in the audience, asked what makes this lot non-conforming. The Board explained that there was no UDRO when this subdivision was approved in 1975, so criteria such as road standards, fire protection, stormwater management, etc. did not need to be met back then, and rather than imposing these current standards on this remote, backwoods subdivisions such as this one, Sections 1.D.1. and 23.I.a were included in the UDRO. **The motion passed unanimously.**

The applicant paid the application fee of \$200 with check # 2350.

The application was numbered 23-274. The Chair noted that the Board has jurisdiction to review this application under the UDRO. No Board members spoke of any bias or conflict of interest when asked. No additional escrow is needed for this simple division of one lot into two. The applicant provided a copy of the Warranty Joint Tenancy Deed showing ownership by William Fisher and Gene Bahr. Gene Bahr, present at the meeting, verbally gave his consent to the proposed splitting of the lot.

The Board proceeded to review the application for completeness. The applicant was asked to revise the following items on his application:

- Item 6, Property Owner – add William Fisher so it reads Gene Bahr and William Fisher as joint tenants.
- Item 37, method of water – where the term “or carry in” was typed/added onto the application, that should be removed and instead, an “X” should be put on 37.c. (Other) with “Carry in” written on that line.
- Items 38 & 47, regarding method of fire protection – “Chase Brook” should be replaced with “non-conforming lot, no fire suppression required”.
- On the submitted drawing (per line 52), it was noted that the setback to Chase Brook needs to be 250’ not 75’. The applicant was asked to have the map updated to reflect all the setbacks required in the subdivision’s Protective Covenants. A corrected map is needed for the Registry of Deeds.

The applicant stated that he received one call from an abutter; no abutters contacted the Town Office. There was no response from the Sheriff’s Office, and Joelle stated that the Fire Chief had no issues with this application.

**Ted moved that the Board find the application, as amended in tonight’s discussions, complete. Bruce seconded, and the motion passed unanimously.**

**Ted moved that a site visit is not required by members of the Board; Gootsch seconded, and the motion passed unanimously.**

**Ted moved that a public hearing is not required for this project. With Bruce seconding the motion, it passed unanimously.**

Gootsch moved that no performance guarantee is required since this is a non-conforming lot. With no second, Gootsch’s motion died.

Ted moved that as a condition of approval that paragraph 7 of the Protective Covenants, natural drainage, will be abided by. Following discussion, Ted withdrew this motion.

**Gootsch then moved that there are no conditions of approval being placed on this application; Ted seconded. The motion passed unanimously.**

**Ted moved that the Board move on with the Criteria for Approval. Bruce seconded, and the motion passed unanimously.**

The Board discussed whether a Criteria-for-Approval review for this minor amendment on this non-conforming lot established prior to the adoption of the UDRO is required. During discussion, Joelle confirmed that the members of the Planning Board in attendance at the time of this subdivision’s 1975 approval used the State’s statute that was adopted in 1974 to review this subdivision. Following discussion, **Ted moved that, in view of the fact that this is a minor adjustment to an already approved subdivision and does not change in any way the design and other factors of the subdivision other than making two lots out of one, that all subsections of Section 5, Criteria for Approval, are not applicable. Gootsch seconded, and the motion passed unanimously.**

**Gootsch moved that the Board delay the formal motion to approved or deny this application until the final application is submitted. Ted seconded, and the motion passed unanimously.**

The applicant confirmed that he plans to attend the March 1 Planning Board meeting.

b) Continued UDRO edits for “Campgrounds” in Table of Land Uses:

**Ted moved for the Planning Board to amend the UDRO by inserting the following definition to Section 24, Definitions:**

**Tiny Home: a living space permanently constructed on a frame or chassis and designed for use as temporary or permanent living quarters that:**

- A. Complies with American National Standards Institute standard A 119.5 on plumbing, propane, fire and life safety, and construction or National Fire Protection Association standard 1192 on plumbing, propane and fire and life safety for recreational vehicles;**
- B. Does not exceed 400 square feet in size;**
- C. Does not exceed any dimension allowed for operation on a public way in the State of Maine; and**
- D. Is a vehicle without motive power.**

**Tiny Home does not include a trailer, semitrailer, camp trailer, recreational vehicle, motor home or manufactured housing.**

During discussion, Ted and Joelle noted that this definition is copied from the Maine State Revised Statute, Appendix A IRC 2015. **Bruce seconded; the motion passed unanimously.**

**Ted moved for the Planning Board to amend the UDRO by inserting the following definition to Section 24, Definitions:**

**Motor Home: a motor vehicle that:**

- A. Is originally designed, reconstructed, or permanently altered to provide facilities for human habitation; or**
- B. Has a camper permanently attached to it.**

During discussion, Ted noted that this definition is verbatim from the State’s Bureau of Motor Vehicles. **Gootsch seconded, and the motion passed unanimously.**

**Ted moved for the Planning Board to amend the UDRO by editing the following definition to Section 24, Definitions:**

**Campground**

**Delete the current definition which reads as follows:**

**Any area or tract of land to accommodate two (2) or more parties in temporary living quarters including, but not limited to, tents, recreational vehicles or other shelters, for which a fee is charged.**

**Amend the new definition approved at the February 1, 2023, Planning Board meeting:**

**See recreational lodging facility.**

**By replacing it with:**

**A recreational lodging facility which includes any area or tract of land to accommodate a user’s recreational vehicle, motor home, tent, or other form of temporary shelter and for which a fee is charged. The shelter must be provided by the user, arrive with the user at the commencement of their stay and depart with the user at the termination of their stay.**

During discussion, Ted explained the reasoning behind this motion and emphasized that per the proposed amended definitions, a campground would be a recreational lodging facility; however, a recreational lodging facility would not necessarily be a campground. He also spoke of the need to add Recreational Lodging Facility (RFL) to the Table of District Land Uses, and noted that having the RFL standards allowed in the Resort Development, General Development, and Rural Districts gives the Board a tool to not only review existing outdoor educational facilities if/when they come before the Board, but also review any potential applications for tiny

homes, which are not specifically covered in the current UDRO. **Gootsch seconded. The motion passed unanimously.**

**Ted moved for the Planning Board to amend the UDRO by inserting the following definitions to Section 24, Definitions:**

**Pit Privy: An alternative toilet, consisting of a permanent structure placed over an excavation where human Waste is deposited.**

**Vault Privy: An alternative toilet that retains human waste in a sealed vault.**

During discussion, Ted noted that these definitions came directly from State of Maine's Wastewater Management. **Gootsch seconded, and the motion passed unanimously.**

**Ted moved for the Planning Board to amend the UDRO by replacing Section 13.Q, Reserved, with the following: Recreational Lodging Facilities**

**1. Applicability**

- a. **Where a recreational lodging facility takes place in shoreland zoning districts, the provisions of the Shoreland Zoning Ordinance apply and the more restrictive of the two shall govern.**
- b. **When a recreational lodging facility is reviewed by the Planning Board Site Plan Review, approval in accordance with this Section is required.**
- c. **All new recreational lodging facilities must be developed in conformance with the standards of this section. Non-conforming recreational lodging facilities must abide by Section 23 of this Ordinance.**
- d. **If two or more recreational lodging facilities are located on abutting parcels, and are under unified or affiliated ownership or control, they shall be deemed to be one recreational lodging facility for purposes of this Section.**
- e. **Recreational Lodging Facilities must conform to the minimum requirements imposed under State licensing procedures. The Planning Board's approval is conditional on the State license approval.**

**2. Operating Standards**

- a. **All recreational lodging facilities must be inspected annually by May 1<sup>st</sup> and if found to be in compliance with all applicable Newry Ordinances, issued a permit by the Code Enforcement Officer.**
- b. **Each recreational lodging facility unit shall be provided with a trash receptacle thirty gallons or larger.**
- c. **Each recreational lodging facility unit and/or any common area equipped with a fire pit shall be equipped with a smokeless fire pit, the construction of which must be approved by the Code Enforcement Officer.**
- d. **A facility manager must be on the premises twenty-four (24) hours a day when the recreational lodging facility is in operation.**
- e. **Quiet hours must be enforced between 10:00 PM and 7:00 AM.**
- f. **A recreational vehicle or motor home may not be rented, leased or occupied for more than two (2) weeks consecutively from November 1<sup>st</sup> through April 30<sup>th</sup> unless the recreational vehicle or motor home is connected to a permanent sewage, water, electricity and heat that will meet State and local codes. During this period, renewal of any occupancy in the recreational vehicle or motor home may not occur unless there is at least one (1) week of non-occupancy.**
- g. **Recreational vehicles or motor homes at individual recreational lodging facility units shall not have permanent foundations and shall not have the wheels removed.**
- h. **A tent, trailer, camper, recreational vehicle, motor home or similar device used for camping may be stored within a storage area on the premises of the recreational lodging facility provided that the device is not utilized or inhabited while located within the storage area. Recreational lodging units may not be used as a storage facility.**
- i. **Staff housing may not be used as a recreational lodging facility unit. See Section 13.Q.3.c.ii.**

### 3. Land Use Standards

- a. **Minimum Site Size** – the minimum site size for a recreational lodging facility shall be ten (10) acres.
- b. **Density**
  - i. The maximum density for a recreational lodging facility shall be one unit per five thousand (5,000) square feet of suitable land area except for primitive campsites which shall be ten thousand (10,000) square feet.
  - ii. Land supporting wetland vegetation, land below the normal high-water line of a body of water, and land with a sustained slope of fifteen (15) percent or greater shall not be included when calculating land area per site.
- c. **Maximum Number of Units**
  - i. The maximum number of units used as sleeping accommodations in a recreational lodging facility, excluding staff housing for the facility, shall be fifty (50) units.
  - ii. The Planning Board may permit reasonably necessary staff housing as an accessory use to a recreational lodging facility. Staff housing must be designated on the Site Plan Application and may not be used as a recreational lodging facility unit.
- d. **Minimum Setbacks** – A unit of a recreational lodging facility shall meet the following setback requirements:
  - i. At least one hundred (100) feet from the center line of any public street or highway and twenty-five (25) feet from any edge of the right-of-way or road providing access to the unit.
  - ii. At least fifty (50) feet from the property line of abutting properties.
  - iii. At least one hundred (100) feet from the normal high-water mark of a great pond, river, stream, brook or upland edge of a wetland.
  - iv. The areas intended for placement of utility and service buildings, and accessory uses associated with outdoor activities; such as fire pits, clothes lines, and picnic tables shall be set back a minimum of fifty (50) feet from the exterior lot lines, one hundred (100) feet horizontal distance from the normal high-water line of a great pond, river, tributary stream, or the upland edge of a wetland.
- e. Any recreational lodging facility unit that consists of temporary or permanent structure such as yurt, cabin, cottage, and other types of shelter shall not be placed within a floodplain.
- f. Recreational lodging facilities shall be screened from all abutting areas according to the performance standards in Section 13.AA.
- g. Recreational lodging facilities must conform to the most recently adopted State of Maine Subsurface Wastewater Disposal Rules (10-144 CMR 241). This includes a pit or vault privies servicing primitive campsites.

During discussion, Ted explained the revisions made since the Board reviewed this proposed edit at their last meeting. A few minor grammatical edits were suggested on tonight's version of the motion:

The word "a" be removed from two sentences:

- In item 2.f., "...connected to a permanent sewage, water, electricity, and head..."
- In item 3.g., "This includes a pit or vault privies..." in item 3.g..

And the comma be removed from:

In item 3.d.iv., "...one hundred (100) fee horizontal distance<sub>2</sub> from the normal..."

**Ted amended his motion to include the grammatical corrections that were pointed out. Gootsch seconded the motion as amended, and the motion passed unanimously.**

**Ted moved that the Planning Board amend the UDRO Section 23.H., Table of District Land Uses as follows:**

**Add a new row, number 34, Recreational Lodging Facilities<sup>2</sup>, which would require Planning Board review in the Resort Development District, the General Development District, and the Rural District, and they would not be permitted in the Protective District. And the footnote is an exception of campgrounds, which is already covered elsewhere in the Table of District Land Uses.**

During discussion, Ted noted that the Table of District Land Uses already has campgrounds and only permitted with Planning Board review in the Rural District. **Bruce seconded the motion.** Discussion continued and it was reiterated that this revision to the UDRO would give the Planning Board a tool to review any future applications regarding outdoor recreational lodging facilities including existing outdoor educational facilities. **The motion passed unanimously.**

Ted will keep these proposed amendments, which the Board has approved, on file until the Board is ready to present them to the Town as an amendment to the UDRO.

**CEO Reports**

- a) Subdivision Compliance Updates: Joelle reported that she has one subdivision that is ready to work on their roads and pond in the spring. Another, which has been a quiet subdivision for several years, is working on bringing the rest of it into fruition – completing the road and developing the lots. Joelle is researching the timeline to confirm if that subdivision is still valid. She is keeping an eye on another subdivision regarding their timeline and whether or not they would need to come back before the Planning Board.

**Open Discussion**

- a) The Board discussed the activity happening at the New Village subdivision. Joelle stated that she will verify that they are 1 foot above floodplain.
- b) Joelle distributed copies of Shoreland Zoning News to Board members. The Board discussed the section on individual private campsites located in Shoreland Zone.

**Next Scheduled Meeting** – Wednesday, March 1, 2023

**Adjournment** Bruce moved to adjourn; Ted seconded. Motion passed with all voting in favor. The meeting adjourned at 8:00 PM.

APPROVED