

**NEWRY PLANNING BOARD**  
**MINUTES OF BOARD MEETING**  
**Wednesday, May 3, 2023**  
**Raymond C. Foster Municipal Building**

*Full discussion on the 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)  
Randy Akers (Alternate),

**Members Late:**

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

**Members & Staff Absent:**

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**Call to Order:** Chairman John Gauthier called the meeting to order at 6:30 PM.

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

**Prior Attendance/Voting Eligibility:** Randy confirmed that he listened to the recording of the previous 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 as written. Bruce seconded. With no discussion, the motion passed with all voting in favor.**

**Business**

- a) **Con't Discussion -- Barker Mountain Express Replacement Ski Lift Doppelmayr 6-place lift, terminal enclosures and attached maintenance building, R-12/25 & 26 and R-13/32 & 34 – Application # 23-276 – if MDEP has sent Sunday River a decision:**

Ted stated that whereas at the adjournment of the Board's last meeting held on April 19, 2023, the Board had completed its review of Application #23-276, Barker Express Chairlift Replacement and was awaiting the State of Maine Department of Environmental Protection (aka DEP) to issue a permit to the applicant before the Board proceeded to consider final approval for the application. Since that adjournment, DEP completed its review and forwarded its approval on May 1, 2023. **Whereas the Board's engineering consultant, Gorrill Palmer, reviewed the DEP's Findings of Fact, Conclusions and Conditions, and forwarded four Conditions of Approval for the Board's consideration; therefore, Ted moved that the Board, prior to considering final approval of application # 23-276, consider the additional Conditions of Approval recommended by its consultant, Gorrill Palmer.** Following discussion, **Gootsch seconded. The motion passed unanimously.**

**Ted moved that the Board include the following as a Condition of Approval: Erosion control details will be included in the final construction plans and the erosion control narrative will be included in the project specifications to be provided to the construction contractor. Gootsch seconded. With no discussion, the motion passed unanimously.**

**Ted moved that the Board include the following as a Condition of Approval: Storm sewer grit and sediment materials removed from stormwater control structures during maintenance activities must be disposed of in compliance with the Maine Solid Waste Management Rules. Following discussion, Bruce seconded. The motion passed unanimously.**

**Ted moved that the Board include the following as a Condition of Approval: Applicant shall retain the design engineer or other qualified professional engineer to oversee the construction of the Stormwater Best Management Practices (aka BPMs). Following discussion, Bruce seconded. The motion passed unanimously.**

**Ted moved that the Board include the following as a Condition of Approval: Within 30 days from completion of the entire system, the applicant shall submit an as-built plan of the project and a log of inspection reports detailing the items inspected, photographs taken, and dates of each inspection to the Town.** During discussion, Ted clarified that the DEP already requires this of the applicant, so the applicant can just send copies to the Town at the same time. **Bruce seconded. The motion passed unanimously.**

In reviewing the Board's *Application Review Check-off Sheet*, they discussed briefly the performance guarantee requirement, waivers, and conditions of approval.

**Ted moved that whereas the applicant has not any violations of the Uniformed Development Review Ordinance, and whereas the following Conditions of Approval apply to application 23-276:**

- **Applicant shall ensure proper concrete washout procedures are followed as per Maine Erosion Control Best Management (BMPs), Manual for Designers and Engineers, Section A.6.**
- **Applicant will conduct a highway traffic study during the winter of 2023/2024 which will include, at a minimum, Sunday River Road, Skiway Road, and Monkey Brook Road. The Study will include high traffic volume weekends and meet the standards set by Maine DOT.**
- **The installation of a ball valve with a valve box in note #6 of drawing #3 of the application and titled Top Terminal Site Plan is required.**
- **The spillway detail, drawing #4 of the application entitled Stormwater Basin Details, shall have an impermeable barrier such as pressure treated wood or concrete added within the riprap to prevent flow through the riprap below the spillway invert elevation.**
- **After construction is complete, the applicant will provide proof that the stormwater release complies with Maine DEP requirements of 24 to 48 hours.**
- **Erosion control details will be included on the final construction plans and the erosion control narrative will be included in the project specifications to be provided to the construction contractor.**
- **Storm sewer grit and sediment materials removed from the stormwater control structures during maintenance activities must be disposed of in compliance with the Maine Solid Waste Management Rules.**
- **Applicant shall retain the design engineer or other qualified professional engineer to oversee the construction of the stormwater Best Management Practices (BMPs).**
- **Within 30 days from completion of the entire system, the applicant shall submit an as-built plan of the project and a log of inspection reports detailing the items inspected, photographs taken, and dates of each inspection to the Town.**

**Whereas the Planning Board has determined the fact of Application #23-276, Whereas the Planning Board has determined that all the requirements for approval in the UDRO have been met, Therefore, the Planning Board gives its final approval to Application #23-276, Barker Express Chairlift Replacement.** Following brief discussion, **Bruce seconded. The motion passed unanimously.**

The CEO noted that the applicant was provided with a copy of Gorrill Palmer's recommended Conditions of Approval. The applicant presented the final plans that he brought to tonight's meeting which include the intent of the additional Conditions of Approval recommended by Gorrill Palmer, as well as the Conditions of Approval voted upon at prior meetings. The Board proceeded to review and sign the final plans.

b) **Con't Discussion -- Sunday River Skiway Corp, Map R17/Lot 1 and R13/Lot 13. Construction of new lift at Merrill Hill R-17/2A3 – Application #23-275:**

As a point of order, Ted noted that he received a letter from the applicant dated March 23, 2023, addressed to Ted Baker, advising him that he is an abutter to this project. Therefore, Ted requested that the other members of the Board make a motion to review his ability to continue sitting on the Board as this application is reviewed or if he should recuse himself.

Discussion ensued, and during discussion, the applicant noted that a letter was submitted to the Board by someone with the same last name and address as Ted, which raised concern regarding bias. Ted confirmed that the letter, requesting a public hearing be held, came from his wife. Following further discussion, **Bruce moved that the Board allow Ted Baker, as an abutter to this project, to continue on the Planning Board with no bias. Gootsch seconded. With Bruce and Gootsch voting in favor, the motion passed.**

The applicant submitted a revised application and supporting documents.

Since this agenda had been table for a few meetings, Gootsch reviewed the application's check-off sheet to get everyone back up to speed as to where they left off in regards of review of this application.

The Board proceeded to review the revised application and supporting documentation that was submitted at the Board's April 19<sup>th</sup> meeting, which was the last time this item was on the Board's agenda.

Discussion ensued regarding DEP and the Town of Newry requiring all permits be in place prior to approval/start of construction.

Gorrill Palmer's Application Completeness Review was discussed. The requirement on page 44 of the UDRO where it refers to structures within 500 feet of the project site be shown on the site plan (Section 10.C.2.e.xi.) was discussed; Peter will add these to the plans. The applicant has added his stamp to the full-size drawings. Peter will add Sunday River Skiway Corporation's Certificate of Good Standing from the State of Maine.

**Gootsch moved that application is complete. Ted seconded, and the motion passed unanimously.**

The Board reviewed and discussed details of the maps. A potential site visit was also talked about.

Following the discussion, **Gootsch moved that the Board have a site visit. Bruce seconded, and the motion passed unanimously.**

**Gootsch moved that the board hold a public hearing following the site visit on the 17<sup>th</sup> of May. Bruce seconded. The motion passed unanimously.**

The Board decided to have the site visit at 5pm on the 17<sup>th</sup>, gathering at the second entrance for Morganite off Monkey Brook Road (immediately past Wilderness Drive). The applicant noted that parking is available at the Golf Course.

The Public Hearing will convene at 6:30pm at the Town Office, and the regular Planning Board meeting will begin directly follow Public Hearing if time allows.

Joelle confirmed that she would post the public notices.

The Board discussed the possibility of inviting Gorrill Palmer to the site visit and public hearing. It was decided that notes will be taken at the site visit, and perhaps an audio recorder will be used, and then the notes from the site visit and public hearing will be shared with Gorrill Palmer.

It was noted that the applicant is required to send notification regarding the Public Hearing to the abutters.

The Board discussed the Performance Guarantee requirement. The applicant noted that he provided the Board with a more detailed budget, adding that there is a nondisclosure agreement in place; therefore, he is restricted in terms of breaking out some of the details. Discussion proceeded regarding "required infrastructure", and the

applicant read aloud a portion of his letter to the Board dated April 18, 2023, RE: Merrill Hill Chairlift #2 & Trails Budget Detail. The group discussed this project site and the types of stormwater management systems being installed. Following discussion, **Bruce moved that the performance guarantee requirement that the application would meet will be \$0.00, and 10% of \$0.00 for the performance guarantee will be \$0.00. Gootsch seconded, and the motion passed unanimously.**

Discussion ensued regarding the requested waiver, the DEP approval, the UDRO stating that all required permits be issued and approved prior to Planning Board final approval (Section 10.B.12.b.), and the section in the UDRO that allows for waivers (Section 22). The applicant clarified that he is looking for a waiver to provide proof of receipt of the DEP permit, but rather a waiver to provide that proof prior to the Board's final approval of the application. Ted reiterated that he feels that once the applicant has final approval from the Board, it will be difficult to re-open the applicant to affect anything that comes up from the DEP permit. He would prefer that the Board maintain their right of final approval for the Town. The applicant stated that his reason for requesting the waiver is tied to scheduling where he could receive the DEP permit the day after a Planning Board meeting but would then need to wait 13 more days to get Planning Board's final approval. Peter noted that all the Conditions of Approval that the Board added tonight to the Barker application were conditions that he was already required to do for DEP, and that the only change is that he is also sending the information to the Town in addition to DEP. He added (and the CEO confirmed) that he has always provided the Town with any information it has requested.

Following the discussion, **Ted moved that the Board table Application 23-275 from further consideration until the Board reconvenes on May 17<sup>th</sup>. Bruce seconded, and the motion passes unanimously.**

#### **CEO Reports**

- a) Joelle reported that the escrow accounts have been separated, but still need work; more detail needs to be added.

#### **Open Discussion**

- a) Ted spoke about Section 13 of the UDRO regarding Performance Standards. Many of these Performance Standards are applicable to the review of an application; however, they are not covered by the Criteria of Approval in Section 5. Ted stated that he would like the Board to consider coming up with a way for the Board to review these Performance Standards when considering an application. Joelle noted that the Town has hired someone from AVCOG to look at the entire UDRO. She mentioned in a previous meeting that they are looking for inconsistencies, areas where info is lacking, typos, flow, etc. The group discussed this topic and decided that the Board should hold some work sessions to come up with some recommendations as to how Performance Standards are reviewed when it comes to an application.
- b) Gootsch asked if anyone has heard anything about the lithium discussion, which is being discussed in Augusta. Joelle noted that nothing has been brought to the town.

#### **Next Scheduled Meeting** – Wednesday, May 17, 2023

- Site Visit at 5pm
- Public Hearing at 6:30
- Planning Board meeting immediately following Public Hearing if time allows.

**Adjournment** Ted moved to adjourn this meeting of the Newry Planning Board and reconvene at the second entrance to Morganite Way off Monkey Brook Road at 1700 hours on May 17<sup>th</sup> for the purpose of a site visit to Application 23-275. Bruce seconded. Motion passed with all voting in favor. The meeting adjourned at 8:56 PM.