

NEWRY PLANNING BOARD
MINUTES OF BOARD MEETING
Tuesday, June 18, 2024
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 (Board Secretary), Meredith Harrop (Alternate)

Members Late:

Staff Present: Joelle Corey (Code Enforcement Officer)

Members & Staff Absent: Rob Kates (Alternate)

Public Attendees: Ron Savage, Merek Franklin, Shane Howley

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 recent absences, all full Board members are eligible to vote.

Previous Meeting's Minutes: The Board reviewed the previous meeting's minutes. **Bruce moved to accept the minutes of the Wednesday, June 5th, 2024, Planning Board meeting as written, and Ted seconded. With no discussion, the motion passed with all voting in favor.**

Business

- a) **Review Plans and Application #24-280, Shoreland Zone and Major Subdivision UDRO applications for The Pines at Sunday River; Pine Group LLC; Agent is Main-Land Development Consultants, Shane Howley, P.E. – Tax map R12 / Lot 014:** Shane Howley explained contents and format of the revised application booklet that was submitted for tonight's meeting. He noted that missing from the application booklet due to timing is the official approval form for the well at Building B2; however, they did receive preliminary approval for that well via email. Joelle made copies of that email for the Board; the email is dated June 7, 2024, and is from Darren Brann, Public Water System Inspector for the State of Maine's Center for Disease Control and Prevention. Shane went on to explain that the plan is to have one well per building, and each building will have 4-5 units. Each well will have its own permit. The distance between the wells and the septic will be approximately 200'. Since the distance is shorter than the 300' requirement now in place, additional testing and other requirements (such as the depth of the well/casing, etc.) will be met per the State's drinking water program. Further discussion ensued regarding the wells and septic systems. Shane stated that the wells will be gravel packed wells.

Shane reviewed some of his other supplementary plans with the board showing the proposed locations of wells and septic systems as well as various boundary lines. The plan is to use Eljen septic systems.

The group discussed the December 2023 storm and its effect on this property. Ron Savage noted that the 1st building, that is already in place, did not flood – water was around the building but did not enter the building. The 2nd building is 1-foot above floodplain; the foundation for that building was already in place when Pines Group LLC purchased the development. The applicant is constructing Building B2 two-feet above flood plain and anticipates that all remaining buildings will be built at two-feet above flood plain. Ron noted that the buildings have crawl spaces – no living spaces on the lower level, and sump pumps are being incorporated into the foundations. It was noted that the figures written on the plan show one-foot above flood plain.

Shane spoke about the plan that details the roads and parking and noted that the original roads and parking still meet the requirements in the UDRO.

The Board reviewed their Application Review Tracking Sheet to see what still needs to be addressed.

Ted moved that Form 10.1 is complete. Bruce seconded. Following discussion, the motion passed unanimously.

Ted moved that Form 10.2 is complete. Gootsch seconded, and the motion passed unanimously with no discussion.

Ted moved that Form 10.3 is complete, and Bruce seconded. The motion passed unanimously with no discussion.

Ted moved that Form 10.4 is complete; Bruce seconded the motion. With no discussion, the motion passed unanimously.

Having found Form 10.1, Form 10.2, Form 10.3, and Form 10.4 complete, Ted moved that the application is complete. Bruce seconded, and the motion passed unanimously.

Following discussion, Gootsch moved that the Board does not need to hold a site visit for this project. Ted seconded, and the motion passed unanimously.

Ted moved that the Board hold a Public Hearing on this application two meetings from now, on July 17th, which will allow for the Town to post ample notification and to be published in the required periodicals - at 6:00 pm on July 17th at the Newry Town Office. Gootsch seconded, and the motion passed unanimously.

Ted noted that since at the last meeting the Board voted that the new amendments to the UDRO apply to this project, and therefore, the Board needs to revisit the escrow amounts for review of this application and its supporting documents.

Ted moved that having found the application complete, that the Board forward the application to the Town's consulting engineer at Gorrill Palmer for their review – specifically the road construction details and stormwater management. Gootsch seconded. The motion passed unanimously.

The applicant has agreed to bring in a check for \$7,500 to cover the \$10,000 escrow amount as noted in the newly amended UDRO. The applicant previously paid \$2,500 toward this escrow.

Given the fact that the Board is pending review by the consulting engineer of the project – especially in regards to stormwater and road construction – and that the Board is also pending a public hearing to be held in 4 weeks, Ted moved that the Board table the application until the Board's meeting on July 17th following the Public Hearing. Bruce seconded, and the motion passed unanimously.

The Board confirmed with Shane that he will be sending abutter notifications regarding this project and the July 17th Public Hearing, and he will submit copies of the certified mail receipts to the Board. It was noted later during this meeting that the notification should also specify that the project is being reviewed under both the UDRO ordinance and the Shoreland Zoning ordinance.

The Board proceeded to review the Shoreland Zoning application for this project. The Shoreland Zoning Application was numbered 24-280-SZ, and the UDRO application will be numbered 24-280-UDRO.

Given the fact that the Planning Board has already reviewed the Board's jurisdiction on this application, given the fact that the applicant already provided proof of ownership and the Board has acted on that, given the fact that the applicant has provided agency to Main-Land Development and the Board has accepted that, and that the Board has also reviewed any bias or conflict of interest from Board members and found none, Ted moved that all those items have been satisfied and the Board can now proceed on down the application. Following discussion, Bruce seconded the motion. The motion passed unanimously.

Bruce moved that the Board has satisfied the above questions and moved that Application 24-280-SZ is complete. Ted seconded the motion, and the motion passed unanimously.

Ted moved that the Board does not need to hold a site visit. Bruce seconded, and the motion passed unanimously.

Ted moved that the public hearing that the Board has previously scheduled for the UDRO portion of this application to be held on July 17th at 6:00 at the Town Office Meeting Room also apply to the Shoreland Permit application. Bruce seconded. The motion passed unanimously.

Ted moved that in view of the fact that the Board is waiting for a Public Hearing on this Shoreland Zone application to be held on July 17th at 6:00, that the Board table any further review of this application for Shoreland Zoning. Bruce seconded. The motion passed unanimously.

Findings of Fact - none

CEO Reports - none

Open Discussion

- a) Traffic Study – While organizing his PB binder, Bruce came across an April 10, 2023, letter regarding the traffic study that Sunday River was going to do and asked if that had been done. Joelle replied that it got sidelined after the December 18th storm due to all the road damage that needed to be fixed; she added that the Town did not carry any money in the budget for a traffic study this year. Joelle stated that the resort did a traffic study with DOT; she was not sure if it was done on the dates planned.
- b) Performance Standards Form 10.5 – Ted explained the document that he created for the Board to use as a tool. The document lists all 34 Performance Standards. Ted noted that as the Board reviews the Performance Standards, they must come up with a finding of fact for each standard noting:
 - If the standard is met, how is it met?
 - If it is not met, why is it not met?
 - If it doesn't apply, why does it not apply?

Ted noted that the last Criteria for Approval is "conformance with local ordinances" and added that Performance Standards should be reviewed for each and every application that the Board reviews to ensure that the application meets the ordinance.

- c) Amendments to the Planning Board Bylaws – The Board reviewed the latest revision and has no further changes. Meredith asked about the updated affidavit. Joelle noted that she made the requested edit but forgot to email it to the Board. She will do so following this meeting so Rob will have it for the next meeting.

Bruce moved that the Board accept the amended draft of the Town of Newry Planning Board Bylaws. Ted seconded, and the motion passed unanimously.

d) Variances/Waivers – legal question and attorney’s response – The Board discussed the June 3rd email response from Jim Katsiaficas regarding whether the Board has the ability to waive certain standards/requirements noted in the UDRO. The UDRO, Section 22, states that the Planning Board has ability to waive submission requirements, performance standards, and/or required improvement unless specifically stated otherwise. The attorney explained a waiver would be granted by the Planning Board for relief from certain requirements for site plans or subdivisions, and that a variance and is granted by a Board of Appeals and is relief from dimensional requirements. The group continued to discuss the topic in regards to fire suppression, lot splits, erosion control, etc. It was noted that just because an applicant requests a waiver within their application, the Board has the ability to deny that request or approve it depending upon if the item wanting to be waived is a safety issue or is tied to other standards within the ordinance.

In regards to waiving a requirement or finding it not applicable, a request for waiver would originate from the applicant; finding an item not applicable would originate from within the Board.

Next Scheduled Meeting – Wednesday, July 3, 2024

Adjournment Ted moved to adjourn this June 18th meeting of the Newry Planning Board and reconvene on the 3rd of July at 6:00. Following discussion about the July 3rd agenda, Bruce seconded the motion, and the motion passed with all voting in favor. The meeting adjourned at 7:29 PM.

APPROVED