

NEWRY PLANNING BOARD
MINUTES OF BOARD MEETING
Wednesday, April 16, 2025
Raymond C. Foster Municipal Building

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

Members Present: Ted Baker (Board Chair), Bruce Pierce (Board Vice Chair), John (aka Gootsch) Gauthier (Board Secretary), Meredith Harrop (Alternate), Rob Kates (Alternate)

Members Late:

Staff Present: Joelle Corey (Code Enforcement Officer)

Members & Staff Absent:

Public Attendees: Rick Dunton

Call to Order: Chairman, Ted Baker, called the meeting to order at 6:37 PM and proceeded with his opening statements. This meeting started at 6:37 as a result of the Public Hearing for Monkey Brook Road Subdivision, which just adjourned.

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

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

Previous Meeting's Minutes: The Board reviewed the previous meeting's minutes. Following discussion, **Gootsch moved to approve the minutes as drafted. Bruce seconded. With no further discussion, the motion passed with all voting in favor.**

Correspondence Received:

- a) Email from Thomas Cares dated 3/31/2025 requesting material on Application #25-285; the CEO confirmed that she satisfied that request.
- b) Voice mail from Chris Bullock received 4/3/2025 requesting material on Application #25-285. The CEO confirmed that she returned the phone call and satisfied the request.
- c) Gorrill Palmer Engineering Review Memorandum dated April 3, 2025 – regarding The Village at Timberline.
- d) Newry Fire Department dated April 7, 2025, regarding Timberline TH LLC Subdivision.

Old Business

- a) **Forget Development LLC, Monkey Brook Road Subdivision APP # 25-285, Rick Dunton of Main-Land Development as agent – 7 lots on Monkey Brook Road; Map R13 Lot 013-D-1:** The Chair did a quick verbal review summarizing the previous determinations made regarding this application.

The Board proceeded to review with the applicant the Response to Comments document prepared by Main-Land Development dated April 3, 2025. Rick was asked to correct the name of the association referenced in the second paragraph of Post Construction Stormwater Inspection & Maintenance Plan where it currently references Woods Pond Village Homeowners Association. The Chair noted that a statement requiring the association to make maintenance logs available to the Town annually was not included in that section as well as a requirement of a 5-year recertification by a Maine licensed professional engineer; therefore, these two items will be included as a condition of approval. The Chair clarified that the Conditional Agreement is between the applicant and the Select Board; any reference to the Planning Board should be corrected to read the Select Board.

The Board proceeded to review individually the 11 proposed Conditions of Approval.

Condition of Approval #1 – This approval is limited to the proposal set forth in the application and supporting documents, except as modified by specific conditions adopted by the Planning Board in approving this application. Any variation from the application or conditions of approval are subject to prior review and approval by the Planning Board. Failure to obtain prior approval for variations shall constitute a violation of the ordinance. Gootsch moved to include item #1 as a condition of approval. Bruce seconded. With no further discussion, the motion passed unanimously.

Condition of Approval #2 – A substantial start (defined as 30% of project based on estimated cost) of construction of the Required Improvements approved by this application must be complete within twenty-four (24) months of the issuance of Planning Board approval. If not, this application shall lapse, and no activities shall occur unless and until a new application is approved. Bruce moved item #2 condition of approval be accepted. Gootsch seconded. With no further discussion, the motion passed unanimously.

Condition of Approval #3 – All Required Improvements must be substantially complete within eighteen (18) months of the start of construction. If not, this application shall lapse, and no further activities shall occur unless and until the application is resubmitted and receives Planning Board approval. Gootsch moved that item #3 be approved. Bruce seconded. With no further discussion, the motion passed unanimously.

Condition of Approval #4 – Once construction is complete, the subdivider shall notify the Code Enforcement Officer that all requirements and conditions of approval have been met. Following notification, the Code Enforcement Officer may arrange and conduct a compliance inspection. Bruce moved that the Board accept item #4 for Conditions of Approval. Gootsch seconded. With no further discussion, the motion passed unanimously.

Condition of Approval #5 – Prior to the conveyance of any lot, the subdivider must enter into a Conditional Agreement with the Town as per the Unified Development Review Ordinance (UDRO) Section 24 (*note: This was later CORRECTED to Section 21*). This Conditional Agreement is in lieu of a financial performance guarantee required by the Ordinance. Gootsch moved accept Condition of Approval #5. Bruce seconded. During discussion it was noted that the Section previously stated (Section 24) is incorrect and should say “Section 21”, the motion passed unanimously.

Condition of Approval #6 – Lots within this subdivision are restricted to single-family residential use only. Commercial development, as defined by Maine Department of Environmental Protection (DEP) Site Location of Development Rules Section 371, is prohibited unless prior approval by Maine DEP and the Town of Newry Planning Board is obtained. Bruce moved for the Board to accept item #6 of the Conditions of Approval. Gootsch seconded. With no further discussion, the motion passed unanimously.

Condition of Approval #7 – Conveyance of a lot must include the Common Driveway Easement and Maintenance Agreement as well as the Declaration of Restrictions and Protective Covenants included in the application materials. Gootsch moved that Condition of Approval #7 be approved. Bruce seconded. With no further discussion, the motion passed unanimously.

Condition of Approval #8 – Stormwater ponds shall be staked out for review and approval by the Inspecting Official prior to the construction of the ponds. Bruce moved to accept item #8 of the Conditions of Approval for this application. Gootsch seconded. With no further discussion, the motion passed unanimously.

Condition of Approval #9 – Construction of the driveway aprons for lots one (1) through six (6) are the responsibility of the subdivider. Prior to the conveyance of a lot, the driveway entrance serving that lot must be accepted by the Inspecting Official. Gootsch moved item #9 be approved. Bruce seconded. With no further discussion, the motion passed unanimously.

Condition of Approval #10 – The maintenance and/or repair of the stormwater management Required Improvements are the responsibility of the subdivider and/or homeowners association. Annual records of maintenance and repairs must be made available to the Town upon request. Stormwater management Required Improvements must be inspected and certified every five years by a Maine licensed professional engineer and submitted to the Town for review. Gootsch moved that Condition of Approval #10 be approved. Bruce seconded. With no further discussion, the motion passed unanimously.

Condition of Approval #11 – All dwelling units must meet the Life Safety and Fire Suppression Standards Unified Development Review Ordinance (UDRO) Section 13.AC. The existing dwelling unit on lot seven (7), Newry Land Use Building Permit #07/2020, is an Existing Nonconforming Structure as per UDRO Section 23.I. and does not need to meet the requirements of Section 13.AC. Bruce moved that the Board accept item #11 for the Conditions for Approval for this application. Gootsch seconded. With no further discussion, the motion passed unanimously.

The Board took a 5-minute recess at 7:29pm and the audio recorders were paused during this time.

The Board proceeded to review the Performance Standards. The Chair confirmed that all Performance Standards are either not applicable or comply by asking if any Board member, including the alternates, had noticed any that are applicable but do not comply with the standard. None were found to be not in compliance.

The Board then proceeded to review the Criteria for Approval.

CRITERIA FOR APPROVAL FOR THE UNIFIED DEVELOPMENT REVIEW ORDINANCE (pages 21-24)

- A. **Pollution** – Findings of Fact – The subdivision lots are restricted to single-family residential use, and the applicant has submitted a satisfactory soil profile and classification analysis with no deficiencies noted. Conclusion of Law – The criteria for Pollution has been met and is in compliance. Ted moved that this subdivision is restricted to single-family residential use, and a satisfactory soil profile and classification analysis has shown that they can support single residential use for wastewater and therefore, the criterion for Pollution is in compliance. Gootsch seconded. With no discussion, the motion passed unanimously.
- B. **Erosion** – Findings of Fact – A detailed plan to control soil erosion is included in the application; a detailed stormwater management plan is also included in the application. Conclusion of Law – The criteria for Erosion has been met. Ted so moved. Bruce seconded. With no discussion, the motion passed unanimously.
- C. **Traffic** – Findings of Fact – The subdivision relies on an existing private road, that road being Monkey Brook Road. The subdivider has coordinated with the owner of the private road to limit the number of driveways used for the subdivision. This is a seven-lot minor subdivision, and the impact on traffic will be negligible. Conclusion of Law – The Criteria for Approval for Traffic is in compliance. Ted so moved. Gootsch seconded. With no discussion, the motion passed unanimously.
- D. **Sewage Disposal** – Findings of Fact – The developer has brought forth soil tests that prove that he can put adequate sewage disposal on site, and because it will be private septic systems, this project should not have any burden on municipal services. Conclusion of Law – The Criteria for Approval for Sewage Disposal has been met. Gootsch moved that D., Sewage Disposal, has been met. Bruce seconded. With no discussion, the motion passed unanimously.
- E. **Municipal Solid Waste Disposal** – Findings of Fact – The subdivision is for seven residential lots, and each lot will be responsible for the disposing of their individual solid waste. Also, by Newry ordinance, construction debris in the building of those lots is required to be handled by the contractor. Conclusion of Law – The impact on municipal solid waste disposal should be minimal.

Following discussion, Bruce moved that the Board approve item E., Municipal Solid Waste Disposal; Gootsch seconded. With no further discussion, the motion passed unanimously.

- F. **Aesthetic, Cultural and Natural Values** – Findings of Fact – There are no known aesthetic, cultural or natural values to the two parcels that are in question.

Conclusion of Law – The applicant is in compliance.

Following discussion, Ted moved Criteria for Approval F., Aesthetic, Cultural, and Natural Values, is in compliance since there are no known aesthetic, cultural or natural values that have been brought to the Board's attention. Gootsch seconded. With no further discussion, the motion passed unanimously.

- G. **Financial and Technical Capacity** – Findings of Fact – The subdivision is for lots only with no major Required Improvements, and there has been a condition of approval requiring a conditional agreement prohibiting the conveyance lots prior to the completion of the stormwater management system. In addition, a letter from Franklin Savings Bank dated January 10, 2025, was submitted to the Board.

Conclusion of Law – This criterion has been met.

Bruce moved that item G., Financial and Technical Capacity, is met and is in compliance. Ted seconded. With no discussion, the motion passed unanimously.

- H. **Sufficient Water** – Findings of Fact – This subdivision is in a sand and gravel aquifer, and it is believed that there is sufficient water available for this subdivision. In addition, the applicant submitted a survey of existing wells in the vicinity, and they showed the capacity of water.

Conclusion of Law – This criterion is met.

Gootsch moved that H., Sufficient Water Supply, has been met. Bruce seconded. With no discussion, the motion passed unanimously.

- I. **Public Water Supply** – Ted moved that Criteria for Approval I., Public Water Supply, does not apply. Gootsch seconded. With no discussion, the motion passed unanimously.

- J. **Surface Waters** – Finding of Fact – Neither of the two parcels are situated within 250' of a pond or tributary

Conclusion of Law – This criterion does not apply.

Ted moved that Criteria for Approval J., Surface Waters, does not apply. Gootsch seconded. With no discussion, the motion passed unanimously.

- K. **Ground Water** – Findings of Fact – The subdivision is for 7 single-family homes, and that in itself should not affect the quality or quantity of groundwater, and the applicant also has submitted a soils analysis revealing that the lots are adequate for subsurface wastewater disposal systems.

Conclusion of Law – This criterion is in compliance.

Gootsch moved that K., Groundwater, is in compliance. Bruce seconded. With no discussion, the motion passed unanimously.

- L. **Flood Areas** – Findings of Fact – These two parcels are not in a FEMA flood zone.

Conclusion of Law – Criteria for Approval L., Flood Areas, does not apply.

Gootsch moved that L., Flood Areas, is not applicable. Ted seconded. With no discussion, the motion passed unanimously.

- M. **Freshwater Wetlands** – Findings of Fact – The applicant has identified the two wetland areas, and the wetlands are not large enough to be considered significant and are not located near a great pond.

Conclusion of Law – This criterion is in compliance.

Gootsch moved that M., Freshwater Wetlands, is in compliance. Bruce seconded. With no discussion, the motion passed unanimously.

- N. **River, Stream or Brook** – Findings of Fact – No river, stream or brook, has been identified within or abutting the project.

Conclusion of Law – This Criteria for Approval does not apply.

Ted so moved. Bruce seconded. With no discussion, the motion passed unanimously.

- O. **Storm Water** – Findings of Fact – The applicant included in his application an extensive plan for adequate stormwater management.

Conclusion of Law – Item O., Storm Water, has been met.

Gootsch so moved. Bruce seconded. With no discussion, the motion passed unanimously.

- P. **Spaghetti-Lots Prohibited** – Findings of Fact – Neither parcel of this application borders a great pond or other body of water.
Conclusion of Law – Criteria for Approval P., Spaghetti-Lots Prohibited, does not apply.
Ted so moved. Gootsch seconded. With no discussion, the motion passed unanimously.
- Q. **Municipal Services** – Findings of Fact – The proposed subdivision is for seven single-family residential lots, and the Newry Fire Department did not find any faults with the impact on its services, and the structures will be required to be sprinkled.
Conclusion of Law – This criterion has been met.
Gootsch moved that Q., Municipal Services, has been met. Bruce seconded. With no discussion, the motion passed unanimously.
- R. **Lake Phosphorus Concentration** – Findings of Fact – Neither parcel is located in the Howard Pond watershed zone.
Conclusion of Law – This criterion is not applicable.
Ted moved that item R., Lake Phosphorus Concentration, does not apply. Bruce seconded. With no discussion, the motion passed unanimously.
- S. **Impact on Adjoining Municipality** – Findings of Fact – This project does not impact an adjoining town.
Conclusion of Law – This Criteria for Approval is not applicable.
Gootsch so moved. Bruce seconded. With no discussion, the motion passed unanimously.
- T. **Land Subject to Liquidation Harvesting** – Findings of Fact – The acreage is not suitable for timber harvesting in liquidation form, and the applicant has submitted a letter dated October 15, 2024, to that effect.
Conclusion of Law – This Criteria for Approval does not apply.
Bruce so moved. Ted seconded. With no discussion, the motion passed unanimously.
- U. **Conformity with Local Ordinances and Plans** – Findings of Fact – All applicable Performance Standards were found to be in compliance.
Conclusion of Law – This item is in compliance.
Ted moved that Criteria for Approval U., Conformity with Local Ordinances and Plans, has been met.
Gootsch seconded. With no discussion, the motion passed unanimously.

The Chair mentioned to the applicant that the Board will need the final plan and supporting documents correlated into one clean binder. Two copies of the binder with supporting documents and full-sized plans for the Board would be appreciated. For the completion of the Findings of Fact, the Recording Secretary asked to receive copies of any plans (or supporting documentation) that has been revised following this meeting; these plans can be 11"x17".

Ted moved that the Newry Planning Board give its conditional approval to Application 25-285, Forget Development, LLC – minor subdivision; Monkey Brook Road Subdivision (Tax Map R13/D-1 and R13/013-D-001). The conditions of this approval are as follows:

- 1. This approval is limited to the proposal set forth in the application and supporting documents, except as modified by specific conditions adopted by the Planning Board in approving this application. Any variation from the application or conditions of approval are subject to prior review and approval by the Planning Board. Failure to obtain prior approval for variations shall constitute a violation of the ordinance.**
- 2. A substantial start (defined as 30% of project based on estimated cost) of construction of the Required Improvements approved by this application must be complete within twenty-four (24) months of the issuance of Planning Board approval. If not, this application shall lapse, and no activities shall occur unless and until a new application is approved.**
- 3. All Required Improvements must be substantially complete within eighteen (18) months of the start of construction. If not, this application shall lapse, and no further activities shall occur unless and until the application is resubmitted and receives Planning Board approval.**

4. Once construction is complete, the subdivider shall notify the Code Enforcement Officer that all requirements and conditions of approval have been met. Following notification, the Code Enforcement Officer may arrange and conduct a compliance inspection.
5. Prior to the conveyance of any lot, the subdivider must enter into a Conditional Agreement with the Town as per the Unified Development Review Ordinance (UDRO) Section 21. This Conditional Agreement is in lieu of a financial performance guarantee required by the Ordinance.
6. Lots within this subdivision are restricted to single-family residential use only. Commercial development, as defined by Maine Department of Environmental Protection (DEP) Site Location of Development Rules Section 371, is prohibited unless prior approval by Maine DEP and the Town of Newry Planning Board is obtained.
7. Conveyance of a lot must include the Common Driveway Easement and Maintenance Agreement as well as the Declaration of Restrictive and Protective Covenants included in the application materials.
8. Stormwater ponds shall be staked out for review and approval by the Inspecting Official prior to the construction of the ponds.
9. Construction of the driveway aprons for lots one (1) through six (6) are the responsibility of the subdivider. Prior to the conveyance of a lot, the driveway entrance serving that lot must be accepted by the Inspecting Official.
10. The maintenance and/or repair of the stormwater management Required Improvements are the responsibility of the subdivider and/or homeowners association. Annual records of maintenance and repairs must be made available to the Town upon request. Stormwater management Required Improvements must be inspected and certified every five years by a Maine licensed professional engineer and submitted to the Town for review.
11. All dwelling units must meet the Life Safety and Fire Suppression Standards Unified Development Review Ordinance (UDRO) Section 13.AC. The existing dwelling unit on lot seven (7), Newry Land Use Building Permit #07/2020, is an Existing Nonconforming Structure as per UDRO Section 23.I. and does not need to meet the requirements of Section 13.AC.

In addition to the above Conditions of Approval, the Inspecting Official for this application will be the Town's Code Enforcement Officer. Gootsch seconded. With no discussion, the motion passed unanimously.

Ted moved to extend the meeting by 30 minutes at the most. Gootsch seconded. With no discussion, the motion passed unanimously.

Rick asked about the requested edits (i.e. removing/correcting the reference Woods Pond HOA in the Stormwater Maintenance and Inspection Plan and adding a 5-year resubmitted requirement to that document). The Chair clarified that the Woods Pond edit should be made, but the 5-year recertification is now a Condition of Approval, and it is the applicant's choice as to whether that requirement be added to the Plan. Rick spoke about the edit to the Conditional Agreement, changing any references of the Planning Board to be changed to the Select Board. The Chair confirmed that the change should be made, but that, too, is a Condition of Approval.

- b) **Timberline TH, LLC, The Village at Timberline Subdivision APP # 25-286, Mike Barnes or Rick Dunton of Main-Land Development as agent – 11 dwelling units; Tax Map U03-001-A:** The Chair reminded everyone (the Board and the applicant) that in three weeks, the Board has a 5pm Site Visit at The Village at Timberline site (the former site of The Phoenix), a 6pm Public Hearing on Application 25-286, Timberline. Then, the Board will start its regular meeting and during the review of this application go through Conditions of Approval and start deliberations on Performance Standards and Criteria for Approval. The Chair asked the Board members and alternates to do their homework, and to be prepared to go through that complete application at the Board's next meeting and come to a decision as to whether Application 25-286 meets, meets with conditions, or does not meet Town of Newry Ordinances.

The correspondence from the Newry Fire Department and Gorrill Palmer will be discussed at the next meeting.

Due to the length of tonight's meeting, the Chair tabled any remaining items.

Next Scheduled Meeting – Wednesday, May 7, 2025 – Site Visit (5pm) at 8 Timberline Road; Public Hearing (6pm) at the Newry Town Office, followed by the regularly scheduled Planning Board meeting.

Adjournment Bruce moved to adjourn the Planning Board meeting of Wednesday, April 16th; Gootsch seconded. Motion passed with all voting in favor. The meeting adjourned at 8:40 PM.

APPROVED