

**NEWRY PLANNING BOARD**  
**MINUTES OF BOARD MEETING**  
**Wednesday, August 6, 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), John (aka Gootsch) Gauthier (Board Vice Chair), Heidi Marotta (Board Secretary), Meredith Harrop (Alternate), Rob Kates (Alternate)

**Members Late:**

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

**Members & Staff Absent:**

**Public Attendees:** Brooks Morton, Peter Roberts, Carson Deeds

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**Call to Order:** Chairman, Ted Baker, called the meeting to order at 6:08 PM and proceeded with his opening statements.

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

**Prior Attendance/Voting Eligibility:** The Chair noted that since he, Gootsch, Meredith, and Rob were in attendance at the previous meeting, they are all eligible to vote; it was later clarified that an alternate would need to be elevated to voting status prior to being eligible to vote. Heidi was not yet a Board member and did not attend the July 2<sup>nd</sup> meeting. The Chair explained to Heidi the procedure for a Board member to be eligible to vote following a missed meeting (listening to the audio recording of the missed meeting and reviewing the draft minutes and any materials distributed during said meeting and signing an affidavit acknowledging such). Heidi stated that she had not met these requirements, and therefore, she is not eligible to vote at tonight's meeting.

**Previous Meeting's Minutes:** The Chair noted that Rob was appointed as a voting member at the July 2<sup>nd</sup> meeting. The Board reviewed the minutes of the July 2, 2025, Annual Meeting. **Gootsch moved to approve the minutes of the Annual Meeting as written. Rob seconded. With no discussion, the motion passed with all voting in favor.**

The Chair noted again that Rob was appointed as a voting member at the July 2<sup>nd</sup> meeting. The Board reviewed the minutes of the July 2<sup>nd</sup> regular Planning Board meeting. **Gootsch moved to approve the minutes as written, and Rob seconded. With no discussion, the motion passed with all voting in favor.**

**Correspondence Received:**

- a) Memorandum from Planning Board Chair, Ted Baker, to Newry Town Administrator; dated July 31, 2025; Subject: Request for Legal Assistance. The memo contained two references:
  - (A) Newry Board of Appeals Notice of Decision and Finding of Fact and Conclusions of Law dated 7/30/2025
  - (B) Newry Planning Board Application 25-286; Timberline TH, LLC application for a major subdivision

Ted read aloud the above memo for the record and discussion ensued, including whether there is a conflict of interest with Heidi's participation in this conversation. Joelle noted that she has been in conversations with the applicant's attorney as well as the Town's attorney, Perkins Thompson, who is currently representing the Board of Appeals and therefore cannot represent the Planning Board, and both attorneys have recommended that the Planning Board have an attorney to ensure that the Planning Board follows procedures correctly in the remand process. The CEO is in the process of finding a different legal firm to represent the Planning Board.

Discussion continued regarding certain details of the memo such item 4 of the memo: the request for an executive session.

- b) Email chain between the CEO and Rick Dunton of Main-Land Development, John Marotta of Timberline TH LLC, the Town Administrator, James Katsiaficas, and Paul Driscoll dated 7/31/2025; 8/1/2025; and 8/4/2025; RE: "Newry Planning Board agenda 24-289".

Joelle read the email chain aloud for the record.

- c) Town of Newry Board of Appeals; Notice of Decision and Findings of Fact and Conclusions of Law; Administrative Appeal by Timberline TH, LLC, of Planning Board Decision to Deny Major Subdivision Application #25-286. Signed by David Berry, Chair, Board of Appeals, Town of Newry, and dated 7/30/2025.

Prior to moving forward to the next agenda item, the Chair spoke about the high bar set by the Board of Appeals regarding conflict of interest as well as the appearance of conflict of interest from their recent decision. Ted explained the procedure the Planning Board followed in recent history regarding conflict of interest and then read from the State's statute: 30-A-MSR Section 2605 subparagraph 4, which deals with direct and indirect pecuniary conflict of interest. He then recused himself from any further participation in the review of Application 25-288; Sunday River Bicycle Trails because he is an employee of Sunday River and has either a direct conflict of interest or a perceived conflict of interest.

Gootsch stepped up to Chair the meeting during the review of the Sunday River application.

Meredith stated that she is also a team member of Sunday River and recused herself as well.

It was noted that since the review of the Sunday River Bicycle Trails application is a continuation from the July 2<sup>nd</sup> meeting, and Heidi has not listened to the recordings nor reviewed the materials and minutes from that meeting, she is not eligible to vote on this application.

Discussion ensued regarding elevating Rob to an elevated voting member. **Heidi nominated Rob Kates as a full member during. Gootsch seconded, and the nomination passed unanimously with Gootsch and Heidi voting in favor.**

### Old Business

- a) **South Ridge Bicycle Trails; Sunday River Skiway Corp.; Map and Lots R13/034 & R12/026 – Application # 25-288:**  
For the record, it was clarified that Gootsch and Rob would be the only Board members voting on this application, which meets the requirement for a quorum.

Peter Roberts, representing Sunday River Skiway Corporation, noted that the check that he brought to the previous meeting to cover the application was the wrong amount (the fees had recently been updated). He had planned to bring the corrected check to tonight's meeting but forgot to do so. He requested that the Board proceed with review of the application and stated that he would bring the check to the August 20<sup>th</sup> meeting.

Following discussion, the Board proceeded to review the application for completeness.

**Rob moved to find form 10.1 complete. Gootsch seconded, and the motion passed unanimously.**

Discussion ensued regarding the list of abutters— noting a few errors found on the list. Peter stated that the list was printed from the Town's website in early June. Following discussion, it was concluded that the applicant acted in good faith with the submission of this list.

**Rob moved that Section 10.2 is complete. Gootsch seconded, and the motion passed unanimously.**

**Rob moved that Section 10.3 is complete, and Gootsch seconded. The motion passed unanimously.**

Joelle noted that there is an error on the list attached to Form 10.4 in Items 2A, 2B, and 2C – Newry Fire Chief Notification is listed twice. One of those should be Oxford County Sheriff's Office Notification.

Discussion ensued regarding the pre-existing trails, which were built between 1988 and 2016. Peter believes they were abandoned by Sunday River in 2018 when the resort no longer had a Bike Park; however local bikers would still ride (and possible rake) those trails. Peter explained that the restoration of all previously existing trails would be included in Phase 1 which also focuses on new construction in the South Ridge area.

It was noted that in Item 7 of Section 10.4, the incorrect drawing sheet is referenced for the Erosion and Sedimentation Control Plan; this item references Drawing Sheet 2, but the plan is on Drawing Sheet 4. Peter will correct this error.

**Rob moved that 10.4 is complete. Gootsch seconded, and the motion passed unanimously.**

For the record, Application # 25-288 was found complete on August 6<sup>th</sup>.

It was confirmed that the two waivers being requested by the applicant (the abbreviated list of abutters and the Performance Guarantee) were voted on and approved at the Board's previous meeting, July 2, 2025.

**Rob moved that a site visit is not needed. Gootsch seconded, and the motion passed unanimously.**

**Rob moved that the Board does not hold a Public Hearing. Gootsch seconded. The motion passed unanimously.**

The Board proceeded to review the Performance Standards found in Section 13 of the UDRO.

**13.A., Conformance with Comprehensive Plan** – Finding of Fact: This project is in the Resort District. Conclusion of Law: This project complies with this standard.

**13.B., Municipal Services** – Finding of Fact: This is not a subdivision. Conclusion of Law: Gootsch moved that 13.B is not applicable to this project; Rob seconded. The motion passed unanimously with 2 votes.

**13.C., Preservation and Enhancement of the Landscape** – Finding of Fact: This project will have minimal soil disturbance. Conclusion of Law: Rob moved that the application is in compliance with 13.C.; Gootsch seconded. The motion passed unanimously with 2 votes.

**13.D., Relation of Proposed Buildings to Environment** – Finding of Fact: No buildings are proposed in this application. Conclusion of Law: Gootsch moved this is not applicable; Rob seconded. The motion passed unanimously with 2 votes.

**13.E., Land Not Suitable for Building** – Finding of Fact: This property is already developed with ski trails, and there are no buildings going to be built. Conclusion of Law: Gootsch moved that this is not applicable; Rob seconded. The motion passed unanimously with 2 votes.

**13.F., Topsoil and Vegetation Removal** – Finding of Fact: This project will have a minimal amount of vegetation removal. Conclusion of Law: Rob moved that this proposed project complies with item F., and Gootsch seconded. The motion passed unanimously with 2 votes.

**13.G., Erosion and Sedimentation Control, and 13.H., Stormwater Management** – Finding of Fact: An erosion and sedimentation control plan is included on page 4 of the drawings. Conclusion of Law: Rob moved that G & H are in compliance. Gootsch seconded, and the motion passed unanimously with 2 votes.

**13.I., Borrow Pits** – Conclusion of Law: Gootsch moved that Borrow Pits is not applicable to this application; Rob seconded. The motion passed unanimously with 2 votes.

**13.J., Site Conditions** – Finding of Fact: The plan does not show any major excavation or elevation changes, and the applicant included the DEP Chapter 500 Housekeeping Standards in their application. Conclusion of Law: Rob moved that the plan complies. Gootsch seconded, and the motion passed unanimously with 2 votes.

**13.K., Plumbing, L., Water Supply, and M., Utilities** – Conclusion of Law: Gootsch moved that these standards are not applicable to this application, and Rob seconded. The motion passed unanimously with 2 votes

**13.N., Sign Standards** – Finding of Fact: There are no signs which would fall under the purview of the Sign Ordinance on this project.

**13.O., Lighting Design Standards** – Finding of Fact: There is no lighting involved with this project.

**13.P., Dust, Fumes, Vapors, Gases, Odors, Glare, and Explosive Materials** – Conclusion of Law: Gootsch moved that N., O., and P., are not applicable; Rob seconded. The motion passed unanimously with 2 votes.

**13.R., Refuse Disposal** – Finding of Fact: As noted in item 21 of Form 10.2 of the application, the applicant has an 80-yard roll-off container leased from Casella Waste Management which they will use for any waste generated from the project. Conclusion of Law: Rob moved that item R is in compliance. Gootsch seconded, and the motion passed unanimously with 2 votes.

**13.S., Protection of Significant Fisheries and Wildlife Habitat** – Finding of Fact: There are no major waterways within this project, and per the Comprehensive Plan, there is no identifiable wildlife resources or habitat in this area. Conclusion of Law: Gootsch moved that item S does not apply, and Rob seconded. The motion passed unanimously with 2 votes.

**13.T., Scenic locations** – Conclusion of Law: Gootsch moved that T, Scenic locations, is not applicable. Rob seconded. The motion passed unanimously with 2 votes.

**13.U, Archaeological Sites** – Conclusion of Law: Gootsch moved that U, Archaeological Sites, is not applicable. Rob seconded. The motion passed unanimously with 2 votes.

**13.V., Historic Locations** – Conclusion of Law: Gootsch moved that Historic Locations is not applicable. Rob seconded. The motion passed unanimously with 2 votes.

**13.W., Agricultural Protection Buffer Strips** – Conclusion of Law: Gootsch moved that Agricultural Protection Buffer Strips is not applicable. Rob seconded. The motion passed unanimously with 2 votes.

**13.X., Vehicular and Pedestrian Traffic** – Conclusion of Law: Gootsch moved that Vehicular and Pedestrian Traffic is not applicable. Rob seconded. The motion passed unanimously with 2 votes.

**13.Y., Ground Water Protection** – Conclusion of Law: Gootsch moved that Ground Water Protection is not applicable. Rob seconded. The motion passed unanimously with 2 votes.

**13.Z., Noise** – Conclusion of Law: Gootsch moved that Z., Noise, is not applicable. Rob seconded. The motion passed unanimously with 2 votes.

**13.AA., Buffers and Screening Standards; AB., Home Occupations; AC., Life Safety and Fire Suppression; AD., Commercial Wind Energy Facilities; AE., Mineral Exploration or Extraction; AF., Wireless Telecommunications Facilities; AG., Solar Energy Systems; and AH., Recreational Lodging Facilities** – Conclusion of Law: Gootsch moved that AA., Buffers and Screening Standards; AB., Home Occupations; AC., Life Safety and Fire Suppression; AD., Commercial Wind Energy Facilities; AE., Mineral Exploration or Extraction; AF., Wireless Telecommunications Facilities; AG., Solar Energy Systems; and AH., Recreational Lodging Facilities, are all not applicable. Rob seconded. The motion passed unanimously with 2 votes.

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

- A. **Pollution** – Conclusion of Law: Gootsch moved that A., Pollution is not applicable. Rob seconded, and the motion passed unanimously.
- B. **Erosion** – Finding of Fact – The applicant submitted an erosion control plan in their application packet. Conclusion of Law: Gootsch moved that Erosion in compliance; Rob seconded. The motion passed unanimously.
- C. **Traffic** – Conclusion of Law: Gootsch moved that C., Traffic; D., Sewage Disposal.; E., Municipal Solid Waste Disposal; and F., Aesthetic, Cultural and Natural Values, do not apply. Rob seconded, and the motion passed unanimously.
- D. **Sewage Disposal** – *see motion above*
- E. **Municipal Solid Waste Disposal** – *see motion above*
- F. **Aesthetic, Cultural and Natural Values** – *see motion above*

- G. **Financial and Technical Capacity** – Findings of Fact – In regards to technical capacity, the applicant is an engineer, and a letter has been submitted with the application confirming financial capacity. Conclusion of Law: Gootsch moved that G is in compliance; Rob seconded, and the motion passed unanimously.
- H. **Sufficient Water** – Conclusion of Law: Gootsch moved that H, Sufficient Water; I, Public Water Supply; J, Surface Waters; K, Ground Water; and L, Flood Areas; do not apply. Rob seconded, and the motion passed unanimously.
- I. **Public Water Supply** – *see motion above*
- J. **Surface Waters** – *see motion above*
- K. **Ground Water** – *see motion above*
- L. **Flood Areas** – *see motion above*

**At 8:26pm, the Board discussed extending the meeting by one-half hour. Heidi moved to extend the meeting by 30 minutes. Rob seconded, and the motion passed unanimously.**

- M. **Freshwater Wetlands** – Finding of Fact – The freshwater wetlands have been identified on the plans. Conclusion of Law – Gootsch moved that this item is in compliance; Rob seconded. The motion passed unanimously.
- N. **River, Stream or Brook** – Finding of Fact – The rivers, streams and brooks have been identified. Conclusion of Law – Gootsch moved that this item is in compliance. Rob seconded, and the motion passed unanimously.
- O. **Storm Water** – Finding of Fact – This item has been met per page 4 of the submitted drawing sheets. Conclusion of Law – Gootsch move that this item is in compliance; Rob seconded. The motion passed unanimously.
- P. **Spaghetti-Lots Prohibited** – Conclusion of Law – Gootsch moved that P, Spaghetti Lots, does not apply. Rob seconded, and the motion passed unanimously.
- Q. **Municipal Services** – Conclusion of Law – Gootsch moved that Q., Municipal Services; R., Lake Phosphorus Concentration; S., Impact on Adjoining Municipality; and T., Land Subject to Liquidation Harvesting; do not apply. Rob seconded, and the motion passed unanimously.
- R. **Lake Phosphorus Concentration** – *see motion above*
- S. **Impact on Adjoining Municipality** – *see motion above*
- T. **Land Subject to Liquidation Harvesting** – *see motion above*
- U. **Conformity with Local Ordinances and Plans** – Finding of Fact – The project is in the resort district and is allowed. Conclusion of Law – Gootsch moved that the project conforms with local ordinances and plans. Rob seconded. The motion passed unanimously.

Gootsch moved that the Board approve Application # 25-588, South Ridge Bicycle Trails. Following discussion regarding Conditions of Approval, Gootsch withdrew his motion.

Conditions of Approval on this application are: The applicant must pay the correct application fee and must correct the two typos found in the application – specifically: in the comments attached to Form 10.4., Item 2C needs to be changed to “Oxford County Sheriff’s Office Notification”; in that same comment section (Form 10.4), Item 7 needs to be corrected from “Sheet 2” to “Sheet 4”.

**Rob moved that the Board approve with Conditions of Approval that the fees be paid and typos be fixed and the application be resubmitted with the appropriate corrections. Gootsch seconded, and the motion passed unanimously with 2 votes.**

The Chair, Ted Baker, and Alternate, Meredith Harrop, have resumed their positions on the Board.

Ted noted that the CEO had a family emergency and left the meeting early.

**New Business** - none

**Findings of Fact** - none

**CEO Reports** - none

**Open Discussion**

- a) The group discussed the memo submitted from the Chair, Ted Baker, to Newry Planning Board, dated 8/6/2025; subject: Discussion Preparation for the [8]/20/25 Meeting. The Chair encouraged Board members to become very familiar with the four documents cited within the memo. He went on to explain the attachments included with that memo, which are notes that Ted generated himself from his research: 1) Burden of Proof is on the Applicant; 2) Vesting Occurs Upon an Application's Completeness; and 3) Private Right-of-Ways & Multi-Unit Dwellings.
- b) Rules of Procedure packet – Ted proposes that the Planning Board replace their Bylaws with these Rules of Procedure. This is to be discussed at a later meeting. Copies of the current Planning Board Bylaws and Planning Board Ordinance were provided to Board Members for reference.
- c) Ted stated that the August 20<sup>th</sup> workshop meeting will focus on the Business items noted below:
  - The Board of Appeals; Notice of Decision and Findings of Fact and Conclusions of Law on Application 25-286 dated 7/30/2025
  - The “Ted Notes” discussion
  - The proposed Rules of Procedure. Ted explained that the current Bylaws fall short in a few areas, such as reconsideration, remote meeting policy, etc. Ted clarified that if the Board votes to move forward with this proposed document, it would then go to the Selectboard for their approval. Discussion ensued as to whether this document should be reviewed by the Town’s attorney.
- d) Rob asked about having some detailed information available for UDRO Section 13 when the Board is reviewing an application – such as: where are the scenic locations, archeological sites, historic locations, etc. Ted emphasized that the burden of proof is on the applicant and should be submitted with the application, noting that all Findings of Fact should be found within the application. Heidi pointed out that the Board did not have an historical map to refer to during tonight’s review, but the Board voted on that item.

**At 9:00, Ted moved to extend the meeting to another 30 minutes. Gootsch seconded, and the motion passed unanimously.**

Discussion continued for item d). above. The Chair explained that as a citizen Board, the Board needs to create a legal document that stands up to scrutiny from the legal profession should there be an aggrieved party that takes the application to appeal. Discussion continued and in terms of consistency, Ted noted that the idea of precedence does not exist in Planning Board review. He added that each review is independent and is a review of the application submitted against the ordinance – previously approved or denied applications by the Board have no relevancy in the review that is being undertaken. This is noted in court decisions from the State of Maine. Ted agreed that consistency would be ideal, and in order to reach that ideal, the Board needs to be sure to do their homework. The whole Board is encumbered to spend the time necessary to review the application and draw from it the Findings of Fact that support or do not support the ordinance. Further discussion took place on this topic as well as the Board’s review procedures for other Performance Standards in the UDRO, including the CEO’s role in enforcement of some of these Performance Standards.

**Next Scheduled Meeting** – Wednesday, August 20, 2025

**Adjournment** Heidi moved to adjourn; Gootsch seconded. Motion passed with all voting in favor. The meeting adjourned at 9:15 PM.