

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

7:00 PM Public Hearing Begins

October 19, 2023

ACTION SHEET

I. APPROVAL OF MINUTES

- A.** Approval of the September 21, 2023 meeting minutes.

The September 21, 2023 minutes were adopted as presented.

- B.** Approval of the September 28, 2023 Work Session minutes.

The September 28, 2023 minutes were postponed for additional information.

II. DETERMINATIONS OF COMPLETENESS

SUBDIVISION REVIEW

- A.** The request of **Banfield Realty, LLC (Owner)**, for property located at **375 Banfield Road** requesting to Subdivide one lot into two lots to create the following: Proposed Lot 1 with 6.65 acres of lot area and 354 feet of street frontage and Proposed Lot 2 with 7.96 acres of lot area and 200 feet of street frontage. Said property is shown on Assessor Map 266 Lot 7 and lies within the Industrial (I) District.

The Board voted to determine the subdivision and site plan applications were complete.

Motion: *B. Moreau, Second K. Conard. Motion passed 7-2 with Harris and Hewitt voting against.*

- B.** The request of **Caleb E. and Samantha L. Ginsberg (Owners)**, and **Peter and Donna Splaine (Owners)**, for property located at **303 Bartlett Street** and **295/299 Bartlett Street** requesting Preliminary and Final Subdivision approval for a lot line relocation between Tax Map 162 Lot 13 and Lot 14 where a separate parcel was discovered between the two lots and is proposed to be divided between Lot 13 and 14 as follows: Lot 13 increasing in size from 4,906 square feet and 36 feet of frontage to 6,665 square feet and 37 feet of frontage. Lot 14 increasing in size from 4,802 square feet and 192 feet of frontage to 8,640 square feet and 217 feet of frontage. Said property is located on Assessor Map 162 Lot 13 & 14 and lies within the General Residence A (GRA) District.

The Board voted to determine the subdivision application was complete.

Motion: *B. Moreau, Second K. Conard. Motion passed with all in favor.*

- C. The request of **Richard and Jessica Hayes (Owners)**, and **William and Katja Becker (Owners)**, for property located at **40 Walker Bungalow Road** and **26 Walker Bungalow Road** requesting Preliminary and Final Subdivision approval for a lot line relocation to remove the encroachment of a driveway and retaining wall as follows: Tax Map 222 Lot 5-1 consisting of 53,970 square feet of lot area, increasing in frontage from 140. feet to 160.17 feet with no change in lot area. Tax Map 222 Lot 5-2, consisting of 37,637 square feet, decreasing in frontage from 120.17 feet to 100 feet, with no change in lot area. Said property is located on Assessor Map 222 Lot 5-1 and Map 222 Lot 5-2 and lies within the Single Residence B (SRB) District.

The Board voted to determine the subdivision application was complete.

Motion: B. Moreau, Second K. Conard. Motion passed with all in favor.

- D. The request of **Bantry Bay Associates LLC (Owner)**, for property located at **0 Shearwater Drive** requesting Preliminary and Final Subdivision approval for the subdivision of the 2.23-acre lot into nine (9) conforming Single-Family lots. Said property is located on Assessor Map 217 Lot 2-1844 and lies within the General residence B (GRB) District.

*No action taken on this item. It will be considered at the **October 26, 2023** meeting.*

SITE PLAN REVIEW

- A. The application of **Banfield Realty, LLC (Owner)**, for property located at **375 Banfield Road** requesting Site Plan review approval to demolish two existing commercial buildings and an existing shed and construct a 75,000 s.f. industrial warehouse building with 75 parking spaces as well as associated paving, stormwater management, lighting, utilities and landscaping.

The Board voted to determine the subdivision and site plan applications were complete.

Motion: B. Moreau, Second K. Conard. Motion passed 7-2 with Harris and Hewitt voting against.

- B. The request of **Bantry Bay Associates LLC (Owner)**, for property located at **0 Shearwater Drive** requesting Site Plan Review approval for the construction of nine (9) single-family dwellings with associated paving, stormwater management, lighting, utilities and landscaping. Said property is located on Assessor Map 217 Lot 2-1844 and lies within the () District.

*No action taken on this item. It will be considered at the **October 26, 2023** meeting.*

III. PUBLIC HEARINGS -- OLD BUSINESS

The Board's action in these matters has been deemed to be quasi-judicial in nature.

If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

The Board voted to hear old Business Items IIIA, B & C together and vote on them separately.

Motion: C. Clark; Second: J. Almeida

- A. The application of **Banfield Realty, LLC (Owner)**, for property located at **375 Banfield Road** requesting Site Plan review approval to demolish two existing commercial buildings and an existing shed and construct a 75,000 s.f. industrial warehouse building with 75 parking spaces as well as associated paving, stormwater management, lighting, utilities and landscaping. Said property is shown on Assessor Map 266 Lot 7 and lies within the Industrial (I) District. (LU-20-259)
- B. The request of **Banfield Realty, LLC (Owner)**, for property located at **375 Banfield Road** requesting to Subdivide one lot into two lots to create the following: Proposed Lot 1 with 6.65 acres of lot area and 354 feet of street frontage and Proposed Lot 2 with 7.96 acres of lot area and 200 feet of street frontage. Said property is shown on Assessor Map 266 Lot 7 and 7-1 and lies within the Industrial (I) District. (LU-23-107)
- C. The application of **Banfield Realty, LLC (Owner)**, for property located at **375 Banfield Road** requesting a Wetland Conditional Use Permit according to Section 10.1017 of the Zoning Ordinance for 7,910 square feet of impact within the 100' wetland buffer for stormwater management in association with the proposed development. Said property is shown on Assessor Map 266 Lot 7 and lies within the Industrial (I) District. (LU-20-259)

*The Board voted to **grant** the requested waivers to the Subdivision Standards from Section IX.1 Improvements and Installation Bonds, and Section IX.2 Maintenance Bonds in accordance with the following:*

- a) *Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations.*

Motion: C. Clark, Second B. Moreau. *The motion passed with all in favor.*

The Board voted to find that the Subdivision (Lot Line Revision) application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as presented.

Motion: C. Clark, Second B. Moreau. *The motion passed 8-1 with member Hewitt voting against.*

*The Board voted to **grant** Preliminary and Final Subdivision Approval with the following **conditions**:*

- 1.1) *The subdivision plan, and any easement plans and deeds shall be recorded simultaneously at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*
- 1.2) *Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.*

1.3) GIS data shall be provided to the Department of Public Works in the form as required by the City.

Motion: *C. Clark, Second B. Moreau. The motion passed 7-2 with members Hewitt and Harris voting against.*

The Board voted to find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and adopt the findings of fact as presented.

Motion: *C. Clark, Second B. Moreau. The motion passed 7-2 with members Hewitt and Harris voting against.*

*The Board voted to **grant** Site Plan Approval with the following **conditions**:*

Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a building permit or the commencement of any site work or construction activity:

- 1.1) The site plan, and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*
- 1.2) The applicant shall agree to pay for the services of an oversight engineer, to be selected by the City, to monitor the construction of improvements within the public rights-of-way and on site.*
- 1.3) Any site development (new or redevelopment) resulting in 15,000 square feet or greater ground disturbance will require the submittal of a Land Use Development Tracking Form through the Pollutant Tracking and Accounting Program (PTAP) online portal. For more information visit <https://www.cityofportsmouth.com/publicworks/stormwater/ptap>*
- 1.4) DPW will review and approve the locations of domestic and fire service lines entering all buildings.*
- 1.5) DPW shall review and approve the sewer connection.*
- 1.6) A peer review of the traffic analysis will be provided and subject to acceptance by City staff.*

Prior to the issuance of a Certificate of Occupancy or release of the bond:

- 1.7) The Engineer of Record shall submit a written report (with photographs and engineer stamp) certifying that the stormwater infrastructure was constructed to the approved plans and specifications and will meet the design performance.*
- 1.8) Subject to written assurance and any required surety for performance provided to the Planning Board, the applicant shall conduct work in accordance with all requirements of the NHDES letter dated April 26, 2023, which includes investigation work in the proposed upland development areas, approval of an Activities and Use limitation and the completion of a remedial action implementation plan for the upland development area. In addition, as presented by the applicant, they shall continue their investigation of the lowland area,*

including full characterization of any reportable site contaminants in compliance with any and all remedial action plans or other permits from NHDES or the EPA.

- 1.9) *The applicant shall meet with DPW and discuss the topic of signage and install any on-site signage DPW recommends related to truck traffic on Banfield Road.*

Motion: *C. Clark, Second B. Moreau. The motion passed 8-1 with member Hewitt voting against.*

Wetland Conditional Use Permit

- 1) *The Board voted to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017 and to adopt the findings of fact as presented.*

Motion: *C. Clark, Second B. Moreau. The motion passed 8-1 with member Hewitt voting against.*

- 2) *The Board voted to **grant** the Wetland Conditional Use permit with the following **condition**:*

1.1) Any areas left to naturally revegetate shall be loamed and seeded with a wildflower mix and monitored for invasive species, and their removal shall be done according to Article 10 Section 10.1018.23 of the zoning ordinance.

Motion: *C. Clark, Second B. Moreau. The motion passed 8-1 with member Hewitt voting against.*

IV. PUBLIC HEARINGS – NEW BUSINESS

*The Board's action in these matters has been deemed to be quasi-judicial in nature.
If any person believes any member of the Board has a conflict of interest,
that issue should be raised at this point or it will be deemed waived.*

- A.** The request of **Jeffrey M. and Melissa Foy (Owners)**, for property located at **67 Ridges Court** requesting a Wetland Conditional Use Permit from Section 10.1017 of the Zoning Ordinance for the construction of a new addition, a re-configuration of the existing driveway utilizing pervious pavers, installation of three rain gardens, and construction of stone steps. The project proposes a decrease of 479 sf of impervious surface and is proposing 2,010 sf of permanent impacts and 1,056 sf of temporary impacts. The impacts would be offset by the various buffer plantings to be planted within the 25' vegetated buffer as well as the installation of rain gardens

to help control and filter storm-water runoff from the property. Said property is located on Assessor Map 207 Lot 59 and lies within the Single Residence B (SRB) District. (LU-22-199)

Wetland Conditional Use Permit

1) *The Board voted to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017.60 and to adopt the findings of fact as presented.*

Motion: *B. Moreau, Second: C. Clark. Motion passed with all in favor.*

2) *The Board voted to **grant** the Wetland Conditional Use permit with the following **conditions**:*

2.1) In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install at least 3 permanent wetland boundary markers during project construction in the locations discussed with the Conservation Commission. These can be purchased through the City of Portsmouth Planning and Sustainability Department.

2.2) Applicant shall provide a report on the success of the rain garden plantings one year after planting has occurred to the City of Portsmouth Planning & Sustainability Department. If they have not achieved at least an 80% success rate then the applicant will replant.

2.3) The applicant and property owners shall follow NOFA standards for organic land care for lawn maintenance. Please visit <https://nofa.organiclandcare.net/homeowner-resources/> for details.

Motion: *B. Moreau, Second: C. Clark. Motion passed with all in favor.*

- B.** The request of **Caleb E. and Samantha L. Ginsberg (Owners)**, and **Peter and Donna Splaine (Owners)**, for property located at **303 Bartlett Street** and **295/299 Bartlett Street** requesting Preliminary and Final Subdivision approval for a lot line relocation between Tax Map 162 Lot 13 and Lot 14 where a separate parcel was discovered between the two lots and is proposed to be divided between Lot 13 and 14 as follows: Lot 13 increasing in size from 4,906 square feet and 36 feet of frontage to 6,665 square feet and 37 feet of frontage. Lot 14 increasing in size from 4,802 square feet and 192 feet of frontage to 8,640 square feet and 217 feet of frontage. Said property is located on Assessor Map 162 Lot 13 & 14 and lies within the General Residence A (GRA) District. (LU-23-120)

Subdivision Waiver

1) *The Board voted to **grant** the requested waivers to the Subdivision Standards from Section VI.5 Driveways, VI.6 Drainage Improvements, Section VI.7 Municipal water service, Section VI.8 Municipal sewer service, Section VI.9 Installation of utilities, Section VI.14 Erosion and Sedimentation Control, Section IX.1 Improvements and Installation Bonds, and Section IX.2 Maintenance Bonds.*

Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

Motion: *C. Clark, Second: B. Moreau. Motion passed with all in favor.*

Subdivision

1) *The Board voted to find that the Subdivision (Lot Line Revision) application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as presented.*

Motion: *C. Clark, Second: B. Moreau. Motion passed with all in favor.*

2) *The Board voted to **grant** Preliminary and Final Subdivision Approval with the following conditions:*

2.1) The subdivision plan, and any easement plans and deeds shall be recorded simultaneously at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

2.2) Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.

2.3) GIS data shall be provided to the Department of Public Works in the form as required by the City.

Motion: *C. Clark, Second: B. Moreau. Motion passed with all in favor.*

- C.** The request of **Coventry Realty LLC (Owner)**, for property located at **111 State Street** requesting a parking Conditional Use Permit under Section 10.1112.14 to allow zero (0) parking spaces where 48 are required. Said property is located on Assessor Map 107 Lot 50 and lies within the Character District 4 (CD4) and Historic Districts. (LU-22-125)

Conditional Use Permit

1) *The Board voted to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1112.14 and to adopt the findings of fact as presented.*

Motion: *C. Clark, Second: J. Almeida. Motion passed with all in favor.*

2) *The Board voted to **grant** the conditional use permit as presented.*

Motion: *C. Clark, Second: J. Almeida. Motion passed 6-2-1 with members Hewitt and Harris voting against and Member Begala abstaining.*

- D.** The request of **Marcella F. Hoekstra (Owner)**, for property located at **35 Whipple Court** requesting a Conditional Use Permit Approval as permitted under Section 10.814 to allow a Detached Accessory Dwelling Unit. Said property is located on Assessor Map 260 Lot 98 and lies within the Single Residence B (SRB) District. (LU-23-147)

Conditional Use Permit

1) *The Board voted to find that the Conditional Use Permit application meets the criteria set forth in Section 10.814.62 and to adopt the findings of fact as presented.*

Motion: *B. Moreau, Second: J. Almeida. Motion passed with all in favor.*

- 2) *The Board voted to **grant** the Conditional Use Permit with a modification to the requirement set forth in Section 10.814.26 to not require an additional parking space for the DADU and to approve the Conditional Use Permit with the following **condition**:*

2.1) In accordance with [Sec. 10.814.70] of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of [Sec. 10.814], including the owner-occupancy requirement, and shall renew the certificate of use annually.

Motion: B. Moreau, Second: J. Almeida. Motion passed with all in favor.

E. The request of **Richard and Jessica Hayes (Owners)**, and **William and Katja Becker (Owners)**, for property located at **40 Walker Bungalow Road** and **26 Walker Bungalow Road** requesting Preliminary and Final Subdivision approval for a lot line relocation to remove the encroachment of a driveway and retaining wall as follows: Tax Map 222 Lot 5-1 consisting of 53,970 square feet of lot area, increasing in frontage from 140. feet to 160.17 feet with no change in lot area. Tax Map 222 Lot 5-2, consisting of 37,637 square feet, decreasing in frontage from 120.17 feet to 100 feet, with no change in lot area. Said property is located on Assessor Map 222 Lot 5-1 and Map 222 Lot 5-2 and lies within the Single Residence B (SRB) District. (LU-23-137)

Subdivision Waiver

- 1) *The Board voted to grant the requested waivers to the Subdivision Standards from Section VI.3 Streets, Section VI.4 Curbing, VI.5 Driveways, VI.6 Drainage Improvements, Section VI.7 Municipal water service, Section VI.8 Municipal sewer service, Section VI.9 Installation of utilities, Section VI.14 Erosion and Sedimentation Control, Section IX.1 Improvements and Installation Bonds, and Section IX.2 Maintenance Bonds.*

Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

Motion: C. Clark, Second: B. Moreau. Motion passed with all in favor.

Subdivision

- 1) *The Board voted to find that the Subdivision (Lot Line Revision) application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as presented.*

Motion: C. Clark, Second: B. Moreau. Motion passed with all in favor.

- 3) *The Board voted to **grant** Preliminary and Final Subdivision Approval with the following **conditions**:*

2.1) The subdivision plan, and any easement plans and deeds shall be recorded simultaneously at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

2.2) *Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.*

2.3) *GIS data shall be provided to the Department of Public Works in the form as required by the City.*

Motion: *C. Clark, Second: B. Moreau. Motion passed with all in favor.*

THE FOLLOWING ITEMS WILL BE HEARD ON THURSDAY, OCTOBER 26, 2023

- F.** The request of **Eric and Amanda Beidleman, (Owners)**, for property located at **810 McGee Drive** requesting a Wetland Conditional Use Permit from Section 10.1017 for the removal of an existing 508 s.f. rear deck within the 100-ft wetland buffer and the associated framing and stairs. The applicant is proposing to replace the rear deck with a smaller deck of approx. 319 s.f. with a 60 s.f. landing. Said property is located on Assessor Map 219 Lot 45-5 and lies within the Single Residence B (SRB) District. (LU-23-143)
- G.** The request of **Bantry Bay Associates LLC (Owner)**, for property located at **0 Shearwater Drive** requesting Site Plan Review approval for the construction of nine (9) single-family dwellings with associated paving, stormwater management, lighting, utilities and landscaping. Said property is located on Assessor Map 217 Lot 2-1844 and lies within the General Residence B (GRB) District. (LU-23-138)
- H.** The request of **Bantry Bay Associates LLC (Owner)**, for property located at **0 Shearwater Drive** requesting Preliminary and Final Subdivision approval for the subdivision of the 2.23-acre lot into nine (9) conforming Single-Family lots. Said property is located on Assessor Map 217 Lot 2-1844 and lies within the General residence B (GRB) District. (LU-23-138)
- I. REQUEST TO POSTPONE** The request of **Lonza Biologics (Owner)**, for property located at **101 International Drive** requesting Amended Site Plan approval for Phase 2 which includes fit-up of Building #1 and the utility building, construction of a temporary surface parking lot and gravel area for construction trailers, parking and laydown area in the location of Proposed Building #2. Said property is located on Assessor Map 305 Lot 6 and lies within the Airport Business Commercial (ABC) District. **REQUEST TO POSTPONE** (LU-23-108)

*The Board voted to grant the request to **postpone** to the November meeting.*

Motion: *B. Moreau, Second: J. Almeida. Motion passed with all in favor.*

- J.** The request of **Richard P. Fusegni (Owner)**, for property located at **201 Kearsarge Way** requesting Amended Subdivision approval for revisions to the grading and drainage design. Said property is located on Assessor Map 218 Lot 5 and lies within the Single Residence B (SRB) District. (LU-23-161)
- K.** The request of **Daniel Sigalovsky and Sarah Cook (Owners)**, for property located at **390 F.W. Hartford Drive** requesting a Wetland Conditional Use Permit from Section 10.1017 for the removal of an existing 16' x 24' rear deck within the 100-ft wetland buffer and the replacement of the deck with a 14' x 16' permeable paver patio. The project will include enhanced stormwater management including a gravel infiltration area, installation of a rain

garden, native plantings, and the installation of a permeable patio in place of the existing deck. Said property is located on Assessor Map 249 Lot 25 and lies within the Single Residence B (SRB) District. (LU-23-140)

*The Board voted to **postpone** the above items (IV.) F. through K. to the **October 26, 2023** meeting.*

V. CITY COUNCIL REFERRALS

A. Right of Way Easement on Gray's Lane

The Board voted to recommend that the City Council authorize the City Manager to accept a right of way easement over land at 219 Sagamore Avenue from Thomas and Deidre Hammar (Tax Map 221 Lot 19).

***Motion:** B. Moreau, Second: C. Clark. Motion passed with all in favor.*

VI. OTHER BUSINESS

A. Chairman updates and discussion items

B. Planning Board Rules and Procedures

C. Board discussion of Regulatory Amendments, Master Plan Scope & other matters

There was no other business.

VII. ADJOURNMENT

The meeting adjourned at 10:35 p.m.