

APPROVED APPROVED

Planning Board Meeting
Town Hall
Wednesday, January 25, 2017
7:00 p.m.

**Voluntary merger of contiguous lots for applicant Edmund C. Tarbell, 148-152
Portsmouth Avenue, Map 16, Lots 8 and 9.**

**Work session for a Conditional Use Permit for applicants Benjamin and Jane Lannon, 55
Locke Road, Map 11, Lot 6 for site improvements within the 100' tidal wetland buffer.**

**Continued Public Hearing for final Site Review for applicant Doug and Dan, LLC, 3
Walbach Street, Map 18, Lot 56 to reconfigure the existing structure to a 5 unit Bed and
Breakfast Inn.**

**Review and vote on proposed changes to the Zoning Ordinance sections 9.3.4 and 9.3.7.
regarding the Historic District.**

**Continue discussion on incorporating the new RSA on Accessory Dwelling Units (ADUs)
into our Zoning Ordinance.**

Members Present: Darcy Horgan, Tom Hammer, Kate Murray, Bill Stewart, Margaret Sofio,
Rich Landry, Geof Potter

Others Present: Steve Riker, Jane Lannon, Doug Palardy, Ann McAndrew

Members Absent: none

Chair Horgan opened the meeting at 7:00 p.m. and noted the voting members: Darcy Horgan,
Tom Hammer, Kate Murray, Bill Stewart, Margaret Sofio.

1. Voluntary merger of contiguous lots for applicant Edmund C. Tarbell, 148-152 Portsmouth Avenue, Map 16, Lots 8 and 9.

Mr. Steve Riker, Ambit Engineering, Inc., representing applicant Edmund C. Tarbell, who owns
the subject lots, referred to a plan of the lots prepared in 1996 by Richard Millette and
Associates, and indicated that, by state statute, there is no requirement for a public hearing for a
voluntary lot merger.

Chair Horgan affirmed that no public hearing is required -- per RSA (NH RSA) 674:39-a and NH
RSA 674:39-aa, which she distributed-- but indicated that public comment, if forthcoming, would
be heard. Further, she noted that at her request, Secretary to the Select Board, Pam Cullen,
reviewed the deeds and verified that the properties are owned by Edmund C. Tarbell II.

1 Chair Horgan solicited input and Mr. Hammer commented that he believes the lot merger is an
2 initial step toward subdividing the lot. Chair Horgan indicated that subdivision approval would
3 require a separate application and approval process before the Planning Board.
4

5 Mr. Stewart, asked, and Chair Horgan confirmed, that, once merged, the lot will satisfy the NH
6 RSA 674:39-a.III requirement that merged lots not create a violation of the town's ordinances.
7

8 *Ms. Sofio MOVED to approve the voluntary merger of two parcels on Map 16, Lots 8 and 9,*
9 *otherwise known as 148-152 Portsmouth Avenue, for the applicant Edmund C. Tarbell. Ms.*
10 *Murray SECONDED the motion. Motion CARRIED, unanimously.*
11

12 **2. Work session for a Conditional Use Permit for applicants Benjamin and Jane**
13 **Lannon, 55 Locke Road, Map 11, Lot 6 for site improvements within the 100' tidal**
14 **wetland buffer.**
15

16 Mr. Riker, as representative for applicants Benjamin and Jane Lannon, referred to packets
17 created for the the purpose of the work session with notations denoting the 50' and 100' tidal
18 wetlands buffer. The proposed work includes additions of a porch, retaining wall and stairs to
19 address the steep grade to the water, and buffer planting areas, and removal of two walkways,
20 a paver patio, and a set of stone stairs. The New Castle Conservation Commission (NHCC)
21 advised that the stone stairs remain, that their removal might cause more harm.

22 The plan has been submitted to New Hampshire Department of Environmental Services (NH
23 DES) to secure both a Shoreland Permit, which was granted, and a Wetland Permit, which is
24 pending.
25

26 Additionally, outside of the 100' buffer, they proposed to widen the driveway, including removing
27 some ledge and utilizing grass pavers which are permeable but don't rut from vehicular traffic.
28

29 No tree removal is planned.
30

31 There was an effort to balance the existing and proposed impervious areas, with the greatest
32 reduction coming from removing decks and stairs. A chart on Plan C1 shows the calculations for
33 impervious surface area additions and subtractions.
34

35 Retaining Wall: there will be a two and one half foot reveal, above ground. There is drainage at
36 the base of the wall, with no expected impact to neighboring yards.
37

38 Ms. Lannon added that their hope is to improve runoff by shoring up the water's edge of the
39 property, while also creating some level yard space. Mr. Landry agreed that by terracing the
40 steepest area, sheet flow will be reduced. Appropriate plantings will be recommended by a
41 master gardener.
42

43 Addition: The proposed porch addition is an expansion of the footprint. Additionally, plans reflect
44 adding a new second floor over existing first floor. Roof runoff is currently being managed by
45 gutters and downspouts. Ms. Lannon explaining that the second story addition has been cut
46 from the project scope, but believes that there would be little difference because the existing
47 roof is a steep, two-story roof.
48

49 Chair Horgan read the NCCC recommendation advising that the existing granite steps on the
50 northwestern side of the property remain to help keep the shoreline intact. The NCCC further

1 appreciated that the applicant did not increase the existing impervious surface area. Chair
2 Horgan asked that the Board provide direction to the applicant about the subject granite steps.
3 Mr. Stewart suggested that their removal would at least create a temporary impact. Ms. Lannon
4 responded with a preference to leave the steps but for the resulting imbalance in impervious
5 surface, which may jeopardize approval with the state. Because the plan calls for stormwater
6 treatment in the form of buffer plantings, Mr. Stewart did not think approval would be affected.
7 Mr. Riker noted that NH DES is rewriting some rules to streamline tidal wetlands and shoreline
8 structures rules. Should the rules change limit shoreline structures to one per property, the
9 subject property might be interpreted to have two.

10
11 Chair Horgan explained that should the Board choose to require that the existing granite steps
12 remain, they must, in their decision, note it as a condition of the approval because the plan set
13 calls for their removal.

14
15 There being no further discussion, Chair Hogan closed the work session at 7:29 p.m. and
16 indicated that the application will be placed on the agenda for the February meeting.

17
18 **3. Continued Public Hearing for final Site Review for applicant Doug and Dan,**
19 **LLC, 3 Walbach Street, Map 18, Lot 56 to reconfigure the existing structure to a 5**
20 **unit Bed and Breakfast Inn.**

21
22 Mr. Palardy, member of Doug and Dan, LLC, owner and applicant for the final Site Review,
23 presented resolutions to open elements of the Site Review.

- 24 A. ADA parking: The area adjacent to the ADA parking space (crosshatched on plan) as
25 well as the apron in front will be solid surface with a painted crosshatch. A sign will
26 designate the space. The apron was extended so a wheelchair can travel from the street
27 over solid surface to the ADA space, ramp, and front door.
- 28
29 B. Headlight screening: Mr. Palardy spoke with Leonard Seagren, owner of the
30 neighboring property at 19 Walbach Street, whose home would be singularly affected by
31 car headlight beams across Piscataqua Street from parking spaces #7-#8. Mr. Seagren
32 indicated to Mr. Palardy that he does not have first floor windows facing Piscataqua
33 Street and consequently is not concerned with the light. He would be willing to write a
34 letter in support of the proposed buffer width and plantings shown in the plan set.

35
36 Mr. Palardy further indicated that while he was not opposed to the Planning Board's
37 suggestion to reduce the patio area in return for an increased Piscataqua Street buffer
38 area, because the lot narrows, a shift in the parking area toward Main Street would
39 infringe on the width needed for the ADA space.

- 40
41 C. Photometrics: Illustrated on Plan LP1, Mr. Palardy described the negligible effect of
42 lighting on the neighbors. The plans indicate a small light spread from the Bollard lights
43 mounted at four feet to the Biddle property, located at 7 Piscataqua Street, adjacent to
44 the proposed parking area, however the proposed plantings (three foot arborvitae)
45 should eliminate the impact on that property.

46
47 Members observed that the illumination is minimal. Ms. Murray, noting the low height of
48 the Bollard light mounts, asked, and Mr. Palardy responded, that six taller light fixtures
49 are proposed: two, historical, gas light fixtures located on the Main Street side of the
50 property for which photometrics are unavailable; two historical wall mounted fixtures

1 located at the entrance on the Walbach Street side for which photometrics are not
2 shown because they replace existing lamps; and two fixtures mounted at eight feet along
3 the exterior wall adjacent to the patio area for which photometrics are shown.
4

- 5 D. Inspection & Maintenance Plan: Mr. Palardy described that the Inspection &
6 Maintenance Plan provided to the Board covers an inspection time table, maintenance
7 requirements, and data sheets for record keeping, for the property's landscaping and the
8 parking surface. This will be available for recording or monitoring as the Board requests.
9

10 Chair Horgan asked, and Mr. Palardy agreed, to amend the Stormwater Management
11 System grid within the Inspection & Maintenance Plan to change the instructions in the
12 top row, leftmost cell which currently states "repair or re-seed and re-mulch as required;
13 replant dead or dying shrubs and trees" to add "with like kind and size" in order to allay
14 previously expressed abutters' concerns. Chair Horgan noted that the applicant must re-
15 submit the amended page or whole new copy to be date-stamped for the file.
16

17 Further Chair Horgan indicated that she will request that the Inspection & Maintenance
18 plan be filed and recorded as part of the approval, in order that it convey with the
19 property.
20

21 Pertaining to the maintenance of buffer plantings, Mr. Stewart asked the applicant to be
22 aware of sight line concerns to ensure visibility for emergency vehicles.
23

- 24 E. NH DES approval: Mr. Palardy transmitted a copy of the NH DES approval, dated
25 January 19, 2017, to Chair Horgan for the file.
26

- 27 F. Sign: Mr. Palardy circulated a rendering of the proposed sign which will be 18 by 24
28 inches. Chair Horgan retained a copy for the main file. The only signage illumination will
29 be from the gas light on which it will be hung. Mr. Stewart read the Signs Section, 6.7,
30 from the Town of New Castle Zoning Ordinance and confirmed that the proposed sign
31 met the requirements.
32

- 33 G. Piscataqua Street plantings: Chair Horgan asked whether the applicant had reviewed
34 the Board's request to consider increased plant height along the Piscataqua Street
35 boundary. Mr. Palardy, upon the advice of his landscape designer that smaller plants
36 root better and grow faster, preferred not to change the plant heights. Members acceded.
37

- 38 H. Runoff and drainage: Chair Horgan asked whether there were any remaining concerns
39 about runoff and drainage. No concerns were raised.
40

- 41 I. Solid waste disposal facilities: Chair Horgan asked whether there were any remaining
42 concerns about solid waste disposal. No concerns were raised.
43

- 44 J. Snow storage: Mr. Palardy indicated that snow storage is shown on Plan C2 in parking
45 spaces #4 and #5. If the snow storage requirement exceeds available space, the plan
46 indicates it will be removed off site.
47

48 Chair Horgan reminded the Board that any approval would necessarily include two waivers:
49

- 50 1) to waive Site Plan Review Section 8.6.3, "Buffer: Buffer strips at least (20) feet in width shall
51

1 be used for screening purposes in the following situations...”

2
3 Ms. Sofio, providing rationale for the waiver, explained that the 20 foot buffer isn't possible given
4 the existing building, existing lot, and permitted use.

5
6 2) to waive Site Plan Review Section 8.2.3, “Parking areas shall be paved if public use is
7 intended; however, the Board may waive paving in an effort to reduce surface runoff...”

8
9 Ms. Sofio summarized that the rationale for this waiver is the Board's intent to reduce surface
10 runoff and enhance the appearance of the parking area.

11
12 After completing discussion of outstanding issues, Mr. Palardy proceeded to describe a
13 proposed design plan revision. Instead of a five-unit inn, including a two room suite on the third
14 floor, the applicant, due to financial considerations, proposed a six-unit inn, that converts the
15 planned two room suite to two separate units on the third floor. The new configuration doesn't
16 exceed the 15 person occupancy limit. Mr. Palardy sought and received a Building Permit for a
17 six unit bed & breakfast.

18
19 Updated sprinkler plan: Mr. Palardy circulated the updated sprinkler system design, with a 400
20 gallon tank to be installed in the basement for fire suppression, noting that it improved upon the
21 previous plan and received approval from the Building Inspector. Mr. Palardy reported that the
22 New Castle Zoning Board of Adjustment's (NC ZBA) position was that if the design met the
23 building code as evidenced by the Building Permit, no further appearance before the NC ZBA
24 would be necessary.

25
26 Having received the Building Permit, Mr. Palardy sought to finalize the design change to a six
27 unit inn by revising his application to the Planning Board and re-addressing the parking
28 requirement.

29
30 Chair Horgan described the regulations in the Town of New Castle Zoning Ordinance: hotels
31 require three parking spaces for every two units which would translate to nine spaces for a six-
32 unit hotel, and would require an appeal to NC ZBA for only eight spaces. However, according to
33 Building Inspector, Don Graves, with whom Chair Horgan conferred, because the subject is an
34 inn (rather than a hotel) for which no town Zoning Ordinance exists, the NC ZBA would have no
35 basis on which to rule and therefore would not hear the case, but rather would refer it to the
36 Planning Board. The outcome would be that the Planning Board, applying the criteria of
37 reasonableness, would have the final say pertinent to parking spaces.

38
39 At a later date, Chair Horgan suggested that the Board may want to look at adding inns to the
40 town ordinance.

41
42 Chair Horgan expressed her opinion that eight parking spaces will accommodate six guest
43 vehicles at full occupancy, as well a space for staff. In response to Ms. Murray's recollection that
44 the expectation was for two staff, Mr. Palardy indicated that logistically any overlap of the
45 housekeeping staff and the host staff would be minimal.

46
47 Chair Horgan asked whether the Board was content to move forward with their authority to act
48 on the parking question to which no objection was heard.

49
50 At 8:16 p.m. Chair Horgan opened the Public Hearing and recognized Ann McAndrew, 27

1 Steamboat Lane. Ms. McAndrew asked whether Planning Board approval was possible given
2 pending design approval by the New Castle Historic District Commission (HDC). Chair Horgan
3 answered that the pending business is not within the jurisdiction of the Planning Board, but that
4 approval, if granted, would likely include the provision for HDC approval.

5
6 Ms. McAndrew questioned the plan for (eventually) tall plants along Piscataqua Street, where
7 none had been historically, and where lack of visibility is hazardous. Mr. Stewart responded that
8 the intent was to create a level of privacy and light screening, noting that the plant height was
9 lower on the Piscataqua Street side. Because Piscataqua Street is one way, the concern is for
10 the pedestrians encountering cars that are turning left onto Piscataqua Street from Walbach
11 Street. Mr. Stewart indicated that the plants will need to be trimmed so that they don't encroach
12 into the street and threaten public safety.

13
14 Ms. McAndrews characterized the building project as "unconscionable", marking the "end of an
15 era."

16
17 Hearing no further comments, Chair Horgan closed the Public Hearing at 8:24 p.m.

18
19 *Ms. Sofio made a MOTION for final approval of the Site Review Application for applicant Doug
20 and Dan, LLC, 3 Walbach Street, Map 18, lot 56, to reconfigure the existing structure to a 6
21 bedroom inn.*

22
23 *This motion includes approval to waive the Site Plan Review Section 8.6.3, "Buffer: Buffer strips
24 at least (20) feet in width shall be used for screening purposes in the following situations..."*

25
26 *It also includes the approval to waive Site Plan Review Section 8.2.3, "Parking areas shall be
27 paved if public use is intended; however, the Board may waive paving in an effort to reduce
28 surface runoff.."*

29
30 *Approval is conditioned by the following:*

- 31 • *Adherence to the stipulations in the Historic District Commission (HDC) approval given*
32 *on January 5, 2017 and subject to final HDC stipulations and approvals.*
- 33 • *The following notes shall be added to the plan prior to recording:*
- 34 • *The owner must maintain the property as outlined in the Inspection and Maintenance*
35 *Plan as submitted to the Planning Board on January 17, 2017. Further, the owner is*
36 *required to maintain the Inspection and Maintenance Log and file this completed log*
37 *annually with the New Castle Code Enforcement Officer. A copy of the Inspection and*
38 *Maintenance Plan shall be recorded with the Rockingham County Registry of Deeds.*
- 39 • *The Notice of Decision of this approval must be filed with the Rockingham County*
40 *Registry of Deeds.*

41
42 *Mr. Hammer SECONDED the motion. The motion was APPROVED unanimously.*

43
44 **4. Review and vote on proposed changes to the Zoning Ordinance sections 9.3.4**
45 **and 9.3.7. regarding the Historic District.**

1
2 Chair Horgan asked members to review the proposed ordinance changes originated by the
3 HDC to better reflect HDC practices. If the Planning Board votes in favor of the changes, they
4 will progress to a Public Hearing and eventually to the ballot in May. Preferably, these changes
5 can combine with the ADU ordinance Public Hearing.

6
7 *Chair Horgan MOVED to accept the proposed ordinance changes for the Historic District*
8 *Commission section of the Zoning Ordinance as outlined on the document received by the town*
9 *hall, dated January 25, 2017.*

10
11 *Ms. Murray SECONDED, and the motion CARRIED unanimously.*

12
13 **5. Continue discussion on incorporating the new RSA on Accessory Dwelling**
14 **Units into our Zoning Ordinance.**

15
16 Mr. Potter led the Board through a draft ordinance compiled from previous Board input, now
17 formatted to resemble an ADU section of the Zoning Ordinance, soliciting the Board's review
18 and revisions. Those sections shown as underlined reflect areas thought to be still undecided or
19 reflective of input that Chair Horgan received from the Building Inspector.

20
21 6.6.5 (b) Pertaining to rewording suggest by the Building Inspector, "the ADU shall have an
22 independent means of accessible access", the term "accessible access" originated from the
23 building code. Mr. Landry believes that the term aims to distinguish its meaning from ADA-
24 related accessibility. The inclusion of the adjective, "accessible" may be confusing. The Board
25 suggested deleting "accessible". The regulations regarding access are under the purview of the
26 building code and a building permit is conditioned on compliance. Chair Horgan will re-confer
27 with the Building Inspector about the language.

28
29 In response to discussion pertaining to a change proposed by the Building Inspector to state,
30 "vertical and horizontal separations shall be prescribed by Article R302.3 in the 2009 IRC, or as
31 amended", Chair Horgan suggested getting an opinion from the town's attorney.

32
33 6.6.5 (c) Pertaining to a parking requirement, the Building Inspector proposed "a minimum of
34 two additional parking spaces shall be provided for the ADU," with the rationale that it protects
35 against overloading parcels and encroachment on neighbors. This requirement is consistent
36 with the current two space per dwelling unit regulation. Ms. Murray asked, and Mr. Potter
37 affirmed, that there is always the option for a variance. Mr. Landry questioned whether an
38 exception from the two parking space requirement might be more appropriately decided by the
39 Planning Board rather than the NC ZBA, and if so, if the ordinance could be so written.
40 Members indicated their overall preference for the Planning Board to control the parking
41 requirement exceptions, but raised some concern that exempting applicants from the
42 requirement may set a precedent as well as enable future Planning Boards to exercise a
43 different standard.

44
45 Mr. Stewart suggested that the Board leave the language as proposed (with ZBA control of
46 parking exceptions) for the first year in order to gain some experience with the quantity and type
47 of applications that are filed. Chair Horgan also added that parking may be a hot button in the
48 Public Hearing phase. Mr. Hammer reflected that the parking hurdle is not consistent with the
49 intent of the ordinance, for family flexibility and affordable housing supply. Chair Horgan noted
50 the concern that exemptions would run with the land.

1
2 After confirming the Board's preference that the standard should be a two-space minimum, at
3 least for the purpose of soliciting public input, Chair Horgan indicated that she will seek an
4 opinion from the town's attorney about the process for exceptions.

5
6 6.6.5 (e) Pertaining to the requirement for owner occupancy, Chair Horgan proposed that the
7 ADU section of the Zoning Ordinance be recorded with the deed in order to better track the
8 allowable use. Mr. Stewart wondered how the effect of recording the ordinance differs from the
9 ADU Building Permit in the file. A Building Permit application creates a record on the tax card
10 which carries forward in the event of a sale. A new owner may apply to change the designation
11 from a primary dwelling with ADU to a two-family dwelling unit. Some differences exist between
12 a primary dwelling plus ADU and a two-family dwelling: ADUs require owner occupancy and are
13 permitted to be detached. Two-family dwellings must be attached.

14
15 The issue of enforcement remains. Members agreed to preserve the owner occupancy
16 requirement and language as proposed.

17
18 6.6.5 (g) Pertaining to ADU size requirements, the Building Inspector suggested that the area
19 not exceed 750 square feet and suggested that the language be limited to " an ADU may not
20 contain less than 300 square feet nor more than 750 square feet of living space", but remove
21 the provision that it can be up to one-third of the area of the combined principal dwelling plus
22 ADU to protect against too large ADU's that are even larger than some of the town's houses.
23 750 square feet would accommodate an ADU built over a typical, two-car garage.

24
25 6.6.5 (h) Pertaining to detached ADUs, the Building Inspector suggested that the proposed
26 requirement for a 20% larger lot is too restrictive. Meeting setback requirements should suffice.
27 Members agreed and, because there would be no further need to distinguish a detached ADU,
28 proposed to remove the entire section 6.6.5 (h).

29
30 6.6.5 (k) Chair Horgan questioned the inclusion of the description "approximately to scale" noted
31 parenthetically to describe a requirement for submitted drawings. Members agreed and
32 proposed to delete the word "approximately".

33
34 6.6.6 The Building Inspector proposed simplifying the requirements for reinspection, limiting
35 them to permit-required property improvements. Mr. Stewart noted that the main difference
36 requested by the Building Inspector is the elimination of re-inspection at transfer of ownership.
37 The rationale, Chair Horgan explained, is that it should be consistent with the regulations for
38 other single family dwellings that don't trigger a re-inspection. The origin of the ownership
39 transfer re-inspection requirement is the existing New Castle Zoning Ordinance. Members were
40 unclear about the need for the owner transfer requirement but acknowledged the need for a
41 separate ADU occupancy permit requirement. Mr. Landry suggested that the section be
42 simplified to state only "Prior to occupancy of the ADU, the homeowner shall obtain an
43 occupancy permit from the Building Inspector."

44 Chair Horgan will propose this change to the Building Inspector.

45
46 Chair Horgan concluded the ADU discussion by proposing a plan to address the outstanding
47 issues and revise the proposed ordinance accordingly. Once complete, that document will be
48 distributed by email. Chair Horgan cautioned members not to reply to others in the group, but
49 only directly to her. The next step is to send it to the attorney ahead of a Public Hearing, ideally
50 in February. She will determine whether the proposed language requires the Board's approval

1 before being posted for the Public Hearing.
2

3 **6. Review and approve minutes to the meeting on Wednesday, December 12, 2016.**
4

5 *Ms. Sofio MOVED to approve the minutes of the meeting on Monday, December 12, 2016 as*
6 *presented. Chair Horgan SECONDED. Motion CARRIED, unanimously.*
7

8 **6. Review and approve minutes to the meeting on Wednesday, December 21,**
9 **2016.**

10
11 *Ms. Sofio MOVED to approve the minutes of the meeting on Wednesday, December 21, 2016*
12 *as presented. Mr. Hammer SECONDED. Motion CARRIED, unanimously.*
13

14
15 **7. Old Business**
16

17 No old business was proffered.
18

19 **8. New Business**
20

21 Chair Horgan noted that five members are available for the next scheduled meeting, on
22 February 22.
23

24 **9. Adjourn**
25

26 There being no further business,
27

28 *Ms. Sofio MOVED to adjourn. Mr. Stewart SECONDED. Motion CARRIED, unanimously.*
29

30 The meeting adjourned at 10:03 p.m.
31

32 Respectfully submitted by,
33

34 Anne Miller, Secretary to the New Castle Planning Board
35
36
37