



Stratham Planning Board Meeting Minutes

April 16, 2025

Stratham Municipal Center

Time: 7:00 pm

Members Present: Thomas House, Chair
David Canada, Vice Chair
Chris Zaremba, Regular Member
John Kunowski, Regular Member
Nate Allison, Alternate Member

Members Absent: Mike Houghton, Select Board's Representative

Staff Present: Susan Connors, Planning Project Assistant

1. Call to Order

Mr. House called the meeting to order at 7:00 pm and took roll call.

2. Approval of Minutes

a. April 2, 2025

Mr. Zaremba remembers the conversation in lines 109-110 differently than presented. Ms. Connors will review the recording and suggested tabling the minutes. Mr. House agreed to table the acceptance of the minutes.

3. Public Hearing:

- a. 41 Portsmouth Avenue LLC (Applicant) and 41 Portsmouth Avenue Realty LLC (Owner) request for a Preliminary Consultation Site Plan Review for a new 30,000 square foot auto dealership at 41 Portsmouth Avenue, Tax Map 9, Lot 4 in the Gateway Commercial Business and Residential/Agricultural Districts.

Ms. Connors described the staff memo from Carol Ogilvie, the Interim Town Planner, as including comments on the project's compliance with the ordinance and site plan review regulations. She explained that two waivers are requested for submission items meaning that the applicant requested to not submit certain items (GIS digital files and a photometric plan). Staff are okay with not having the digital files at this time for this project, but the waiver request for the photometric plan states that they will ensure the project will be dark sky compliant and staff do not understand how they can assure that without the plan. The Board must vote on those two waivers before voting to accept the application as complete because without those items, the application is not complete. If the Board does not grant the waivers, then the applicant will have to return to a later meeting with the information. Ms. Connors stated that comments from the police and fire chiefs are in the packet and include concerns with traffic and a lack of a fire cistern on the submitted site plan. There was a board discussion on the digital file submission.

45
46 **Mr. Zaremba made a motion to grant the waiver from Section 2.G of the site plan**
47 **regulations, Addendum B, provided that the required digital plans are provided with final**
48 **application submissions and prior to Planning Board signing of the plan. Mr. Kunowski**
49 **seconded the motion. All voted in favor and the motion passed.**
50

51 Regarding the photometric plan Mr. House stated those are usually submitted. Bruce Scamman of
52 Emanuel Engineering replied that a photometric plan was approved with the previous site plan. He
53 stated a revised photometric plan is in development. They needed the architectural plans to
54 complete changes to the existing plan and just received those recently. He clarified that the waiver
55 request is an extension to the required timeline for submission and not that they won't submit a
56 photometric plan at all.
57

58 **Mr. Kunowski made a motion to temporarily waive the lighting plan pending its provision**
59 **at a future meeting. Mr. Canada seconded the motion. Mr. House, Mr. Kunowski, and Mr.**
60 **Canada voted in favor. Mr. Zaremba opposed the motion. The motion carried 3 to 1.**
61

62 **Mr. Canada made a motion to accept the accept the application as substantially complete.**
63 **Mr. Kunowski seconded the motion. All voted in favor and the motion passed.**
64

65 **Mr. Kunowski made a motion to open the public hearing. Mr. Zaremba seconded the motion.**
66 **All voted in favor and the motion passed.**
67

68 Bruce Scamman of Emanuel Engineering introduced the project team and described the project
69 plans. He stated that the following state permits are needed: NHDOT driveway permit, NHDES
70 Alteration of Terrain permit, and NHDES septic permit. Mr. Scamman believes the site plan,
71 architecture, and previous waivers are vested from changes in the ordinance and site plan
72 regulations. He welcomed comments from the Board.
73

74 Mr. Allison stated that he thinks it is very important for the applicant to demonstrate that the site
75 movement is sufficient to prevent tractor trailers from parking in the middle of Portsmouth Avenue.
76 He suggested that they look at the consideration of the island proposed between the two dealerships
77 with regards to vehicles entering to make sure that a tractor trailer can get off Portsmouth Avenue
78 and not hit signs on the middle island. Mr. Scamman replied they cut the island shorter to avoid
79 that issue. Mr. Allison stated they should prepare a tractor trailer plan showing that. Mr. Scamman
80 agreed to do that.
81

82 Mr. House asked what kind of parking is proposed in the Residential/Agricultural zone. Mr.
83 Scamman replied vehicle storage. Mr. House asked if that is allowed. Ms. Connors replied no and
84 there is a note on the plan that a variance is required. Mr. Scamman replied a variance wouldn't be
85 necessary if the Board determines this parking is an accessory use on the lot. Mr. House asked if
86 they plan to seek a variance before obtaining the Planning Board approval. Mr. Scamman replied
87 he wants to make sure it is required first. Mr. House replied that they have to obtain the variance.
88

89 Mr. House asked if a traffic study was conducted. Mr. Scamman replied traffic counting was
90 completed but they have not submitted an application yet to NHDOT. They authorized a traffic
91 study for this lot along with a lot across the street and 57 Portsmouth Ave, so they are studying
92 this entire section of Portsmouth Avenue.
93

94 Mr. House asked Ms. Connors for the town's opinion on vesting. She replied that town counsel

95 opined that the stormwater infrastructure is vested but nothing else because other vesting has
96 expired in his opinion.
97

98 Kelly Ovitt Puc an attorney with Orr & Reno asked to speak to the vesting issue. She said there
99 are two levels of vesting in RSA 674:39. The first is the five-year period where after a site plan is
100 approved, an applicant gets five years to complete it as long as they started work within two years
101 of the approval. The other level of vesting is when a property owner has not only started work but
102 substantially completed or substantially constructed improvements on that property, that they've
103 put enough in that basically the whole the site plan is vested indefinitely. She stated the previous
104 owner completed over \$1.5 million of improvements and in 2017 said, okay, I feel like I'm vested
105 and he returned to the Planning Board and requested that they confirm that. The Planning Board
106 took this issue up and made a decision on October 18, 2017 that the plan was vested. She agrees
107 that if an owner makes material enough changes to the site plan, then it no longer gets the benefit
108 of vesting. She does not believe the changes proposed are significant enough and she agrees that
109 the changed components need to comply with the current ordinance.
110

111 Mr. Zaremba asked Ms. Ovitt Puc if there can be partial vesting on partial improvements. Ms.
112 Ovitt Puc replied that particular issue is not clear under the statute. Her argument is that the site
113 plan itself, except for the things that are being changed, are vested and not just the improvements.
114 She believes when a site plan is approved, it's all one integrated piece, so it doesn't make sense to
115 vest only portions of the project.
116

117 Mr. Allison asked what percentage of the total cost of all improvements are reflected in the
118 investment in the drainage. Mr. Scamman replied that the site at the time of approval would have
119 cost approximately 6 to 8 million dollars, so less than one-quarter of the total costs.
120

121 Mr. Canada asked for Mr. Scamman to point out the major changes to the project. Mr. Scamman
122 replied that the installed bioretention system is more than 40 feet off the edge of the right of way
123 and this system would need to be removed in order to meet the current front setbacks. He stated
124 there was also some earthwork that was completed that needs only some minor stripping of gravel
125 to get ready for paving and a catch basin is installed at the proposed front of the building.
126

127 Additional questions and comments were made by the Board with most members commenting that
128 they do not agree with vesting the project beyond the installed stormwater infrastructure. Mr.
129 Scamman answered questions, but there was no resolution on vesting.
130

131 Mr. House asked if the landscaping plan will be updated. Mr. Scamman replied the packet includes
132 the original plan and an updated plan for comparison.
133

134 Mr. House requested a presentation on the architecture. Mr. Scamman replied that he can respond
135 generally but can also have the architecture and landscaping professionals present their plans at a
136 future meeting. Mr. House agreed that would be good and stated that flat roofs are not supported.
137

138 Mr. House invited members of the public to speak. Jeremy Riecks of 18 Doe Run Lane stated he
139 would like to see the photometric plan and noted that in other places in town where there is a
140 designated right turn only, drivers will ignore it and turn left. He is also concerned with the huge
141 amount of glass in the front of the building and the possibility of it being lit all night.
142

143 There were no further comments from the public.

144 Mr. Zaremba asked if a free-standing sign is proposed. Mr. Scamman replied yes and pointed to

the location. Mr. Allison asked for a sign detail. Mr. Scamman asked if the Board would like to see a sign detail. The Board replied yes and Mr. Scamman agreed to provide the details. Mr. Kunowski and Mr. House added it should be provided for all signs – building, street, etc.

Jeremy Riecks of 18 Doe Run Lane stated that other dealerships have parked their vehicles outside of designated areas (and provided examples). He asked what can be done about that. Mr. House replied that this project shows designated display areas that are not on the grass. Mr. Scamman added that a vehicle parking in the grass in the front is not feasible and would need to be towed out from that area. He added that is why they are trying to add additional designated parking in the rear.

Mr. Zaremba asked if EV charging stations are proposed. Mr. Scamman replied yes, and he will add them to the plans. Mr. House asked if there were any comments from police and fire on the project. Ms. Connors replied that the fire chief commented that there is no water source shown and that the project should be reviewed by a fire protection engineer. Mr. House agreed that is a good idea especially considering vehicles are a moderate hazard. Mr. Scamman replied that review is usually done during the building permit approval process and described the location of a fire cistern off the site, across the street, and stated that he assumes sprinklers will be required. Ms. Connors replied that Section 5.11 of the Site Plan Review Regulations states that fire alarms, fire hydrants, cisterns and fire ponds shall be provided as specified by the Stratham Fire Department, and these items shall be shown on the site plan and installed by the applicant. She added that she doesn't think the fire chief will accept a cistern across the street where he'll have to lay a hose across Portsmouth Avenue. Mr. Scamman stated he would work through the process. Mr. House asked if the police chief had any more comments other than about traffic. Ms. Connors replied that was it and he provided to staff a report of complaints about trucks parking in the middle of Portsmouth Avenue. Mr. Scamman described how car carriers can fit on the site.

Mr. Kunowski asked if the site is served by a private well or if it is proposed to be shared with Auto Fair. Mr. Scamman replied that is to be determined. Water lines to serve this property were run when Auto Fair was installed.

Mr. House asked if the proposed larger building size will affect the stormwater components already installed. Mr. Scamman replied that one parking lot will be replaced with porous pavement and one pond will be much larger and they have to add an additional bioretention pond. Mr. House asked if the existing underground drainage systems are all set. Mr. Scamman replied correct, and he described the construction.

Mr. House asked that for future plans, they depict with dashed lines the extent of the old building design. Mr. Scamman described the changes.

It was determined that the project would be sent for third-party engineering review.

Mr. Zaremba commented that the ordinance requires sidewalks and street lights on Portsmouth Avenue. Mr. Scamman replied that they believe the project is vested against that and asked if providing an easement to the town is sufficient. Mr. House replied that the Town has been looking for sidewalks for years.

Mr. Zaremba made a motion to continue the hearing to May 21, 2025. Mr. Kunowski seconded the motion. All voted in favor and the motion passed.

- 195 b. Copley Properties LLC (Applicant) and Helen E. Gallant Revocable Trust of 1995 (Owner),
196 request for approval of a Subdivision application and Conditional Use Permit for a proposed
197 subdivision of 80 and 80R Winnicutt Road, Tax Map 14, Lots 56 and 57, Zoned
198 Residential/Agricultural, into a Residential Open Space Cluster Development with 28 single-
199 family residential lots, and five (5) joined-array lots each with four (4) separate single-family units,
200 for a total of 48 units.

201
202 Mr. Scamman requested a continuance to May 7, 2025 in order to address comments from third-
203 party engineering that were just received a few days ago.

204
205 **Mr. Zaremba made a motion to continue the application for 80 and 80R Winnicutt Road to**
206 **May 7, 2025. Mr. Kunowski seconded the motion. All voted in favor and the motion passed.**
207

- 208 c. Land Bank Properties, LLC (Applicant) and Dorothy P. Thompson (Owner) request for approval
209 of a Condominium Subdivision, Conditional Use Permit, and Route 33 Heritage District
210 Application at 217 Portsmouth Avenue, Tax Map 21, Lot 88 in the Route 33 Legacy Highway
211 Heritage District. The project includes the construction of five 4-bedroom homes while retaining
212 the existing 3-bedroom home, retail store, and garage.

213
214 Ms. Connors stated that there is no new staff memo for this project but there is a memo of
215 comments from the Heritage Commission. At the last meeting she was asked to seek comments
216 from the police chief who replied that he doesn't have concerns at this time and he received
217 complaints about parking and animals when the farm was in operation and if the new plans show
218 there will be no overflow parking on Portsmouth Avenue, he does not see any issues. The
219 engineering review was completed late this afternoon and Ms. Connors forwarded it to the
220 applicant and added a copy to the Board's packet tonight. Ms. Connors asked if the Board would
221 like to set up a site visit for this project. The Board decided no, but Mr. House asked if he can stop
222 by and look from the road. Dorothy Thompson, the owner, replied he can stop by anytime.

223
224 Tim Phoenix, attorney from Hoefle, Phoenix, Gormley, & Roberts, spoke on behalf of the
225 applicant. He stated that the comment letter submitted from the Heritage Commission is very
226 detailed and the project team needs time to review it. He stated that there was an amendment to
227 the Zoning Ordinance this year to section 4.1.5 to extend the limitation of one primary dwelling
228 per parcel to the Route 33 Heritage District unless permitted as part of a condominium or mobile
229 home park. He stated he thought there were questions early on if condominiums were permitted
230 and that the applicant is willing to construct a mixed-use. Mr. Phoenix stated that two units per
231 acre are allowed in the District and the project meets that. He commented that the memo from the
232 Heritage Commission was negative and he is concerned that the Commission seems to want to
233 have veto power on the project and he points out that in Section 3.10.4, the Heritage Commission
234 is advisory only. He added that the Planning Board is not bound by Heritage Commission's
235 comments. He believes that the project meets the Ordinance and the purposes and intent of the
236 Route 33 Legacy Highway Heritage Ordinance. He reiterated that the purpose and intent are not
237 rules. He believes that architectural standards are subjective and that the project meets the
238 standards. The applicant is willing to consider some comments, but Mr. Phoenix does not believe
239 his client should be bound by them.

240
241 Mr. Scamman stated that the first house is 10 feet or one full story below the existing home and
242 there is existing screening from the road. Mr. House stated some of that landscaping is sick. Mr.
243 Scamman replied it can be replaced as part of a landscape plan and continued maintenance.
244 Mr. House stated he thought the intent of the meeting tonight was to discuss the architecture.

Shamus Quirk, the applicant, described the revised architecture plans. Mr. House commented that the proposed materials are not listed. Mr. Quirk replied they will get a materials list together.

Mr. House asked about the siding material and if Mr. Quirk is amenable to Hardie planks with a wood grain texture to it. Mr. Quirk replied yes either that or real wood clapboard.

Mr. Canada asked if the driveway meets the pitch requirement. Mr. Scamman replied absolutely, there is 7% at the steepest part of the driveway.

Mr. Canada asked if they meet the height limitations. Mr. Quirk replied those are all listed on the plans as well as the ridge heights. Mr. House asked if there is five feet flat around the entire perimeter of the homes. Mr. Quirk replied yes except for one that has a drive under.

Mr. Allison suggested that they make sure to not hamper access to the fire cistern with landscaping. Mr. Quirk agreed.

Mr. Phoenix asked if the Board will accept his response to the Heritage Commission's and engineering comments 7 days in advance of the next meeting as opposed to 10 days. The Board agreed as long as staff has time to compile the packet. Ms. Connors noted that staff can include the applicant's response, but staff might not have time to review the information.

Mr. House asked if there are any comments from the public.

Dorothy Thompson, the property owner, stated that she has a deadline of April 30th with the property she wants to purchase and needs to know if this project will be approved so she can close. The Board replied they cannot answer that. She asked if everything so far is approved. Mr. House replied no.

Ms. Connors asked why the well isn't sited at the top and the septic at the bottom. Mr. Scamman replied because of nitrate setbacks they need about 90 to 100 feet and it would go over the property line if it was sited at the back.

Forrest Barker of 216 Portsmouth Avenue spoke. She wanted to comment on development in general. Her family's farm spans five generations and as a neighbor and someone who cares deeply about Stratham's character and future, she believes the scale and density feels incompatible with the Heritage District. She stated that what you choose speaks volumes about the town's priorities, and the district was created to preserve open space and honor the agricultural history of the corridor and not replace it with oversized homes on crowded lots. She stated that her father, Gordon Barker, believed in protecting land, not just for farmers, but the entire community. He served in Stratham in countless ways, as a Selectman, on the Planning Board, and Conservation Commission. He helped secure protection for hundreds of acres of land, because he understood that once land is developed, we don't ever get that back. She hopes we can continue to honor those values that growth should be thoughtful, rural character matters, and that open land is something to be treasured, not picked over. Open land doesn't just offer beauty and history, it also provides vital ecosystem services, such as clean air, water, habitat for pollinators, carbon storage and Flood resilience. And these are things that we and the future of Stratham rely on.

Edie Barker of 216 Portsmouth Avenue asked if the garage is not going to be presented now as a business, can something be added to the association documents that prohibits a business in the future. Mr. House replied he thinks they can do that. Mr. Phoenix replied he will speak with Mr.

Quirk but his understanding is that some sort of business use might be required. Mr. House replied he believes the Board discussed this with the applicant and it will now just be a private garage. Mr. Scamman clarified that there are mixed messages as one of the comments from the Heritage Commission is requesting a mixed use. Mr. Quirk added that in the past they agreed to leave it open for the future. Mr. Scamman is seeking direction from the Board on that. Mr. House replied there is concern from the Board with cars on Portsmouth Avenue. Mr. Scamman explained that that they removed the business label and reduced the size of the septic system, but the Heritage Commission's comments contradict the Board's decision. Mr. House replied that the Heritage Commission is advisory only. Forrest Barker commented that her understanding was that if there was no development, then a mixed use could provide financial support for the homeowner and that it wasn't intended to be an addition to the development. Mr. Phoenix added that the applicant is amenable to an all residential project. Mr. House replied that is what the Board agreed to.

Mr. House announced that the hearing will be left open.

Mr. Zaremba made a motion to continue the application for 217 Portsmouth Ave to May 7, 2025. Mr. Canada seconded the motion. All voted in favor and the motion passed.

5. Adjournment

Mr. Kunowski made a motion to adjourn at 9:15 pm. Mr. Zaremba seconded the motion. All voted in favor and the motion passed.