

Planning Board Meeting
7:00 p.m. December 9, 2025 at the Meeting House

Members Present: Brendan O'Donnell (Chair), Rich Marcou (Vice-Chair), Greg Meeh, Logan Snyder, Megan Portnoy, Joshua Gordon, Scott Doherty (Selectboard Rep)

Members Absent: Hillary Nelson (Alternate), Clifton Mathieu (Alternate)

Others Present: Kal McKay (Admin Assistant), Michelle Hammond (Land Use Administrator), Craig Bailey (Applicant's Representative), Lisa Carlson (ZBA Secretary), Beryl Boisvert, Jeffrey Good (Abutter)

Call to Order

The Planning Board meeting was called to order at 7:06 p.m.

Approval of Previous Meeting Minutes

Kal reviewed the suggested changes for the 10/28/25.

On line 139 it currently says "Megan asked what kind of commercial businesses the applicant would want to put in these lots. The applicant explained that they had no preference as long as the proposed use was legal."

The suggested change is "Megan referenced the applicant's prior comment about preparing the site to attract commercial that the Town wants. Megan then asked the applicant to summarize their understanding of the kind of commercial development the Town wants, based on previous meetings with Town comment and discussions with the Board. The applicant explained that they had no preference as long as the proposed use was legal."

On line 244 it currently says "She doesn't think a storage unit or billboard are appropriate."

The suggested change is to add "for Canterbury's needs" to the end of the sentence.

Josh made a motion to approve the public minutes as amended for the Planning Board meeting on October 28, 2025. Scott seconded. All in favor by roll call, motion carried.

Kal reviewed the suggested changes for the 11/4/25.

On line 202 it currently says "Megan spoke about how the Board has a dual role as a semi-judicial body and as representatives of the community. She thinks it is fair under the CUP to ask for conditions and consider the applicant's intent. She disagreed with Kal's statement that the Board is approaching this from a "Not in my backyard" (NIMBY) perspective."

The suggested change is "Megan stated her appreciation for Kal's comments and wanted to clarify that she is not approaching this from a "not in my backyard" (NIMBY) perspective. She supports more housing but disagrees that this type of development is best for Canterbury. Megan spoke about how the Board has a dual role as a semi-judicial body and as representatives of the community. As a representative, she thinks it is fair to consider the applicant's intent and ask for conditions under the CUP. She stated that as a semi-judicial body, the board must judge the application on its legal adherence to relevant ordinances. Megan expressed her understanding of the Board's approach as holding both of these responsibilities."

Rich did not recall Megan saying those things. Kal explained that they rewatched the video and confirmed the accuracy of the suggested change.

Greg made a motion to approve the public minutes as amended for the Planning Board meeting on November 4, 2025. Josh seconded. All in favor by roll call, motion carried.

Subdivision Application for Map 208 Lot 8 Mark and Sharon Akerstrom

The public hearing for this application began at 7:10 p.m.

Craig Bailey attended on behalf of the applicants Mark and Sharon Akerstrom.

Mr. Bailey explained that this application is to divide one lot into three lots in the Residential Zone on the northern end of Baptist Hill Road.

The Board began considering if the application was complete.

Brendan pointed out that the map doesn't show the proposed building envelopes. He was particularly concerned about lot 8-1 because of the wetlands cutting through it.

Mr. Bailey argued that the building envelope is essentially shown by the wetland and property line setbacks since the building could be constructed anywhere within those boundaries. The applicant does not plan to build on these properties, they just want to subdivide and sell them.

Joshua asked where the driveway on 8-1 would be.

Mr. Bailey explained that on lot 8-1 there is room for a house in the front or the back of the lot. If the house is in the back, there is room to place a driveway between the western border and the wetland setback. He acknowledged the applicant is expecting buyers to build in the back.

The frontage for all three lots is a little over 300 ft. Because the plan is at 100 scale, Mr. Bailey used the parcel line table method of labeling.

Brendan explained that the Board needs the plans to show that there is adequate room for building envelopes and access to those buildings. The Land Development Regulations (LDR) section 6.5 lists the items that must be on the plat. Zoning Ordinance Article 5.2.A. requires the "Canterbury Rectangle" (aka "error of closure") be used to show that a lot has sufficient space for a building.

All 3 lots should have these rectangles and marked driveways. The eventual buildings and driveways don't need to be exactly where they are depicted on the plan, but this would prove there is a viable place to build so that the future owner won't need a variance.

This application was processed using the latest Land Development Regulations but an older checklist. The absence of the rectangle was noted by the Land Use Administrator and brought to the Applicant and Chair's attention before the meeting.

Brendan reviewed each of the plat requirements listed in LDR Section 6.4.3. and Section 6.5. The Board confirmed that the topographical lines indicating 2 ft elevation are indeed on the map. Because of the scale, they are only labeled every 10 ft.

6.5.9. requires location of existing and proposed wells and septic systems. There was debate about if this was required in all cases. The Board hasn't always required it on subdivisions that are over 5 acres. Brendan argued that at least 8-1 should have a proposed area marked since the wetlands limit the buildable space so much.

92
93 Brendan summarized that the requirements are met or are not applicable except for depicting the
94 building envelopes, access road/driveway to the buildings, and well/septic.

95 Mr. Bailey again argued that depicting the building envelope isn't necessary since the wetland
96 and boundary setback lines show the limit of the building envelope.

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98 Joshua pointed out that there is a flood zone in the southwest corner of the property and that
99 should also be avoided similarly to the wetlands.

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101 Mr. Bailey requested that the hearing not be opened until the Board decided if the application
102 was complete. Brendan noted the objection and opened the hearing to public comment on the
103 completeness of the application.

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105 Lisa Carlson of Morrill Road pointed out that driveway placement might be an issue for these 3
106 lots because of the wetland setback and line of sight requirements.

107 Brendan acknowledged that could be an issue, but the topic would be discussed when the
108 application is deemed complete and the merits of the application could be discussed. That is
109 another reason that depicting the access road/driveway to each building envelope would be
110 helpful.

111
112 Jeffrey Good (abutter) asked if the boundaries for the proposed lots have been marked.
113 Mr. Bailey wasn't sure if the front boundaries had been flagged yet, but the rear pins have
114 already been set. There is a significant amount of work remaining, so they weren't planning to do
115 that until the Board had approved the subdivision.

116
117 Brendan requested a motion to not accept the application due to missing information shown on
118 the plat including building envelope, driveway access, well, and septic locations. Joshua made
119 the motion.

120
121 Rich spoke more about how the applicant didn't use the new checklists.

122 Mr. Bailey felt that marking where the well and septic could go would require test pits. He felt
123 that was an excessive requirement.

124 Rich explained that the LDR requirement is just that a potential location be identified to show
125 there is room for it, the exact location doesn't need to be identified at this stage.

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127 Brendan again asked for a motion. Joshua moved to not accept the application as complete due to
128 missing information shown on the plat including building envelope, driveway access, well, and
129 septic locations. Rich seconded. All in favor by roll call, motion carried.

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131 Joshua asked if they should also require a scale on the drawings. He believes the current scale is
132 adequate, but it might require a waiver.

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134 Mr. Bailey confirmed that he will go through the new checklist and asked if he needed to provide
135 line of sight information about the driveways. The Board did not require that information but
136 indicated it couldn't hurt to have extra data.

Solid Waste Management Chapter of Master Plan

The public hearing to consider adding the Solid Waste Management Chapter to the Canterbury Plan for Tomorrow (Master Plan) was opened at 7:49 p.m.

The Board reviewed several typos that need to be corrected including updating the Elements list on page 1 to include the latest sections in the chapter.

There was no public comment.

Rich moved to adopt Chapter 9 – Solid Waste Management as amended to the Canterbury Plan for Tomorrow (Master Plan). Greg seconded. All in favor by roll call, motion carried.

Land Development Regulation Checklists

The Board opened the public hearing to accept the Land Development Regulation Checklists.

Land Use Administrator Michelle Hammond spoke about her use of the checklists and asked for clarification on if the well and septic systems should be separately marked on subdivision plat applications or if the error of closure (aka “Canterbury rectangle”) was sufficient. Since the new checklist specifically calls those out, they should be included unless there is a waiver. Brendan will touch base with Michelle regarding the application that will be heard in January.

Rich explained that the purpose of the checklists are to simplify the LDRs and make it easier to determine if applications are complete and if waivers are being requested for certain elements.

Michelle agreed the checklists are useful for that. Greg pointed out that as she finds errors or ways to improve the checklists, she should bring them to the Board to update.

The Board went through each of the 5 checklists: Major Subdivision, Minor Subdivision, Major Site Plan, Minor Site Plan, Other Applications (including design review, concept plan review, and voluntary lot merger).

There was no public comment.

Rich moved to approve the 5 checklists to help with the new Land Development Regulations. Greg seconded. All in favor by roll call, motion carried.

Capital Improvement Plan

The Board reviewed the Capital Improvement Plan (CIP) that was created by the Town Office and Board of Selectmen. This document is governed by RSA 674:5-8 and is a required prerequisite for some projects, grants, and regulations that Canterbury uses. The Town hasn’t updated the CIP in a number of years.

Greg moved to approve the CIP. Megan seconded.

Scott gave an update on what changes have been made recently to the document. The new loader has been moved back to 2027, the PD cruiser replacement may get pushed to 2027, the

Selectboard is currently investigating if the State will even allow us to get the waste oil burner. The Selectboard is still discussing what projects should be done from the Aries Report.

Josh moved to approve the CIP. Greg seconded. All in favor by roll call, motion carried.

Warrant Article Review Process

Greg read a statement about the problems he has seen emerge in the warrant article process. The Board usually has CNHRPC and the Town's attorneys review the articles before they go to Town Meeting, but several mistakes have slipped through the cracks. The Board has a difficult task of upholding the ordinance while also being fiscally responsible and not causing the Town to have excessive legal fees. He has seen several instances of applicants bullying boards into accepting applications because they come in with a lawyer who throws doubt on the authority of certain aspects of the Zoning Ordinance. The Ordinance needs to be defensible to prevent situations like that. Greg named several ideas for how to address these issues: write the ordinance to reduce the size of projects so that the profits on a development can't be great enough to pay for lawyers, repeal the cluster development ordinance completely, create a legal reserve fund, and don't vote unanimously to approve applications.

Brendan spoke about how our current Zoning Ordinance has large minimum lot sizes and frontage requirements to minimize subdivision. The draft warrant article to repeal the cluster development ordinance is on the agenda for later this evening. The best way to control how development happens is by making the path they want to see the only one profitable for the developers. If the baseline density was lower, then the incentive to get the density bonus would be higher.

The Board discussed the importance of writing ordinances to prevent the worst case scenario and how to best do that.

There was discussion about considering where ideas for ordinance changes are coming from. The solar ordinance that was brought up by the Energy Committee was backed by the solar industry, CNHRPC and NH Housing are focused on the needs of the Concord area and housing market.

Joshua suggested increasing the minimum lot size and frontage requirements. Brendan felt that the requirements were sufficient. The application heard earlier in the evening was only able to divide a 40 acre lot into 3, and he thinks that is ideal.

There was discussion about how adding more things to the Table of Uses and disallowing them would remove ambiguity and leave less room for challenges.

HB 639

Kal explained this agenda item is for the Board to consider if they would like to send a letter to the State legislature to urge them to vote no on HB 639 which would ban municipalities from banning cryptocurrency mining.

The Board postponed this topics since it is not urgent.

Drafts of 2026 Warrant Articles

Copies of draft warrant articles were distributed to the Board.

Legislative Compliance

The Board reviewed the warrant article draft that would bring Canterbury's Zoning Ordinance into compliance with the 2025 legislative changes from the State.

There was discussion about if Article 18.3.3.E. needed to be removed. HB 577 says that no "other controls beyond what would be required for a single-family dwelling without an accessory dwelling unit" can be required of an ADU. Item E requires that ADUs be within 500 ft of the primary dwelling. There was debate about if that is actually banned by HB 577 or not. Having an ADU far from the primary dwelling prevents future subdivision of the property. Depending on the layout of the property it could mean installing separate driveway, well, and septic. Having an ADU within 500 ft of the primary dwelling may not be close enough to prevent additional infrastructure from being needed. No one had objections to removing the requirement.

Lisa Carlson (ZBA Secretary and Alternate) spoke about the importance of having the Zoning Ordinance and State regulations line up. If those contradict and it comes before the Zoning Board of Adjustment, it makes it difficult to defend any decisions.

Data Center Definition

Megan presented a new definition for data centers.

Item 3 should be struck because municipalities are not subject to the Zoning Ordinance.

Megan had initially taken out the reference to cryptocurrency mining facilities, but the Board decided to reinsert that language. The State hasn't passed HB 639 yet, so they can ban those activities for now.

There was discussion about what a "colocation center" was. It is essentially a data center where the space is for rent. This definition is written to try and prevent someone from having a legitimate business, setting up a data center within the business, and claiming it doesn't count because the primary purpose of the business is something else and/or most of the space is not being used for the data center.

This definition is also written to try to avoid affecting ordinary home computing and regular business use such as storing data on a cloud.

Living Space Definition

Joshua pointed out that the definition should be measuring from the interior surfaces of the exterior walls, not the exterior surfaces of the exterior walls. As written, it would penalize people for thick insulation.

There was discussion about limiting the space to two bedrooms. The RSA says the municipality cannot limit to one bedroom, so the ordinance is in compliance. However, it is very possible to

put three bedrooms into 1000 sqft and not allowing it can be limiting for families with multiple children.

Kal explained that this definition calls out the difference between basement and attic areas that are intended for human occupancy or not. This way finished spaces would be included in the ADU size calculation, but unfinished spaces would not.

It is possible that someone could claim a basement is unfinished and then finish it illegally later. But theoretically to do the finishing work, they would need to come in for a building permit and the Building Inspector would see it is an ADU and say no.

The Board decided to allow 3 bedrooms and to change the language to “interior surfaces of exterior walls”.

Elimination of Cluster Neighborhoods

Brendan submitted a draft warrant article that would remove Article 6 Cluster Neighborhoods from the Zoning Ordinance.

Brendan explained that he thinks this ordinance is very flawed and needs extensive fixes. Because there is not enough time for such a big project before the warrant article must be posted for Town Meeting, he would like to eliminate the ordinance this year and bring a fixed ordinance to the 2027 Town Meeting.

Greg agreed. The State now requires that we allow multi-family units in the Commercial Zone; he feels that better serves the intent of the ordinance than what ended up happening.

Logan was concerned about the logistics of convincing the townspeople to repeal this ordinance and then pass a new one next year. They think it would be easier to explain edits than a repeal/reenact.

Megan spoke in favor of scraping it and starting over. She feels that doing it piecemeal over time will make the ordinance messier. Joshua thought that was persuasive.

There was discussion about how this change should be communicated and what the goals would be when editing the ordinance for reenactment. Brendan felt focusing on the baseline and bonus density would be a priority.

Greg and Beryl Boisvert (of New Road) recalled that the Board created this ordinance and has been making edits to it to respond to problems with the cluster developments that have happened like Sherwood Forest and Cambridge Drive.

The Board decided to move this warrant article along and discuss the merits of it further at the formal public hearing for the 2026 zoning warrant articles in January.

Wetlands Setback Ordinance

The Wetlands Subcommittee created a draft ordinance and submitted it for review. Brendan and Megan were on that Subcommittee along with several Conservation Commission members.

Joshua felt the draft was excessively complicated, but retracted that once it was clarified that the distributed copy included extensive notes from the Wetlands Subcommittee.

Brendan explained that the Subcommittee included a purpose statement so that if the ZBA needs to hear a variance application about this, they would have context to rule on the spirit of the ordinance. Bob Steenson (Conservation Commission) questioned if this ordinance was actually needed. The Subcommittee landed on a very mild setback that is only triggered by a wetland that is 2K sqft or more. It should be fairly obvious if there is a wetland that large, so property owners wouldn't unknowingly be affected and the Town would have an easier time enforcing it. This is mainly aimed at large developments and helps put a little more land off limits. Section IV.c. is included so that people who go through the NH DES's more involved permitting process don't have to do redundant work for the Town. The definition of "Land Disturbing Activities" was crafted so as not to affect mowing/haying next to wetlands.

The Board agreed to send all proposed warrant articles to the Town's lawyers for review before public hearing.

Other Business

Joshua said that he spoke with Jim Basset who wants to be an alternate. The Board generally agreed this was a good idea. Josh will tell Jim to get in contact with Brendan.

The Board decided to cancel the regularly scheduled December 23, 2025 meeting.

Adjournment

Josh made a motion to adjourn the meeting at 9:30 p.m. Rich seconded. All in favor by roll call, motion carried.

Next Meeting: 2025 January 13, 7:00 p.m. at the Meeting House
Minutes submitted by Kathleen McKay, Administrative Assistant