

**TOWN OF NEW HAMPTON
PLANNING BOARD
MEETING MINUTES**
Fire Dept Training Room, 26 Intervale Drive
New Hampton, NH 03256

November 15, 2022

CALL TO ORDER

Chairman Kettenring called the meeting to order at 6:00 p.m. and led the Board in the Pledge of Allegiance.

MEMBERS PRESENT

Regular Members: Mr. Kettenring, Mrs. Hiltz, Mr. Shea, Mr. Hays, Mr. Broadhurst, Mr. Katz, & Mr. Shaw.

OTHERS PRESENT

Town Administrator Mr. Irvine and Planning Assistant Mr. Pollock.

MINUTES

Mr. Broadhurst made a motion, seconded by Mr. Shea to accept the 10/18/22 minutes with the following correction:

1. Pg. 4, under Adjournment – correct spelling of Mr. Shea.
Vote was unanimous.

CORRESPONDENCE

1. Copy of NHDES Minimum Impact Wetlands application for Gate City Development, Map R3, Lot 8F.
2. Memo from Mr. Pollock advising Board of property line for Mobil station, relative to Sal's Pizza's previous discussion on outdoor seating.
3. Survey of property belonging to Rempro Enterprises Property Management, Map R20, Lot 47.

PUBLIC HEARING

Capital Improvements Plan

Mr. Kettenring opened the public hearing.

Mr. Katz reminded the Board that this was a recommendation for the Board of Selectmen to consider during budget discussions. He reviewed the plan results and key recommendations.

Mr. Katz asked for any Board member or public comment and there was none. Mr. Katz made a motion, seconded by Mrs. Hiltz to accept the CIP report and send to the Selectmen for their consideration. Vote was unanimous.

**PUBLIC HEARING/
SUBMISSION OF
APPLICATION**

*Michael Sharp, NH Route 104,
Tax Map U17, Lot 55; Site Plan
review*

Brown Engineering Kent Brown and Mike Sharp were present.

Mr. Kettenring advised that Michael Sharp has submitted an application to amend a Site Plan previously approved in 2020. The proposal is construct professional buildings with two 10,400 sq. ft. buildings, on property located in the Village District.

Mrs. Hiltz recused herself from this hearing.

Engineer Kent Brown advised the only change to the plans is from a "Health Focus Facility" to "Professional Buildings". Current NHDES AOT and driveway permits remain valid. Mr. Kettenring confirmed that it would be a phased project, with one building constructed first.

It was noted that Sheet 5 of the plans needed to be amended to reflect the current date.

Mr. Shaw asked for an update to the changes on the site. Mr. Sharp said they put the property back on the market and have everything else that was asked of him.

Mr. Kettenring asked Mr. Sharp what his anticipated time-frame was and he said it would take a long time to get it pad ready but said it will be quicker than previously thought as there is less sand than anticipated. He said if there was someone interested in the property, they would take a different approach but they can't afford to move the sand to a different location as it doesn't make the project viable. Mr. Shaw said the concerns expressed in Sept. 2022 have been addressed and he is pleased the "Sand for Sale" signage is removed. He wants a development that meets the zoning ordinance while meeting Mr. Sharp's goals. Mr. Kettenring asked if Mr. Sharp will get the site pad ready for one building, or both and Mr. Sharp advised he would do it all at once. Mr. Kettenring suggested possibly making one pad site ready for building one to attract a buyer. Mr. Broadhurst suggested the Board determine a time-line for this project.

Mr. Shea reviewed the submission requirements of Site Plan Review and found that all requirements were met, with some items still in place from the prior approval. Mr. Katz made a motion seconded by Mr. Broadhurst to accept this application as complete and requested that the office consolidate all application items from the previous site plan and this new (amended) application and plan - into one. Vote was unanimous.

Mr. Kettenring advised that the Town has a 4-year limitation, while the state has a 5-Year Exemption (RSA 674:39) on site plans once they are approved. He said the limitation on the approval would be 5 years from approval and work should be complete within 24-months after the approval of this new application, to make the site pad ready.

Mr. Katz made a motion, to approve the application/plan with the following conditions:

1. The site plan complies with RSA 674:39 (5-year exemption which states that a plan is exempt from "all subsequent changes in subdivision regulations, site plan review regulations, impact fee ordinances, and zoning ordinance by any city or town...").
2. The site plan meets the 24-month construction of substantial site development to construct a building. Substantial development has begun on the site in accordance with the approved plat, and under a previous approval.

Mr. Kettenring suggested the applicant provide reports every six (6) months as to the status of the project and meeting the 24-month goal.

Relative to determining substantial site development, Mr. Katz said the ordinance and regulations subcommittee had previously considered language to define active and substantial development and read into record what they drafted.

“An active and substantial development means the commencement and sustained on-site construction of systems or structures that constitute permanent underground or above-ground installations within an approved subdivision or site plan. *Construction start shall occur within 12 months of subdivision or site plan approval or consistent with specific conditions of approval set by the Planning Board.* Work required to secure Planning Board approval or approval of any required permit is not included in the definition. All development and construction work from application approval to final completion shall remain compliant with applicable codes, standards, regulations, ordinances, and conditions set by the Planning Board and regulatory authorities.”

Mr. Broadhurst provided the second to include the definition provided by Mr. Katz to condition #2.

Mr. Kettenring advised that the Board needs to determine what is continued, active development within 2 years, and within 5 years.

The Board agreed to strike the words “*Construction start shall occur within 12 months of subdivision or site plan approval or...*” as it relates to active and substantial development so the words “consistent with specific” completes the previous sentence that ends with “site plan.” And to strike “*specific conditions of approval set by the Planning Board.*” Replacing this wording with it being “consistent with ... *RSA 674:39*”.
The motion passed unanimously.

Mr. Hays asked what active and substantial was in this particular case and Mr. Kettenring said since they are already in process – the applicant cannot stop work. Mr. Katz added that it is sustained on-site construction.

Vote was called on the discussed conditions as shown below, and was unanimous.

1. The site plan complies with RSA 674:39 (5-year exemption which states that a plan is exempt from “all subsequent changes in subdivision regulations, site plan review regulations, impact fee ordinances, and zoning ordinance by any city or town...”).
2. To qualify for the exemption under RSA 674:39 there must be active and substantial site development to construct a building. Substantial development has begun on the site in accordance with the approved plat, and under a previous approval.)
3. Active and substantial site development for this application, means “An active and substantial development means the commencement and sustained on-site construction of systems or structures that constitute permanent underground or above-ground installations within an approved subdivision or site plan consistent RSA 674:39”. The owner, or the owner’s successor in interest, shall continue to maintain active and substantial development throughout the life of this permit.

Mr. Brown to provide corrected site plans for signatures at the next Planning Board meeting of 12/20/22. Mrs. Hiltz rejoined the meeting.

Follow-up discussion

Granite State Greenhouse and Nursery; expansion of previously approved site plan, Tax Map R4, Lot 90A.

Eckman Engineering Aaron Youngman and Mr. Vrusho were present. Mr. Youngman provided draft drawings of a site plan showing the area where the expansion has taken place. Mr. Kettenring noted that the impacts/improvements affect lot 90J & 90K, where the previous site plan application submitted only said it impacted lot 90A. Mr. Pollock advised that lot 90J is currently all in current use and the area that has been referred to as a right-of-way to 90J is actually, part of 90J land. The Board said it did not appear to grant any rights of way to another lot. Mr. Kettenring said there had been previous discussion on a wet area that has been filled in. He said the plan doesn't show the setback to the wet area. Mr. Youngman asked if there was a town regulation that states the setback to wetlands approval of subdivision originally had a setback from the wetlands, and there is stream through the area. Mr. Youngman showed where on the plan where the seasonal stream was located. It was noted that a new letter from the property owner which allows Mr. Vrusho to act on their behalf is necessary for all 3 lots, as the previously letter was only for lot 90A. Mr. Irvine advised that the deeds do state there are easements granting access across lot 90J to get to Lots 90A & 90K, which was then shown as a ROW on a site plan. Mr. Broadhurst mentioned there was a snowmobile trail running across some of property. Mr. Vrusho said a fence is removed for snowmobile access during their season. Mr. Kettenring advised that the current property owner allows snowmobiles but that could change at any time so it's not a Planning Board concern.

Mr. Shaw said the Selectmen met with Mr. Vrusho at a recent meeting and told him he either needed to get site plan approval for his expansion or needed to remove all material and fencing by 11/30/22.

Mr. Vrusho said there was a Planning Board member had advised the office that a truck had been seen offloading material, possibly trees, and Mr. Vrusho said it was only pumpkins. This accusation caused him to meet with the Selectmen. Mr. Vrusho asked the clarification on exactly what the Board needs to approve an amended site plan.

The Board advised it was engineered plans with: setback line to wetlands; plans for preventing any further impact to the stream; needs to show what the impact has been on the stream; clarification that the ROW is owned by lot 90J – with rights of access to lots 90A & 90K.

Mr. Youngman confirmed that the plans need to show a delineation of the stream and asked about the reference to the wetland's setback. Mr. Kettenring advised it was a buffer for the stream that was shown on the previous plan and he wants it shown on the new plan to be submitted. Mr. Kettenring said that a Planning Board member previously had said the stream had been impacted. Mr. Irvine said when that issue was brought up, it was forwarded to NHDES and they made the determination that the run-off that was carrying sand to the stream, was coming from the parking lot of lot 90K, not because of Mr. Vrusho's development activity. Mr. Irvine said that Mr. Vrusho has since put in silt socks to ensure no runoff leaves his expanded area. Mr. Kettenring said he would still like to see a plan to prevent any additional erosion into the stream.

Mr. Shaw said KGI Properties would also need to provide a new letter stating they will allow Mr. Vrusho to represent them for all 3 lots affected by this expansion.

Winnisquam Watershed
Network: Watershed Based Plan
for Lake Winnisquam watershed.

There was no one present to speak to this plan. Mr. Kettenring said the plan that was provided to the Board for their review had expressed some concerns relative to impacts coming from New Hampton, but he advised them of soils and slopes calculations used in the town's lot sizing for subdivisions, which made the network more comfortable with any impacts to the watershed. Mr. Katz made a motion, seconded by Mrs. Hiltz to table this discussion until someone is present to discuss this further. Vote was unanimous.

**DISCUSSION ON
PROPOSED 2023 ZONING
AMENDMENTS**

ZBA Chair Paul Tierney and Land Use Administrator Mrs. Vose were present.

Mr. Katz said the proposed changes are at that point where they should now be reviewed by Town counsel. He said the Floodplain Ordinance has had satisfactory legal review.

Mr. Katz said at their last subcommittee meeting they added a proposed definition for "habitable floor area" as it is noted in the requirements for an ADU. The Board supported this definition.

Mr. Katz asked for clarification that relative to ADU's – only one ADU would be allowed on a parcel, whether in a principal dwelling, in an accessory structure, or as a detached ADU. There had been previous discussion to allow for two ADU's on a lot. It was the consensus of the Board that they only intended one per lot. Mr. Tierney reviewed proposed language related to ADU's to ensure there was no confusion to property owners as to what exactly would be allowed.

Mrs. Vose asked the intention of the additional wording relative to "buildable area" under "N. Minimum Lot Area" in the ordinance. She said that besides the soils and slopes calculations in determining whether there was a usable one-acre, it seemed that with this amendment it now seems to imply that setbacks, impermeable & septic areas, etc. may also discount land when determining lot area. Mr. Kettenring said that "buildable area" has nothing to do with minimum lot area, which was already in the regulations, but not listed under minimum lot area.

Mr. Katz made a motion, seconded by Mr. Hays to refer the marked-up zoning ordinance, for legal review, which would include the correction to only one ADU being allowed. Vote was unanimous.

**Review of Standing
Committees**

Mr. Broadhurst advised there wasn't a quorum for a Master Plan meeting that was scheduled. He asked for input from the Board on what section might need to be amended or added. He said state provides a list of chapters towns can use their plans. There was some discussion on housing as it relates to the Master Plan and that Regional Concerns may be a chapter to add.

OTHER BUSINESS

Some members advised they may not be present at the next meeting.

Mr. Katz reviewed important dates for holding hearings on proposed zoning amendments:

- Legal review needs to be completed for discussion on 12/20/22 if more changes are needed and a physical quorum (4) will be critical.

- Last day to post notice is 1/6/23.
- Last day for the 1st Public Hearing on Zoning amendments is 1/26/23.

ADJOURNMENT

Mrs. Hiltz made a motion, seconded by Mr. Katz to adjourn at 8:06 pm. Vote was unanimous.

Respectfully submitted,
Pamela Vose

