

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

September 20, 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. Broadhurst, Mr. Katz; Mr. Shaw. Alternate Member: Mr. Mertz

Mr. Kettenring appointed Mr. Mertz as a voting member in place of Mr. Hays.

OTHERS PRESENT

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

MINUTES

Mr. Shea made a motion, seconded by Mr. Katz to accept the 8/16/22 minutes as written. Vote was unanimous.

Mr. Katz made a motion, seconded by Mr. Shea to accept the 8/30/22 minutes with the following corrections:

1. Last page, just above "Other Business" strike the sentence relative to holding a work session on 8/30/22 and correct the sentence above that to read 9/20/22.
2. Pg. 2: Relative to the proposed amendment to the definition of Building Height change it to "...the floor level of the highest space that *could be occupied in the structure shall not be higher than...*" vs. "the level of occupied space of the structure...".

Vote was unanimous.

CORRESPONDENCE

1. Copy of NHDES Standard Dredge and Fill Permit application for Justin & Kirby Corliss.
2. Copy of letter from ZBA to Dimitry Neyshtadt and Arthur Dyech's attorney, denying the motion for request of a rehearing.

**PUBLIC HEARING/
SUBMISSION OF**

APPLICATION (cont.)

Resource Management Inc. on property belonging to Pemi Prospect No.2 Holdings LLC, 270 NH Route 132N, Tax Map R11, Lot 24; Expedited Site Plan review to add two 42'x120' buildings.

RMI's Charlie Hanson and Marty Riehs were present.

Mr. Hanson advised that this would not change the amount of material handled at the site, just adding 2 storage buildings for mixing purposes and with any approval by the Planning Board he said they still need approvals from NHDES for a permit modification. The structures will be Calhoun superstructures and the same height as the existing buildings, with concrete floors & tanks that will collect any leaching water.

There were no abutters present.

The Board reviewed the Site Plan, Section VI.B. Plat Submission Items to determine whether the application was complete.

Mr. Katz made a motion, seconded by Mrs. Hiltz to waive information relative to item #12 as this is not applicable.

Mr. Katz made a motion, seconded by Mr. Mertz to waive information relative to item #13 as there is no change to the treelines.

Mr. Katz made a motion, seconded by Mrs. Hiltz to waive information relative to item #14 as there will be no change.

Mr. Katz made a motion, seconded by Mrs. Hiltz to waive information relative to item #21 as this is not applicable.

Mr. Katz made a motion, seconded by Mr. Broadhurst to waive information relative to item #22 as there is not existing or proposed drinking water well, but there are monitoring wells which do not apply to this requirement.

Mr. Katz made a motion, seconded by Mr. Broadhurst to waive information relative to item #23 as there is no septic system.

Mr. Katz made a motion, seconded by Mr. Shea to waive information relative to item #25 as this site is not currently mapped within the FEMA floodplain after concerns were raised by Mr. Katz on determining the floodplain elevation and there was discussion on the site being a distance and uphill from Harper Brook and that the facility has an incident response plan which Mr. Riehs said they have a spill response plan and the material is kept under roof. Mr. Katz suggested any approval could have the condition that an incident response plan be created for the facility.

Mr. Katz made a motion, seconded by Mr. Broadhurst to waive information relative to item #27 as this is not a public place and any snow removal is limited.

All votes were unanimous.

Mr. Pollock reviewed additional items that were submitted with the application. The Board reviewed the Site Plan, Section VI.A. requirements. Mr. Kettenring said he felt that the applicant met these.

The Board reviewed Section VI, "Other" requirements.

#1: the Board agreed stormwater management and erosion control was reflected on the plan submitted.

#2: Mr. Katz made a motion, seconded by Mrs. Hiltz to waive this requirement relative to septic systems as it was not applicable. Vote was unanimous.

#3: Mr. Katz made a motion, seconded by Mrs. Hiltz to waive this requirement relative to Alteration of Terrain Permit as it would not be required for this proposal. Vote was unanimous.

#4: Mr. Katz made a motion, seconded by Mr. Shea to waive this requirement relative to the driveway permits as there was no change. Vote was unanimous.

#5: Reports from Fire and Police chiefs had been received but on reports from Public Works Director or Conservation Commission, Mr. Katz made a motion, seconded by Mr. Broadhurst to waive these requirements as reports from them would be unnecessary for this proposal. Vote was unanimous.

#6: Mr. Katz made a motion, seconded by Mr. Shea to waive this as there are no municipal water/sewer connections on this property. Vote was unanimous.

#7: Mr. Katz made a motion, seconded by Mr. Broadhurst that as this is an amended plan deed restrictions would not apply. Vote was unanimous.

#8: Relative to state and federal permits the Board did not waive the state permit requirement as the applicant is obtaining the necessary modification to the original permit.

#9: Mr. Katz made a motion, seconded by Mrs. Hiltz to waive this requirement relative to impact analysis, due to the minimal impact if any, on the addition of the 2 buildings. Vote was unanimous.

#10: Mr. Katz made a motion, seconded by Mr. Broadhurst to waive any other reports or studies as they are unnecessary. Vote was unanimous.

Mr. Katz made a motion, seconded by Mr. Mertz to accept the Site Plan application to add two new buildings as complete. Vote was unanimous.

Relative to conditions, items to note were receipt of an Incident Response plan, map of the amended contours, and NHDES permit modification. Mrs. Hiltz made a motion, seconded by Mr. Katz to approve the Site Plan application with the following conditions:

1. Receipt of a plan showing the amended contours (ie. grading & structure location) of the site;
2. Permit modification approval by NHDES;
3. Incident Response Plan from the applicants.

Vote was unanimous.

Mr. Riehs said the surveyor is busy until 2023 which is why he placed the 2 proposed building locations on the plans and placed cones on the site in case the Board wanted to perform a site visit. He said the location is very flat but that once the work begins they will create swales to direct any water into the existing detention basin. Mr. Katz made a motion, seconded by Mrs. Hiltz to amend the approval condition to include receipt of an “as-built” plan to include grading and building locations one year after completion of the 2nd structure, as this construction will take place over more than one year. Vote was unanimous.

It was noted that as this construction may span more than 18 months, two building permit applications may be required.

**PUBLIC HEARING/
SUBMISSION OF
APPLICATION**

*Carlos & Jennifer Duran, 95
Old Bristol Road, Tax Map R12,
Lot 3; Change in use due to
short-term rental.*

Mrs. Duran was present and said she purchased the property in 2021 for a 2nd home and later decided to also offer it as a short-term rental. Mrs. Duran said the Zoning Board of Adjustment approved this use with the condition that they obtain a satisfactory inspection by the Fire Dept, which she did. Mr. Kettenring advised there was a letter from Mrs. Duran to the Planning Board stating that she would replace 2 windows as recommended by the Fire Dept.

The Board reviewed the Site Plan Regulations Section V.B. checklist for items required for the application to be considered for an Expedited Site Plan review.

#1: Mr. Katz made a motion, seconded by Mrs. Hiltz that this application meets requirement as this is a change in use to commercial. Vote was unanimous.

#2: Relative to traffic impact Mr. Katz made a motion, seconded by Mr. Shaw that the application met this requirement. Vote was unanimous.

#3: As there was no alteration of access to the road Mr. Katz made a motion, seconded by Mrs. Hiltz that the application met this requirement. Vote was unanimous.

#4: As there was no change to lot grading, Mr. Katz made a motion seconded by Mr. Shea that the application met this requirement. Vote was unanimous.

#5: As there was no change to drainage, Mr. Katz made a motion seconded by Mr. Shea that the application met this requirement. Vote was unanimous.

#6: As there would be no increase in gross floor area, Mr. Katz made a motion seconded by Mr. Shea that the application met this requirement. Vote was unanimous.

#7: As there would be no expansion of pavement, Mr. Katz made a motion seconded by Mr. Shea that the application met this requirement. Vote was unanimous.

#8: As there were no unusual or special conditions requiring full site plan review, Mr. Katz made a motion, seconded by Mr. Shea that the application met this requirement. Vote was unanimous.

Mr. Katz made a motion, seconded by Mr. Shea to accept this application as meeting the requirements of an expedited site plan. There was discussion on whether considering this as an expedited site plan met the regulations or whether some type of sketch should be required to show at a minimum - the parking. Mrs. Duran confirmed that she did not submit anything to the ZBA relative to parking accommodations on the property. The Board said they will require a sketch showing where the house and parking is located on the lot. The Board agreed to have further discussions on site plan requirements for short-term rentals.

Mrs. Hiltz made a motion, seconded by Mr. Shea to approve the expedited site plan. Vote was unanimous.

Mr. Katz made a motion, seconded by Mr. Broadhurst to table the other agenda items and move to "other business" based on the attendees present. Vote was unanimous.

OTHER BUSINESS

Michael Sharp

Michael Sharp was present and advised he wanted to provide an update to the medical focus facility. Relative to the temporary road construction, he said they are nearly done. Mr. Kettenring advised the Board would go through the Planning Board letter dated 12/22/21 sent to Mr. Sharp, which outlined items required to be completed by 9/20/22.

Mrs. Hiltz recused herself from this discussion and left the Board's table.

Letter of Credit in the amount of \$69,500 for restoration/reclamation. Mr. Irvine advised this was in place and renews automatically.

1. Payment of outstanding professional services fees, engineering review, which has been met.
2. Payment of legal fees associated with the development of the Site Plan, which has been met.
3. No excavation until road improvements, including turn lane(s), are completed, which has been met.
4. The current Intent to Excavate expired March 31, 2022 and a new Intent was filed for the 2022-23 tax year.
- 6a. *Completion of road improvements connecting East View Drive (Class VI Road) to the driveway cut referenced in condition 4.* Mr. Sharp advised that this was nearly complete. Mr. Kettenring asked if this condition would be met by 9/23 and Mrs. Hiltz said no. Mr. Kettenring asked how long it would take and Mrs. Hiltz asked Mr. Sharp if Mr. Hiltz was planning to meet with the Selectmen to discuss this. Mr. Sharp said that was the plan but thought NHDOT didn't think this access point was appropriate. Mr. Mertz said when the NHDOT agreed to the alteration of Route 104 for this access they had determined that the pullout area, currently constructed, was the safest location for access to the site and

asked Mr. Sharp why NHDOT would consider a different access point as being safer. Mr. Sharp said DOT didn't want it constructed until all the sand was removed but the Town wanted it done prior to. Mr. Kettenring said the Board could discuss extending this condition and Mr. Shaw pointed out that the Board had this discussion already as did the Selectmen and that in minutes from Planning Board and Selectmen's meetings the finish date of 9/1/22 was agreed upon. Mr. Katz said the Board should determine if this is now a dormant site plan based on the number of years that have gone by without active and substantial work being done towards the health focus facility, or grant another extension. Mr. Sharp said he previously advised the Board that this would be a lengthy project. Mr. Shaw advised that according to Selectmen's meeting minutes in December 2021 Mr. Hiltz had said if the person who had planned to occupy the health focus facility had not pulled out from the plan, all the sand would have been gone from the site already, therefore it is possible to remove all the sand from the site in one year's time. Mr. Katz said that when there had been discussion of selling sand from the site the Board had agreed that was incidental to the site plan approval. Mr. Shaw said if the site development continues as it has, it is virtually an excavation site. Mrs. Hiltz advised that it was not intentional for the site plan approval to take so long and for the buyer to back out of the purchase and that it is not affordable to move all the sand from the site in a year. She said the Board knew all of this and it was anticipated that these deadlines would be extended. Mr. Kettenring said if there is no buyer, and no planned construction, then continuing this would be allowing the use as a sand pit. He said the Board could also determine a new site plan application needs submittal for something that could be constructed. Mr. Irvine said the letter of Dec. 2022 clarified issues and set expectations. Mr. Irvine asked as a New Hampton resident, that if the original buyer was proceeding with the purchase, the site would have been prepped within a year, and asked where the material on-site would have gone and why can't that be done today. Mr. Sharp advised that it wasn't cost effective. Mr. Shaw said his main concern is to follow the Planning Board processes and to ensure the zoning regulations are met as this site is now an excavation pit in a district where that is not allowed. Mr. Katz said the Board is charged with administering the regulations and it seems the commitments were not met and the Board should not consider commercial impacts to the applicant when making a decision. Mr. Kettenring asked how long it would take to meet the condition noted in item 6a and stabilize the area so there is no erosion. Mr. Sharp said 30 days. Mr. Kettenring said this site plan was approved because it met the criteria at the time it was presented and it was not approved as a sand pit. Mr. Katz pointed out that as two buyers have backed out of purchasing this property, he questioned whether this was a valid project. Mr. Sharp said he stopped marketing the site. Mr. Katz said that statement says this is no longer intended to be a health focus facility and for this reason doesn't see a reason to extend deadlines.

- 6b. *Date for substantial completion of excavation, slope stabilization and drainage.* No discussion on this condition.
- 6c. *Date of substantial completion of this project.* Relative to this condition Mr. Kettenring advised that no progress is being made to construct the

facility. Mr. Katz asked what Mr. Sharp is cutting the site for and Mr. Sharp said it was to get the site pad-ready. Mr. Mertz said the land was purchased and Mr. Sharp wanted to construct a motel there, but that was not a permitted use in this district so he planned a health focus facility which was a permitted use and creating the connection to the Class VI road was going to be done prior to developing the site for the facility. Mr. Mertz reviewed the issues with getting the access from a town road, to a state ROW, to a class VI road to abutter's property, which became a long process. Mr. Kettenring suggested extending condition 6a. to connect the road - for 60 days, with sufficient stabilization, and require an amended site plan application that is approvable while actively looking for a buyer. Mr. Shaw said if the amended site plan is submitted there would need to be discussion on completion or the proposal becomes dormant. Mr. Irvine asked what completion would be and whether it is a pad-ready site, or a structure that is finished. Mr. Katz reviewed the definition of substantial completion being a project suitable for the purpose it was intended, which would mean for this application, a health focus facility on the site but not necessarily leased out. Mr. Kettenring said the Board could put the project on hold as the conditions were not met with Mr. Sharp submitting a new site plan application when it is determined what can be built and sold, otherwise it is just the creation of a sand pit. If an amended site plan was submitted there would need to be discussion on deadlines for completion.

Mr. Shaw made a motion, seconded by Mr. Broadhurst to extend condition 6a. to complete the road improvements connecting East View Drive (Class VI Road) to the driveway cut for 60 days (November 15, 2022) at which time the Board will determine additional requirements for this site plan approval. Vote was unanimous.

6d. *Return to Planning Board with progress report.* No discussion on this condition.

Agreement with the Town of New Hampton relative to East View Drive must be executed. No discussion on this condition.

Mrs. Hiltz rejoined the Planning Board.

Randy Colby

Randy Colby was present and distributed drawings where he would propose a large shed, how it would be accessed, proposed changes to parking, and the district layouts on the parcels. He said he has 4 parcels under agreement (Map R4, Lots 90, 90A, 90J & 90K) and is looking for information. Mr. Colby said he would like to put a shed for his property management company on the 10-acre lot and run his business from that location. He said he didn't intend to change the plaza or the nursery businesses as they currently exist. Mr. Mertz advised he has a relative who is employed by Mr. Colby and Mr. Kettenring said this is just an informational meeting so there is no conflict. Mr. Kettenring said that some of the land is categorized as being in current use and that the nursery is also extending their land use but it is not yet known exactly where the new area is on these lots. He said there is also a stream that must be considered and there may be other wetlands. Mr. Kettenring said it may be sensible to wait until the nursery provides engineering plans and said that the fencing

around the new nursery expansion is supposed to come down for the winter due to the snowmobile trail and Mr. Colby said and also for snow storage from the parking lot. Mr. Katz suggested Mr. Colby review town regulations regarding setbacks, soil conditions, etc. Mr. Colby said he has been in contact with the original wetlands scientist who was involved in the plans that KGI Properties submitted in the early 2000's. He said he would also like to get roadside signage for his business even if he didn't purchase the particular lots the nursery and plaza are on. Mr. Colby said there is a road that runs through just the nursery lot, which takes a good portion of that lot and restricts parking. Mr. Kettenring advised that Town wants to keep that frontage road as it allows access between properties, something the Town has been working to obtain. Mr. Katz explained that the NH Route 104 right-of-way at this location is 50' from the center line and if a sign was proposed within this ROW approval would be required from NHDOT, besides the Town. Mr. Colby asked about reducing the parking spaces in the plaza and Mr. Pollock advised 63 spaces are currently required based on the current types of business, employees, customers, etc. as required in the ordinance. It was noted that this amount could change based on what was in the plaza.

Review of Standing Committees

Master Plan Sub Committee:

Mr. Broadhurst said there was nothing to report.

Ordinance & Regulations Subcommittee

Mr. Katz said there was nothing to report.

DISCUSSION ON PROPOSED 2023 ZONING AMENDMENTS OTHER BUSINESS

The Board agreed to hold a work session on 10/3/22 at 6:00 pm in the Town Office upstairs meeting room.

Mr. Shaw expressed frustration relative to enforcing the zoning ordinance as evidenced with the nursery expansion and Mr. Sharp's site plan conditions and advised the Selectmen are discussing a Code Enforcement position.

ADJOURNMENT

Mr. Katz made a motion, seconded by Mr. Mertz to adjourn at 9:04 pm. Vote was unanimous.

Respectfully submitted,
Pamela Vose