

# HAMPSTEAD PLANNING BOARD

11 Main Street, Hampstead, New Hampshire 03841-2033

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## Minutes March 4, 2024

A meeting of the Planning Board was held on Monday, March 4, 2024, at the Hampstead Town Hall, 11 Main Street, Hampstead, NH. This meeting was broadcast live on HCTV 16.

**PRESENT:** Robert Weimar (Chairman), Lewis Eaton (Ex-Officio), Randy Clark, Kim Colbert, Mike Hanides, Alan Davis, Matt Johnson, alternate Susan Hastings, and town engineer, Steve Keach.

Pledge of Allegiance

### **Chairman's Remarks**

Next Public Hearing Date April 1, 2024

Filing Deadline for the April 1, 2024 meeting is March 4, 2024

### **Other Matters**

#### **1. Map 11 Lot 112 aka 171 Buttrick Road – Accessory Dwelling Unit (ADU)**

Property owner Dale Gerry presented his plan for an ADU to the board members, all setbacks are met, there is an approved septic plan, the existing dwelling is a 24 x 32 2-story colonial with an attached garage and family room. The ADU will be added to the family room with a 14 x 16 bonus room added to the PDU. The PDU is 2,372 sq. ft. and the ADU is 1,120 sq. ft. Gerry stated the ADU is 1 bedroom with a kitchen and bath to be occupied by his parents. Gerry commented as a real estate appraiser he is seeing more and more ADU's.

Chairman Weimar stated he has no questions and asked board members if they had any questions.

**MOTION: Clark made a motion to accept jurisdiction of the plan for an ADU for property located at 171 Buttrick Road aka Map 11 Lot 112**

**SECOND: Johnson**

**VOTE: 7-0**

Chairman Weimar asked for public comment and there was none.

Hanides asked the property owner to point out the entrance/exit. Weimar commented the septic approval is on file. Weimar asked about water and Gerry stated he has lived there 20-years and has never had an issue. Hanides asked about water flow rates and Gerry stated he doesn't have an issue.

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**MOTION: Colbert made a motion to grant a conditional use permit for an ADU for property located at 171 Buttrick Road aka Map 11 Lot 112 per plan submitted.**

**SECOND: Davis**

**VOTE: 7-0**

## New Business

### **1. Map 9 Lot 029 aka 62 Wash Pond Road subdivision off Liberty Lane**

Ryan Lavelle from James M. Lavelle Associates was present to represent the property owner. Lavelle explained the proposal to the board and added that he does not expect approval tonight as they are still awaiting permits and he has yet to address KNA comments. Lavelle wants to start the discussion with the board. Lavelle stated there is an existing gravel drive on Wash Pond Road, the new lot on the back of the lot will get access off Liberty Lane. Lavelle stated the cul-de-sac is not physically built and the intention was to do what Map 9 Lot 29-1 did back in 2006.

Chairman Weimar commented that this is the third development of this property. Lavelle used the plot plan to explain the proposal. Clark stated the first subdivision goes back 18-years in 2006 and at that time the PB allowed some concessions.

Chairman Weimar asked Keach for his comments. Keach summarized comments from his 2/29/2024 review letter. The application requires NHDES subdivision approval as well as a wetland permit. Lavelle commented that Gilday is preparing the minor wetland permit. Keach stated the 2006 plan granted two waivers noted on plan D-33860, the minutes from 2006 state "any further development"; the waivers should be rescinded.

Keach stated the 2006 proposal only represented one new lot, the applicant dedicated and conveyed land to the town. Liberty Lane is paved to the north end and on the west, there is an easement on the Kirk property. Weimar commented that the area used as the cul-de-sac would be converted back to the property owner. Keach the 2006 plan shows a hammerhead contemplated construction, note 2 on the recorded plan references further development compliance to the LSDR would be required. Keach stated the improvement shown in 2006 needs to be built.

Keach referenced the fire protection piece and noted the 2006 minutes refer to Chief Hastings preferred fire protection and would like a fire hydrant at the intersection of Freedom Hill Road and Liberty Lane.

Keach stated the applicant needs to construct the hammerhead and install a hydrant at the intersection. Clark explained the 2006 PB discussions. Clark commented that this application now covers the second half of the cul-de-sac for the frontage requirements. Clark stated the existing house gets access from Wash Pond Road and any further development would need to be from this access point. Keach commented that the residual land is steep and sloped, this may represent the final development of this parcel.

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Keach in 2006 the PB identified what further improvements would be needed. Keach doesn't feel a traditional cul-de-sac could be built.

Soucy stated she spoke with Deputy Chief Warnock and he stated he would work with the applicant on the placement of the hydrant.

**MOTION: Clark made a motion to accept jurisdiction of the subdivision application for property located at Map 9 Lot 29 aka 62 Wash Pond Road.**

**SECOND: Hanides**

**VOTE: 7-0**

Keach continued his review of his letter and stated a Conditional Use Permit (CUP) is needed for the wetland crossing, there may be approval needed from the Conservation Commission.

Keach referred to comment #9 of his letter and noted that three waivers are needed for the current application, the residual parcel does not need soil mapping, etc. and he would support the board granting these waivers.

Keach asked for a construction plan with grades for the hammerhead cul-de-sac. Eaton asked if the current cul-de-sac was dedicated and accepted. Keach stated it was dedicated when the plan was recorded at the RCRD. Keach stated the cul-de-sac was never built, once built and approved by the engineer the town would accept that portion of the road. Keach stated he would like the 2006 recorded documents referenced on the current application.

Keach commented that two things must be addressed; build the hammerhead per plan D-33860 and install a fire hydrant with the location to be determined by the HFD/DPW.

Weimar asked for public comment.

Jake Kirk – 11 Liberty Lane – stated his lot has the temporary easement and asked if he would be getting half of the cul-de-sac back, he added there is currently a berm on his property that spans approximately 70 feet with a drop of 2-feet from one end to another. Keach commented that when the hammerhead is built the applicant would need to remove the asphalt not Mr. Kirk. Keach stated they would remove the pavement and restore the area with loom and seed. Keach stated he cannot compel the applicant to do more than what is required.

Kirk commented there is a 14-foot drop in the 4K receiving area. Keach stated this doesn't matter since it is based on soil type and added the septic will only occupy a quarter of the 4K receiving area.

Kirk, it appears the electric lines are to be buried and commented there are a lot of rock on the property. Kirk commented that there is a wetland about 10-feet wide and it flows

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for about 9 months of the year. Keach stated he considered water which is why he asked for construction detail plan that would be signed by an engineer and approved by the State Wetland Bureau.

Kirk stated he is concerned with rock and blasting. Lavelle is not sure at this point but blasting may be needed based on the location of the house. Keach stated he is familiar with the area having worked with the Ashford's property years ago. Keach spoke about rock and soil types and added the owner has options on the 3-acre parcel.

Dave Rollins – 70 Bloody Brook Road – stated his house is on top of Smith Mountain and the proposed house is behind his property and he is concerned about blasting. Weimar stated that if blasting is needed that is handled by the Fire Department.

Rollins stated that he is confused by the comment 2-lot subdivision. Soucy commented that refers to the existing home plus one new lot. Rollins referred to the 4K receiving area and Keach commented that those are NHDES requirements based on the worst-case scenario for soils for a 4-bedroom home, using 2K plus 2K as a replacement area. Keach commented that all setbacks need to be met.

Chairman Weimar asked if others had comment and there was none.

Weimar commented that the driveway will be difficult based on the slope. Lavelle stated that he has hired Gregsak to design the driveway. Kirk asked for the diameter of the cul-de-sac and Lavelle explained the hammerhead turn-around.

Lavelle asked for a continuance to the 4/1/2024 public hearing.

**MOTION: Clark made a motion to continue the subdivision application for property located at Map 9 Lot 29 aka 62 Wash Pond Road to the 4/1/2024 public hearing.**

There was a discussion regarding the motion, Colbert suggested continuing to May, Soucy commented they requested to April and that should be honored, if they need to request continuance in May that will be dealt with then. Weimar stated the abutters were noticed by letter for this hearing and feels they should be renoticed for the future hearing. Soucy commented that is not appropriate per the RSA, the Chairman shall announce the date/time the hearing as been continued and inform the audience no further notice will be given. Clark commented that is why the motion has date/time specifics per the RSA. Weimar felt differently. Hanides commented we have asked for renote in the past, however, it was for hearings that continued over months and months.

**SECOND: Hanides**  
**VOTE:7-0**

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## **Planning Board Matters**

### **1. Interest in PB Alternate Position**

Dale Gerry stated he has an interest in an alternate position on the board, originally, he was going to approach the ZBA however there are lots of matters that deal with property values so he changed his mind to volunteer with PB. Gerry stated he has experience with zoning based on his profession as a real estate appraiser. Colbert asked where he works and he stated in Hampstead. Weimar asked if the board had other questions. Weimar commented that the board has seen an example of his design skills. Weimar thanked Gerry for his interest and stated the board would discuss the matter amongst themselves.

### **2. Town Engineer Comments – Discussion re: Proposed Housing Legislation**

Keach stated he pays attention to the goings on and has been tracking SB 538, he stated it seems as though the sponsor and co-sponsor added things as tag-a-longs to the original bill. Keach feels, as written SB 538 will not leave the committee. Keach stated he has seen the remarks from NHMA. Keach stated the original intent was to enable the local governing body to convert commercial property to residential without changing the zoning. Keach stated he would keep following and send the board updates.

Chairman Weimar feels that HB 1291 and HB 1399 are getting the most traction. Weimar drafted a letter outlining and would like the board's agreement.

**MOTION: Clark made a motion to put forward the letter Weimar drafted re: HB 1291 and HB 1399 and add Birdsell to the distribution list.**

**SECOND: Colbert**

**VOTE: 7-0**

Eaton commented that he feels that the letter goes directly against MP Goal #7. Weimar stated he understands Eaton's point. Goal 7 which is to maintain the character of the town and allow housing options. Clark stated Hampstead has diverse housing. Weimar stated his concern is with multiple ADU's on a single lot changing the character of the town, the population of the town would change. Keach stated it would be in essence creating small apartment. Weimar commented the bill speaks to rental units. Clark commented that in Hampstead land use is soil-based since there is no municipal sewer or water in town.

### **3. Finalize Landscape regulations for public hearing.**

Weimar commented that he thought the landscape and architectural regulations were ready to go. Clark has issues with the landscape regulations, lots of description trying to explain something attractive or not. Clark gave examples of commercial properties in town. Weimar asked how will the board establish the character of the town if the board doesn't provide guidance. Clark commented that the board has done this for decades with the zoning and regulations we have, and it works fine.

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Colbert wants to know what wording Clark has issue with or if it's the entire premise. Clark stated in principle he does not agree, for example, the regulations suggest planting a shrub for each parking space. Clark asked who's decision is it to determine the aesthetic pleasing of the site, Clark read from the proposal "maximum effort " who determines that? Colbert stated the regulations need to be specific and stated that the pickleball club has no landscaping, Keach commented not yet, no plantings until spring. Weimar stated part of the PB responsibility is to provide ambiance of what town looks like.

Clark commented that according to the MP the town looks nice, it got that way based on the regulations and the planning board judgement. Weimar commented that Route 111 will still be developed.

Colbert asked Clark if he had comment on other things. Clark again asked who establishes maximum effort. Clark stated in NH a person who owns land has freedom to use his land. Weimar commented that a neighborhood should have an expectation of what the area will look like.

Keach reminded the board they have the requirement in the regulations for a landscape plan and as such should give some guidance to a landscape designer. Keach feels the board needs to start somewhere. Keach added this discussion is why the regulations are not coded before they are ready. Keach stated the board has two alternatives, advance something or not.

Weimar stated the board can modify the language regarding the number of plants per parking space. Clark added things could be interpreted differently by different board members. Weimar stated he feels that landscape is a matter that needs to be addressed. Weimar stated the applicant needs to provide a plan.

Clark commented on the architectural regulations and sited the pickleball club as an example. Weimar commented that based on the results of the MP folks don't want to see more storage. Clark added the folks also complain about the number of gas stations in town. Weimar stated the board cannot direct anything but can offer comment.

Clark commented that when there is too much regulation people fall asleep and can't follow. Clark stated we have the town we have based on the zoning in place, the members, and engineers over the years. Weimar stated he would like to move the matter forward; the regulations can change to have a more general statement regarding parking lot plantings (remove per required parking space).

Clark referred to the second paragraph on page 2 of the document "existing on-invasive" etc. etc. as an illustrative example of the use of many words. Soucy reminded the board that they already have authority over architectural design as wording exists in the current Zoning Ordinance for each commercial district. Soucy read from the ZO regarding building design, etc.

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Weimar feels the board needs to establish specifics. Johnson had a discussion with Clark and gave a few examples, Johnson feels the proposed language gives the board discretion.

Keach commented that you are regulating aesthetics, which is subjective, you can't check a list to meet a number, but it provides a tool as a starting point.

**MOTION: Hanides made a motion to accept the landscape and architectural regulations as modified and move them to a public hearing.**

**SECOND: Eaton**

**VOTE: 6-1 (Clark)**

#### **4. Finalize Street regulations for public hearing.**

Weimar had put forward a proposal for revised street regulations. Clark commented that Weimar had reversed definitions of what is already in place as well as adding a definition of a street entrance. Weimar stated a road should have a volume-based use; he also sees a problem with secondary egress traditionally being used for emergency access only. Weimar feels the proposal provides further definition. Clark referred to two recent elderly projects, no arterial roads and lots of complaints. Clark didn't feel you needed to rewrite the definition regulations to address the matter. Clark read his own proposal.

Keach commented that the street regulations are not ready for a public hearing. Keach read the document and wants to talk to Weimar. Weimar wants something to further classify what a road is so impact to existing roadways is based on a trip standard. Weimar commented that secondary egress is at the discretion of the board and is something currently used for emergency purposes only. Clark reviewed the definition section.

Weimar stated the regulations establish a basis on how roads relate to one another. Weimar wants a definition of a road that is less than 1,000 trips and Clark commented that we have that in the regulations, and it is called a local road. Weimar felt doubling traffic on a neighborhood road is not a reasonable thing to do. Clark feels a declarative statement would address the matter.

Keach stated that Weimar is talking about a hierarchy. Keach stated he is concerned about creating definitions for terms that already have formal definitions. Weimar cares about having a hierarchy.

Keach stated there is a body of science regarding traffic/roads/capacity. Keach stated he understands the basis of what Weimar wants to do, we are talking about connecting roads, that is the reason the PB requires a traffic study. Weimar states if someone is unwilling or unable to provide a second means of egress the PB needs a basis to state what kinds of upgrades are needed.

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Weimar stated he is willing to adjust his approach as long as the outcome is the same. Keach stated the overall change to the regulations needs to be relatively minor. Keach stated he will come up with something to present to the board.

5. Correspondence – Soucy announced the PB correspondence.
  - a. Map 12 Lot 26 aka 106 Emerson Ave – Wetland Permit by Notification; replenish beach sand at Sunset Park Campground
  - b. Map 3 Lot 46 aka 77 Holiday Lane – Wetland Permit by Notification; replace existing retaining wall.
6. Member Comments - deferred.
  - a. CIP update
  - b. RPC update
7. Review of Minutes (2/20/2024 Workshop)

**MOTION: Clark made a motion to approve the 2/20/24 minutes as presented.**

**SECOND: Hanides**

**VOTE: 7-0**

8. Adjourn

**MOTION: Colbert made a motion to adjourn at 9:36 P.M.**

**SECOND: Hanides**

**VOTE: 7-0**

9. Continued discussion regarding alternate interest from Dale Gerry. Chairman Weimar asked the board members if they had any thoughts/concerns. Colbert was concerned about Gerry doing work in town. Clark talked about conflict of interest and stated that is why the board is composed of 7 members plus alternates, plenty of folks in case someone needs to recuse themselves. Johnson talked about recusal and conflict of interest and how he would handle as an attorney.

**MOTION: Eaton made a motion to appoint Dale Gerry as an alternate to the board.**

**SECOND: Colbert**

**VOTE: 7-0**

Minutes prepared by Debbie Soucy, Secretary