

HAMPSTEAD PLANNING BOARD

11 Main Street, Hampstead, New Hampshire 03841-2033

Minutes May 1, 2023

A meeting of the Planning Board was held on Monday, May 1, 2023 at the Hampstead Town Hall, 11 Main Street, Hampstead, NH. This meeting was broadcast live on HCTV 17.

PRESENT: Robert Weimar (Chairman), Lewis Eaton (Ex-Officio), Randy Clark, Mike Hanides, Kim Colbert, Matt Johnson, Alan Davis, alternate Susan Hastings, and Steve Keach (arrived at 7:50 PM), Keach-Nordstrom Associates.

Pledge of Allegiance

Chairman's Remarks

Next Public Hearing Date June 5, 2023

Filing Deadline for the June 5, 2023 meeting is May 1, 2023

Other Matters

1. Change of Occupancy – 10 Main Street, Iced Twice

Tammy Baker, owner of Iced Twice was present to answer questions regarding the change of occupancy at 10 Main Street. The ice cream shop will be occupying the old location of the Toss n Sauce. T. Baker asked the board if they had any questions and there were none.

Chairman Weimar asked for public comment and there was none.

MOTION: R. Clark made a motion to approve the change of occupancy at 10 Main Street, Iced Twice.

SECOND: M. Hanides

VOTE: 7-0

New Business

Chairman Weimar and member M. Johnson recused themselves from voting on the Emerson Ave subdivision. Chairman Weimar announced that S. Hastings would be a voting member on this application and R. Clark would chair the discussion.

1. Map 12 Lot 084 aka 323 Emerson Ave – Subdivision of Land

Tim Peloquin, Promised Land Survey was present to represent the applicant. The existing lot is a 13.4-acre parcel and they are proposing a one lot subdivision, the new lot meets frontage and soil sizing. T. Peloquin commented that there are wetlands out back. The new proposed driveway will run alongside the existing drive. T. Peloquin indicated the State Subdivision approval and setting of monuments are outstanding items.

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R. Clark referenced the HFD approval letter regarding the driveway requirements. The new parcel will have an address of 325 Emerson Ave.

MOTION: M. Hanides made a motion to accept jurisdiction of the application for a subdivision of land at Map 12 Lot 084 aka 323 Emerson Ave.

SECOND: K. Colbert

VOTE: 6-0

Vice Chairman, Clark asked if the board had any questions. S. Hastings had a question regarding the new driveway. T. Peloquin commented that the new driveway will have a turnaround as requested by the HFD. R. Clark read the letter from the HFD and T. Peloquin stated the new plans reflect the changes per the HFD.

M. Hanides asked if the driveway has 400 feet of sight distance and T. Peloquin stated it meets the requirement.

R. Clark asked for public comment.

Bob Weimar – 311 Emerson Ave – commended the applicant for the layout and proposed plan, it is respectful of the neighboring properties.

R. Clark closed the public comment.

MOTION: M. Hanides made a motion to grant 90-day conditional approval for subdivision of land at Map 12 Lot 84 aka 323 Emerson Ave subject to all comments from the KNA letter being addressed.

SECOND: K. Colbert

VOTE: 6-0

Chairman Weimar and member M. Johnson returned to their seat on the board. Weimar recessed for 5 minutes since the board was still awaiting the arrival of S. Keach.

Old Business

1. Map 01-091-01 & 091-02 Cameron Court 70 & 90 Depot Road– Elderly Housing Development

T. Lavelle from James M. Lavelle Associates was present to represent the applicant. T. Lavelle had the 4/25/2023 KNA review letter and stated the outstanding items include the condo documents as well as the AOT permit.

Chairman Weimar commented that the Inspection and Maintenance SWM manual is referenced in the KNA letter and should be part of the legal documents. Weimar

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commented that there are drainage concerns in the area, however he is confident the issues will be addressed.

Chairman Weimar asked the board members for questions.

M. Hanides stated that page 6 shows a silt fence vs. a fence that is called out in the legend. T. Lavelle stated the page in question was prepared by Gregsak and his legend is different than his own. Chairman Weimar agreed with Hanides that there should be consistency.

Chairman Weimar stated there was a field inspection visit with Gregsak as well as KNA field representative and the Chairman of the Conservation Commission. Weimar stated the concerns have been addressed. T. Lavelle stated the grading and septic were added to the plans after the site walk.

K. Colbert asked if these are the most current plans. T. Lavelle stated they are current and include the building elevations as per the board's request.

Chairman Weimar asked for public comment.

Rosemary Iannuzzi – 15 Bloody Brook Drive – asked for the total number of units. There are 10 duplex units being proposed for a total of 20 housing units.

Chairman Weimar closed the public comment session.

R. Clark referenced the KNA letter and noted the items that should be part of a conditional approval.

MOTION: R. Clark made a motion to grant 90-day conditional approval for the Elderly Housing Development called Cameron Commons located at 70 & 90 Depot Road subject to standard administrative conditions, all State approvals, as well as the following special conditions:

- Execution of a Notice of Voluntary Lot Merger
- All legal documents approved by Town Counsel prior to recording.
- Letter from Steve Keach, KNA that all comments from his 4/25/2023 review letter have been addressed.

SECOND: M. Johnson

VOTE:7-0

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K. Colbert asked about the 90 days, D. Soucy explained the administrative process of meeting conditions prior to any construction commencing on the site. M. Hanides asked about the buffer restoration, D. Soucy reminded the board the matter was discussed at the last public hearing. Chairman Weimar stated the plan calls for plantings to be 4-6 feet in height, 2 staggered rows, on berms. Chairman Weimar stated the buffer plan appears to address the concerns of the two houses that were exposed.

2. Map 11 Lots 150 & 291 and Map 9 Lot 62 – Hampstead Heights - Off Stony Ridge Road – Elderly Housing Development

David Jordan, PE from GPI was present to represent the applicant. D. Jordan commented that the project has been in front of the board for some time now and wanted to give the board an overview and added his firm has been working on the project for 15 months. In 2/2022 a conceptual plan was presented to the board. In June 2022 the application was submitted to the board with a Department Head Review meeting being held on 6/16/2022. July 5th was the first public hearing, and the applicant received the first KNA review letter. After the July meeting the Chairman submitted his questions and comments regarding the project. In September 2022 the applicant received a letter from Hampstead Area Water Company (HAWC) indicating they were willing to provide water for the project. At the end of September revised plans were submitted to the board. AOT permit/comments have been addressed and approval was granted in November 2022. On 11/3/2022 revised comments from KNA were provided and GPI submitted a phasing plan and ground monitoring plan.

(7:50 P.M. S. Keach arrived at the hearing)

D. Jordan stated that in November 2022 draft condominium documents were submitted. In December 2022 GPI responded to Keach 11/3/2022 letter. D. Jordan commented that additional information regarding traffic, roadways, intersections, etc. were provided to Keach. D. Jordan stated they are working on finalizing the remaining items.

D. Jordan began his review of the 11/3/2022 KNA letter.

General Comments

1. NHDES subdivision approval not received yet.
2. The secondary access/emergency access; D. Jordan deferred discussion of this matter to the applicant's attorney.
3. Standard comment regarding posting a performance guarantee.

Zoning Matters

- a. Condominium documents – this matter is between the applicant's attorney and town counsel.
- b. Comment addresses the minimum tract area requirement and frontage for the project. D. Jordan commented that the project as designed provides adequate frontage and added the applicant could not access more frontage since the site is

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surrounded by town owned land. D. Jordan commented that an additional 50 feet of frontage would not add any benefits.

- c. Comment addresses the buffer, Jordan read from the 11/3/2022 KNA letter. D. Jordan stated that no pavement or structures are proposed within the buffer and added that the site is surrounded by town owned conservation land.

Planning/Design Matters

1. The road will remain private. D. Jordan stated the note has been updated on the plan.
2. Street names are proposed as Towne Lane and Rodeo Drive.
3. Setting of monuments and the easement would be a condition of approval.
4. Condominium Documents would be a condition of approval.
5. Proposed drainage improvements. D. Jordan stated that all season sight distance is provided.
6. Septic plan design is shown on the plan, the final septic would be a condition of site plan approval.
7. HFD access/easements. D. Jordan deferred discussion of this matter to the applicant's attorney.
8. Maximum street length of 1,200 feet and NH State Fire Code requirements. D. Jordan indicated the second emergency access addresses this issue.
9. Submission of traffic impact assessment (TIA). D. Jordan stated after the initial TIA was provided there was a request for additional information and GPI submitted new information at the end of December 2022 to Keach.

D. Jordan finished his presentation to the board and offered to answer any questions. Chairman Weimar asked S. Keach for comment. Keach referenced some additional documents that are included in the member's packets: 3/29/2023 KNA memo regarding the expanded traffic info; an email dated 1/2/2023 from Keach with his comments.

S. Keach reminded the board that they have discretion on the buffer matter and suggested a finding of fact for the record. Keach commented the majority of the land that abuts the development is town owned or privately owned by the Ashford's.

S. Keach commented that the Lot Line Adjustment (LLA) is a separate application to the board. S. Keach referred to comments concerning drainage improvements and noted an internal memo from the Road Agent, Jon Worthen regarding his comments. Keach referred to the maximum length of streets and indicated the problem goes away with a suitable second access.

Chairman Weimar asked the board if they had questions. K. Colbert questioned the maximum length of streets. Keach commented the matter could be discretionary similarly to the perimeter buffer.

Attorney Pat Panciocco represents Richard Towne and Jackson Ridge Realty Trust and was in attendance to address the second access. Panciocco wanted to provide the

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board with a timeline of the project as it was continued a number of times as they were working on a solution.

Panciocco stated when her clients started on the project they knew a second access would be required. A prior board member had discussed access on Cardinal Lane. Panciocco stated there is a water tower on the parcel that is maintained by HAWC. Panciocco explained the HAWC easement as a 20-foot right of way. There was a conversation about use of this easement and a list of concerns was raised. By March 2022 a formal emergency access easement was created. Panciocco reach out to HAWC to see if they had a problem with a shared use of the easement and offered to share the cost and maintenance. Panciocco stated town counsel reviewed the easement with approval.

Panciocco as of the 7/5 public hearing the plan was moving along, all the studies and engineering for the project had been performed. At the August public hearing the owner of Map 9 Lot 61 made the announcement that the agreement for secondary access was rescinded. Panciocco stated they have had no response from the landowner, she feels this is reasonable access and added it would benefit Granite Village as well.

Alex Camm, GPI explained the roadways near the project site, Freedom Hill Road, Cardinal Lane, entrance to Granite Village.

Panciocco commented there is additional benefit as second access to the Granite Village units. Panciocco commented the Fire Chief thought it was a good plan. Panciocco stated the applicant has a 10-foot wide easement by right. She stated they have worked diligently on the project and have no clue why there was a 180 on the access matter.

M. Johnson asked for clarification if this was a Right of Way (ROW) or easement. Panciocco stated that HAWC has a legal easement.

M. Hanides stated the easement is shown as 10-feet on the plan. A. Camm feels the original plan showed 20-feet. Keach commented that the existing 10-foot easement is variable. R. Clark commented the easement needs to be 20-feet wide per the HFD.

Panciocco stated the HFD wanted 20 feet to accommodate two-way traffic, however 10 feet is what is in the deed. R. Clark stated the HFD wants 20-feet and the board needs to follow NFPA 1 rules. Panciocco stated they met with the HFD to explore what could be done to meet the HFD needs with a 10-foot deeded easement. Panciocco stated they cannot give the town a 20-foot easement as per the original agreement.

R. Clark asked GPI if they have looked at the existing 20-foot easement that HAWC enjoys. R. Clark stated large-wheeled vehicles are on the property as well as supplies for the business. R. Clark said he could drive his pick-up truck and find a way through the paths.

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Panciocco stated if they remain within the HAWC easement they could pass. Panciocco stated the 20-foot wide HAWC easement cannot be obstructed.

K. Colbert stated they would need permission to go through Cardinal Lane and wanted confirmation that it was for emergency access only. M. Hanides commented neither entrance would be for regular vehicular traffic. R. Clark stated having an emergency access for 3-4 houses is one thing, 66 units is another. M. Hanides referenced the NFPA 1 regulations in the site plan regulations.

Chairman Weimar stated the board is discussing the second access, all other matters will be addressed once this has been resolved. Keach commented it has been six months since the board has had the opportunity to ask questions.

R. Clark commented that months ago Ashford stated they will not allow access from the cul-de-sac. M. Hanides commented that Ashford spoke at a public hearing and indicated the matter could not be worked out. R. Clark recalls something from Ashford regarding the insurance agent advised not to take the risk. Chairman Weimar stated the principle issue is they are unable to provide the 20-foot easement as required by the HFD, this issue would inhibit approval.

Panciocco stated the intent was never to have the easement open for public travel, the folks in the development would not have free access, there would be a locked gate, only emergency providers could gain access. Panciocco stated there are compensating factors, all units are sprinklered and hydrants are part of the project. Panciocco added that police and fire have immunity as far as insurance is concerned, regardless they agreed to an umbrella policy.

Chairman Weimar stated that access as defined by the HFD is what the board is discussing and it cannot be satisfied. Weimar sees no way to be resolved. The board needs to focus on the facts as they stand. Chairman Weimar stated the board has a generic issue with the second access. Weimar sees no way to continue the plans without this basic requirement being met.

Chairman Weimar stated he was going to open the floor for public comments and added these should be new matters. Weimar stated the board received several letters ahead of the hearing which talked about matters the board previously brought forward. Chairman Weimar stated the traffic issues are still open for discussion if the matter continues.

Chairman Weimar stated there were questions regarding Storm Water Management (SWM) and added the applicants SWM study addresses project and abutter concerns. Where the project to move forward the SWM plan is state of the art per Keach comments.

Chairman Weimar asked for public comment.

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Chuck Ashford Jr. 23 Cardinal Lane and Heather Ashford 1 Cardinal Lane – C. Ashford stated the original easement would go over the HAWC easement. C. Ashford stated at that time they were not privy to the HFD requiring 20 feet. The 10-foot deeded easement is a floating easement. At the 6/16/2022 DHR meeting the HFD said 20-feet was needed, not giving 20-feet when they are only entitled to 10-feet. C. Ashford stated he was advised to have the attorneys speak with each other directly. In March 2023 the Ashford's reconfirmed the 10-foot easement as per the deed. HAWC cannot expand their easement rights. H. Ashford stated they have discussed the matter with their attorney.

Rosemary Iannuzzi – 15 Bloody Brook – commented on a locked gated access and asked how much of a delay in emergency response the locked gate would cause. Chairman Weimar stated the HFD would have a key, the main access for emergency response would be off Stoney Ridge Road, the locked gate is for catastrophic events.

Renee Mitchell – 4 Bloody Brook – commented that she had elderly parents in Granite Village and couldn't get the gate open in time of crisis.

Chairman Weimar closed the public comment session.

Chairman Weimar commented that no new information has been provided and asked the board members how they would like to proceed. Chairman Weimar asked the applicant what they would like to do. P. Panciocco stated she was hopeful to review any remaining issues outside of the second access, she mentioned the buffer and traffic as two items.

Panciocco wants to know if all other matters would be ok. Chairman Weimar stated he may not know all the boards questions. Weimar stated the transportation matter may not be in interest of the board until the access is resolved. R. Clark stated the list of items not in compliance but they are correctable, all fall way behind the second access matter. R. Clark mentioned the project is subject to Elderly Housing Zoning Ordinance and Site Plan Review regulations, including NFPA 1 requirements of HFD.

Panciocco stated she respectfully disagrees and wants to know the reminder of the outstanding matters. R. Clark asked if there is a sliver of a chance to meet the requirements of the HFD. Chairman Weimar stated the board heard from the abutting landowner and is doesn't look likely that this issue is to be addressed by the two parties.

Chairman Weimar stated he cannot say what a future board might say or ask if the application comes back.

Panciocco stated she would like to know if the buffer and transportation matters are resolved. Chairman Weimar stated the board hasn't had the opportunity to discuss. Weimar stated the board has allowed the project to continue. Weimar stated there are

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issues raised by the public, if revised proposal is received these matters would be considered.

R. Clark asked Keach to comment on the buffer and traffic matters. Keach stated the buffer piece is reserved for the judgement of the board. D. Jordan pointed out the locale of the proposal and its proximity to town owned land.

Keach spoke to the traffic matter and stated at the time of application, Bollinger, PTOE, PE performed a TIA that followed the board's site plan regulations. Keach commented on the study and based on comments from the board asked for more qualitative data. Keach asked for information regarding the adequacy of stop signs, intersections, and other matters dealing with public safety.

In December 2022 GPI submitted a document addressing these matters. A copy of the additional traffic information was shared with Road Agent, Jon Worthen for his comment. There is a memo dated 4/19/2023 stating the 21 feet of Stoney Ridge Road is adequate, the applicant has agreed to overlay the pavement upon project completion, the applicant was given permission to perform SWM improvements. Keach stated there is a modest level of work identified as necessary by Bollinger and the Road Agent.

Keach comment the board knows traffic will be increased, the question is can the road network handle the traffic, Bollinger, Keach, and the Road Agent all agree it can.

Keach stated there is a difference between a second access and emergency access. The Site Plan Regulations talk about maximum road length which can go away if emergency access has been satisfied. Keach stated the frontage requirement for the project is 50-feet, however the board has a discretionary additional 50-feet if they feel appropriate.

Chairman Weimar expressed his concern for the safety of the people in the subdivision and public who use the existing road network. Most of the traffic will be on Buttrick Road. Weimar stated this is an existing neighborhood with an established ambiance. Keach commented that is a subjective matter.

Keach referenced the concluding paragraph of his 3/29/2023 memo, the concept of scattered and premature development is founded in law. Keach stated he was not aware of some of the facts Panciocco presented this evening. Keach stated at present if the board feels compelled to take action, he would consider the application scattered and premature.

Davis asked if the HFD attended the PB meetings. Chairman Weimar stated they have not, but the information from HFD has been conveyed to the board. At the 6/16/2022 DHR meeting, the Deputy Fire Chief presented the HFD preliminary remarks. A second letter from HFD Chief Carrier reinforced the HFD requirements.

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Chairman Weimar asked R. Clark his thoughts. R. Clark stated the board has continued the project a number of times to work out a solution. Tonight's presentation leads him to believe no agreement or prospect for agreement on the second access.

Chairman Weimar stated the conditions based on the Ashford's comments will not meet the HFD requirements. R. Clark stated he always felt the Ashford's only gave 10 feet and not the 20 feet as per the HFD requirements.

Panciocco stated the access has always been proposed as a 20-foot easement for emergency access. Weimar stated further discussion of the easement is not within the board's privy. K. Colbert commented the project is not getting further.

Panciocco stated she feels the applicant needs to understand the traffic and buffer matter. Chairman Weimar stated during further discussion things may come up. Keach stated that outstanding matters are reflected in meeting minutes or a review letter. Keach stated the applicant agrees to be entitled to address outstanding matters.

Chairman Weimar stated there are other issues, at this moment matters have been addressed. Panciocco stated the biggest issue has been discussed. Weimar stated by virtue of the issues raised during the public hearing, he does not know of other issues.

Panciocco stated she wants an additional / final review from Keach. Weimar agreed as it would clarify understanding.

K. Colbert made a motion to deny the application as scattered and premature. R. Clark stated he would modify this as a premature development not able to secure secondary access. Adding three lots around the property are conservation and another lot is owned by the Ashfords. M. Johnson stated he would amend the motion to include "given the potential dangers to health, safety, and convenience imposed or exacerbated by lack of transportation and fire protection."

Panciocco stated she will move to withdraw the application without prejudice. A formal letter will be sent to the PB office as confirmation for the file.

Planning Board Matters

1. Town Engineer Comments - none
2. Correspondence - none
3. Member Comments - none
4. Review of Minutes (4/17/2023 Workshop)

MOTION: L. Eaton made a motion to approve the 4/17/2023 minutes as presented.

SECOND: M. Johnson

VOTE: 7-0

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5. Adjourn

MOTION: L. Eaton made a motion to adjourn at 9:30 P.M.

SECOND: M. Johnson

VOTE: 7-0

Minutes prepared by Debbie Soucy, Secretary