

HAMPSTEAD PLANNING BOARD

11 Main Street, Hampstead, New Hampshire 03841-2033

Minutes October 7, 2019

A meeting of the Planning Board was held on Monday, October 7, 2019 at the Hampstead Town Hall, 11 Main Street, Hampstead, NH. This meeting was broadcast live over HCTV 17.

PRESENT: Paul Carideo (Chairman), Steve Wentworth, Sean Murphy, DJ Howard, Chuck Ashford Jr., Bob Vilella, Randy Clark, and Scott Bourcier, Dubois & King
The public attendance roster is available as an attachment to this document.

CHAIRMAN'S REMARKS

Next Public Hearing Date November 4, 2019

Filing Deadline for the November 4, 2019 Meeting is October 9, 2019

Chairman Carideo opened the meeting at 7:02 P.M. Chairman Carideo announced that the PB office received a request from the consultant to continue the public hearings for Map 02-165 and Map 12-081 to the November 4, 2019 PB meeting. This will serve as notice of the continuance.

Old Business

1. Map 6 Lot 108 Hampstead Self-Storage Administrative Amended Site Plan

R. Clark stepped down from his spot on the board.

Mark Francoeur advised the PB members that they are looking for an administrative approval to reduce the size of the previously proposed storage building. M. Francoeur talked about the changes during the preconstruction meeting with the S. Bourcier. M. Francoeur stated he would not be asking for a bond reduction. M. Francoeur stated he would like to remove the requirement of vinyl siding. M. Francoeur stated they will re-record the first sheet of the amended site plan.

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P. Carideo asked S. Bourcier for comment. S. Bourcier stated that during the first preconstruction meeting the owner shared the plans for the new building and described what he wanted to do on site. S. Bourcier stated that since it was a reduction in size from the approved plan he suggested an administrative change. S. Bourcier referenced his 9/26/2019 letter and stated that no additional review comments need to be addressed.

P. Carideo asked for PB member comments and there was none. P. Carideo stated that note 17 on the plan would need to be revised. C. Ashford and S. Wentworth were both in favor of the change.

MOTION: C. Ashford made a motion to accept Map 06 Lot 108 amended site plan, note 17 to be revised, all recording fees to be paid.

SECOND: D. Howard

VOTE: 6-0

R. Clark returned to his spot on the board.

2. Map 16 Lots 1 & 25 Hadley Road Subdivision – Bond Discussion

Attorney Liz Nolan from Alfano Law Offices was present to represent the applicant. L. Nolan recapped the approval that was granted 8/5/2019 and stated she reviewed the two bond amounts. L. Nolan stated that there is a public hearing scheduled for 10/28/2019 with the Board of Selectmen to request a layout of the road. L. Nolan stated that they have received several quotes to bring the road to Class V standard which range between \$128K-\$150K.

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Chairman Carideo explained that Dubois & King prepares the bond estimates based on NHDOT numbers and an additional 25% is added as a contingency. P. Carideo explained the two bond amounts.

S. Wentworth had a question on the bond regarding item 403.112, hot bituminous pavement. S. Bourcier stated that item is included on both bonds as it is final coat of pavement; it is included to deter the builder from walking away after all the lots have been conveyed. S. Bourcier stated the developer can build it or bond it. P. Carideo explained the process.

B. Villella indicated that in order to start building the road the erosion control bond needs to be posted. B. Villella questioned the \$40K mobilization line item on the bond. B. Villella stated he feels the mobilization along with the hot bituminous pavement is a little steep.

C. Ashford had a question about the bond amount. S. Bourcier explained the difference between this project and past projects. S. Bourcier stated that the prior bond C. Ashford referenced was for a site plan and thus the bond needed to include the drainage structures.

P. Carideo asked Attorney Nolan the developer's intent. L. Nolan stated the developer wants to post an erosion control bond. L. Nolan stated the developer anticipates building the road and then developing individual house lots. L. Nolan indicated that there is a lot of work to be done before any lots can be developed or sold.

R. Clark was concerned about not bonding for a detention pond since there will be run-off with work on the lots and tree removal, etc.

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P. Carideo stated that the PB could remove a number of items and add the pond to the erosion control bond and get to a figure of \$90K.

MOTION: B. Vilella made a motion to revise the erosion control bond for Map 16 Lots 1 & 25 to \$90K

SECOND: S. Wentworth

VOTE: 7-0

New Business

1. Map 02 Lot 165 Subdivision 456 Main Street

The PB office received a request from the consultant, Kevin Hatch, to continue the hearing to the November 4, 2019 meeting.

2. Map 12 Lot 081 Subdivision 191 Emerson Ave

The PB office received a request from the consultant, Kevin Hatch, to continue the hearing to the November 4, 2019 meeting.

3. Map 06 Lot 018 184 Route 111 Self-Storage – Amended Site Plan

R. Clark stepped off his spot on the board.

Jason Lopez from Keach Nordstrom Associates (KNA) was present to represent the applicant. Also present were owners Ken Sweet and Curt Sweet. J. Lopez explained the plan and stated that the existing buildings on site have been in the process of being converted for storage. J. Lopez stated they are working with NHDOT District 5 to update the existing driveway permit. J. Lopez stated they are looking to put the utilities underground and there

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will be no water connections to the new proposed buildings. J. Lopez stated there will be both closed and open drainage on the site. J. Lopez explained the parking in the existing building area. J. Lopez confirmed that he received the Dubois & King review letter dated October 7, 2019. J. Lopez explained that the applicant received two variances from the ZBA and read those letters into the record.

Chairman Carideo asked the PB if they feel the application is complete to accept jurisdiction. S. Wentworth asked about the Department Head Review (DHR) meeting and was informed that it is scheduled for 10/10. S. Bourcier stated he received comments from the Hampstead Fire Department (HFD) via email and also indicated there are a number of D&K comments to be addressed.

S. Bourcier directed the PB members to review comment A1 of his 10/7/2019 letter. S. Bourcier stated that only four (4) buildings were proposed to the ZBA and the plan before the PB is proposing six (6) buildings and some of them two-story. S. Bourcier stated that this is a significant change from what was presented to the ZBA. S. Bourcier stated he wants to be sure that the ZBA understood the intent.

The plan that was presented to the ZBA was passed around among the PB members. P. Carideo stated he feels the PB needs things clarified by the ZBA and questioned whether two buildings along the front of the property were presented to the ZBA. C. Ashford commented that the building square footage is less however he is not in favor of two story.

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P. Carideo stated that the variance granted 6/3/2018 needs to be reviewed. P. Carideo indicated that he would like a copy of the original plan submitted to the ZBA. C. Ashford feels the PB needs to clarify with the ZBA.

P. Carideo questioned if the ZBA thought only one building and now the entire frontage is covered in buildings. P. Carideo stated there could be a joint meeting with the PB and ZBA or the ZBA could handle the matter themselves.

S. Wentworth asked if vernal pools were discovered on site. J. Lopez stated there were none. C. Ashford questioned the septic behind the existing buildings and asked where the line runs. J. Lopez stated he feels the line runs along the back side of the existing building.

J. Lopez referenced a plan dated 7/25/2018 that he received from Dawn Shaw, ZBA secretary.

Ken Sweet asked for the opportunity to speak. K. Sweet stated that he is not happy to see a comment that he was misleading. K. Sweet stated inaccurate information was given to the ZBA and he has since hired a new consultant. K. Sweet stated that he takes personal issue with the comments. S. Bourcier stated that he is not saying the applicant is a liar, there were no architectural drawings submitted as per the site plan requirements and therefore he had to make assumptions during his review. S. Bourcier commented that sheet 3 shows lots of tree clearing.

J. Lopez commented that the calculation coverage is based on the footprint of each building. J. Lopez stated the 27% lot coverage was based on the 7/25/2018 dated plan. J. Lopez stated the existing buildings total 43,300 sq. ft. and the proposal adds an additional

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25,950 sq. ft. of storage buildings. J. Lopez stated the orientation and layout are different from the ZBA plans. J. Lopez stated there was an issue with wetlands on the ZBA plan and as such the wetlands have been remapped.

J. Lopez stated that they found more wetlands during their review of the site. J. Lopez stated the overall square footage is down and that the buildings are not complete two-story buildings based on site elevations.

P. Carideo stated the ZBA plan showed four (4) proposed buildings and the new plan before the PB shows six (6) proposed buildings. P. Carideo stated the area of disturbance is just under 100K threshold to trigger the need for an AOT permit. P. Carideo was curious if the parking lot disturbance was included in the calculations.

K. Sweet stated that the hot top was not just pulled up. K. Sweet stated that the variance was granted for lot coverage percentage. K. Sweet stated he asked Code Enforcement about the plans. K. Sweet stated the relief from the ZBA is not for the number of buildings but for the lot coverage percentage.

Chairman Carideo asked the PB how they would like to proceed. J. Lopez commented that there is less total footprint disturbance than the ZBA plan.

S. Wentworth commented that the ZBA may have acted differently if they had known about the wetlands. S. Wentworth stated that these facts might have changed the ZBA decision. Chairman Carideo asked the PB for input. B. Villella stated the chances are the applicant still needs to go back to the ZBA and have the DHR meeting in the meantime.

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P. Carideo stated that accepting jurisdiction starts the PB clock. P. Carideo commented that four (4) buildings were presented to the ZBA for both variances.

K. Sweet stated that conceptual plans were submitted to the ZBA for lot coverage and asked if they were to go back to the ZBA what is he asking for as his plans comply with the lot coverage percentage.

P. Carideo stated his problem is that the ZBA plan had four (4) buildings with frontage of 330 ft and this plan has 365 ft. P. Carideo stated in his opinion clarification is needed via a finding of fact that this plan meets the ZBA intent based on the number of buildings and setback.

K. Sweet stated the ZBA reviewed lot coverage not the number of buildings. P. Carideo stated the PB feels this is too dense a footprint, the applicant should present a plan to the ZBA that best represents the plan that will be submitted to the PB. K. Sweet stated the concentration was for lot coverage and the low impact comment was concerning the nature of the self-storage business.

P. Carideo recommended that the consultant watch the 6/3/2018 recording of the ZBA meeting regarding the discussion on the number of buildings. P. Carideo commented that the PB looks at the plan differently than the ZBA. Chairman Carideo stated that he wants a finding of fact. P. Carideo stated the PB can take some action and feels the applicant wants them to accept jurisdiction of the plan.

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MOTION: D. Howard made a motion to accept jurisdiction of the amended site plan for Map 06 Lot 018 aka 184 Route 111 Self-Storage.

SECOND: B. Villella

VOTE: 3 (BV, SM, DJ)- 3 (PC, CA, SW)

P. Carideo was unsure how to proceed with a tie vote. S. Bourcier commented that the PB could accept jurisdiction and continue the application. S. Bourcier stated he felt the applicant would request extensions to continue the review period. P. Carideo asked for a new motion based on comments from the Town Engineer.

MOTION: D. Howard made a motion to accept jurisdiction of the amended site plan for Map 06 Lot 018 aka 184 Route 111 Self-Storage.

SECOND: B. Villella

VOTE: 4-2 (PC, SW)

Will Warnock was present in the audience and stated he would prefer to discuss the HFD requirements at the DHR meeting.

P. Carideo asked the PB members how they wished to proceed. C. Ashford stated he would like to see the comments from the DHR meeting. J. Lopez asked the PB members if there was anything specific he should be reviewing prior to the next PB meeting. P. Carideo stated the next PB meeting of 11/4 is before the next scheduled ZBA meeting of 11/6.

P. Carideo commented that he would like some sort of architectural drawings of the building on Route 111 to determine what the building would look like from the road. P. Carideo commented that the plan proposes to eliminate the tree buffer without any

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provision of landscaping. P. Carideo stated that minimal landscaping is being proposed and he would like to see something to address the massing of buildings across Route 111. P. Carideo commented that the zoning allows for architectural restraints and he would like to see more information about the buildings.

Chairman Carideo questioned the amount of disturbed area. P. Carideo commented that there is an existing light that shines along Route 111 and is a nuisance; it is a pole mounted light on a utility pole and it is not shown on the plan. P. Carideo asked that all lighting be compliant with the current regulations. P. Carideo stated he would also like to see more information regarding the sequence of construction activities due to the sensitivity of the Hog Hill Pond wetland. P. Carideo asked how the pond would be stabilized during construction. P. Carideo stated he is also concerned with the soil condition as there was a fire on site when the plastics company existed. P. Carideo stated he would like to see more information from the NH Heritage Bureau as he knows of Blanding turtles in the area.

D. Howard stated that he agrees that more landscaping should be considered. S. Murphy commented that he would like more information on the septic system. P. Carideo commented that in the past the PB has required a letter stating what the previous septic load was versus the current proposed use. P. Carideo asked for something in writing to prove the septic can support the new use.

Chairman Carideo asked for public comment and there was none. P. Carideo asked for PB comment and there was none.

MOTION: D. Howard made a motion to continue the hearing for Map 06 Lot 018 to the November 4, 2019 PB meeting.

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SECOND: C. Ashford

VOTE: 6-0

R. Clark returned to his spot on the board.

Other Public Matters

1. Map 2 Lots 052-8-9-10 Labrador Lane LLA – Mylar Recorded D-41707
2. Map 18 Lot 166 Hannaford To Go – Mylar Recorded D-41706

Planning Board Matters

1. Town Engineer Comments

S. Bourcier presented a three (3) page memorandum to the PB regarding the engineering review process and fees. S. Bourcier reviewed the document and gave the PB a number of options to reduce costs and review times. S. Bourcier stated that Dubois & King is here to support the Town of Hampstead and will do what the PB requests. S. Bourcier stated that another option would be to hire a Town Planner, although the cost for this service would be borne by the taxpayers.

Chairman Carideo stated that he appreciates the effort that S. Bourcier spent on preparing this document. P. Carideo stated the PB has decided not to have DHR on all applications and cited the example of not having a DHR for the two new subdivision applications that are on this evening's agenda.

P. Carideo stated the PB members could also take on more responsibility when reviewing plans. P. Carideo asked the PB members to review the document and make suggestions.

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S. Bourcier commented that there are several applications where a lot of cost is associated with repeat engineering comments; meaning the applicant's consultant failed to address the comment and make a required change based on a prior engineering review. P. Carideo suggested that the PB move ahead and tell consultants to come back next month in those instances. P. Carideo referenced the boards Rules of Procedures and advised the PB members that other towns do things differently and maybe this board should think about how they wish to proceed.

2. Engineering RFQ Discussion

Chairman Carideo informed the PB that four (4) packages were received in the BOS office and will be opened on 10/9/2019. P. Carideo stated he wanted to ensure that there was fairness in reviewing the RFQ's and sought Town Counsel opinion regarding the matter. P. Carideo stated that per RSA the PB members are allowed to make the choice of whether to recuse themselves regarding voting on motions, etc. P. Carideo stated that the Town's Code of Ethics policy defines conflict of interest. P. Carideo stated that the PB makes recommendations regarding the town engineer and the BOS makes the ultimate decision. P. Carideo stated the PB needs to decide how they will handle the fact that several PB members should recuse themselves from making a decision regarding the town engineer. P. Carideo stated that the PB needs to discuss this matter and if members do not recuse themselves the BOS will take over the selection process.

R. Clark asked what would be in conflict regarding the code of ethics. Chairman Carideo read from town counsel's letter. P. Carideo stated the PB can vote without those members if they recuse themselves. R. Clark had a question about the interpretation of the code of ethics. B. Villella stated that as of today he is the only developer sitting on the PB. B. Villella

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commented that he asked months ago about giving applicants the choice of engineers. B. Villella stated he had a problem with the fees on some of the smaller projects.

R. Clark asked for a copy of the Code of Ethics and P. Carideo commented that it is on the town website. R. Clark stated he feels it is an easy decision to recuse oneself on applications but feels it is a different matter regarding the choice of engineer. S. Wentworth stated he has no problem recusing himself and making comment to the PB as a member of the public. C. Ashford stated he feels the same as S. Wentworth and is confident in the remaining PB members making the decision.

Chairman Carideo advised the PB members that prior to opening the bids the BOS wants to know how the PB will proceed. B. Villella asked about the process of the RFQ's and the review of the bids. S. Wentworth asked if the PB does not recuse themselves tonight when the BOS will make the recommendation.

D. Howard asked B. Villella how things work in other towns with two engineers. P. Carideo stated that the work load would need to be balanced between the two engineers, one reviews one month and the other the next month and so on. B. Villella gave an example of how things have worked on past projects in Plaistow.

P. Carideo stated that he has proposed funds for a circuit rider in next year's budget.

R. Clark stated that the question for tonight is will the three (3) people step down. S. Wentworth, B. Villella, and C. Ashford all agreed to recuse themselves from voting on the selection of town engineer.

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3. Proposed Blasting Ordinance Discussion

Chairman Carideo asked Deputy Chief Will Warnock, HFD, for his comments. W. Warnock stated he came to the meeting to observe rather than present. W. Warnock stated that HFD recognized that blasting was an area of concern and enacted a blasting regulation in 2016. W. Warnock commented that he understands that blasting falls under the PB authority. W. Warnock stated that his expectation is that blasters will follow State regulations. W. Warnock stated the point of the blasting permit is to follow up with blasters to make sure they are following the blasting regulations. W. Warnock stated he does not understand how/why the regulations are inadequate.

Chairman Carideo asked if this was a Selectman's Ordinance and it is not. P. Carideo stated that since this is a fee only ordinance it is not legally binding. P. Carideo stated that he wants to work on the regulations. W. Warnock commented that he has spoken to other towns that have blasting regulations similar to what P. Carideo is proposing and they spend approximately 100 man-hours per year to enforce. P. Carideo stated the PB is looking at blasting in response to a NHDES letter. P. Carideo stated he used the wording in his proposal from surrounding towns.

Chairman Carideo made a comment about the lack of organization with the regulations and ordinances in Hampstead as he was not able to find the blasting regulations W. Warnock referenced on the town website.

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R. Clark made a comment about his suggestions on the blasting regulations. C. Ashford also had a handout with information concerning blasting. The discussion was tabled to the 10/21 workshop.

4. Correspondence

- 2019 Legislative Update from Soule, Leslie, Kidder
- Draft October 2019 ZBA minutes

5. Member Comments

B. Villella stated that he has something to discuss and feels it should be in non-public session. It was decided to wait until all other comments and minute review to discuss.

P. Carideo presented a letter that he wanted the PB members to sign in support of the Water Resource Committee looking for grants, Water Source Protection Grant application, all members signed the document. P. Carideo stated they are looking for grant money to have the aquifers in Town professionally mapped.

6. Review of Minutes (9/16 Workshop)

MOTION: D. Howard made a motion to accept the 09/16 Workshop minutes as amended.

SECOND: R. Clark

VOTE: 7-0

S. Murphy advised the PB members that according to RSA 91:A3 the PB can go into non-public if the matter pertains to employee matters, hiring, and reputation. B. Villella stated

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the matter was regarding reputation. RSA 91:A3:IIIC. There was a roll call vote. Chairman Carideo made the announcement that the PB was going into non-public session.

Darlene Cote asked if the matter was regarding the reputation of a PB member and the answer was yes. S. Murphy and P. Carideo both agreed that you cannot go into non-public session since the discussion would involve a member of the board.

The group took a quick break and cable was asked to once again begin taping the meeting.

P. Carideo informed the PB members that he proposed a line item for a part-time planner or circuit rider to the budget committee. P. Carideo stated he feels the PB needs a level of expertise in the office.

B. Villella stated that on 9/18/19 at a Conservation Commission meeting P. Carideo made a statement as the Chairman of the Hampstead Planning Board. B. Villella read from an article in the Tri-Town times which stated "they now know that it was determined that blasting during the Labrador Lane development construction, even though lots were done separately, these did have a negative impact on groundwater"

B. Villella read the NHDES, April 2019 findings, p. 25 that states "In 2017, private wells were installed and rock blasting occurred on Labrador Lane. However, based on the depths, yields, and driller accounts of the wells installed on Labrador Lane, it is not probable that the Labrador Lane wells had a direct negative influence on the groundwater conditions near 414 Main Street. The blasting on Labrador Lane is also not considered as a major factor in affecting groundwater levels based on NHDES' experience at sites that have undergone rock blasting."

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B. Villella feels that P. Carideo should not have made that comment during the Conservation Commission meeting. B. Villella stated the comment was uncalled for and is wrong. P. Carideo stated that he has information not detailed in the NHDES report B. Villella referenced. P. Carideo stated that NHDES indicated in the report regarding the Angle Pond Well #3 that the Town of Hampstead needs more regulations. P. Carideo stated that blasting does affect groundwater. P. Carideo commented that he generally speaks in facts and does not recall stating things that way. P. Carideo stated that the comment was not meant towards B. Villella personally.

P. Carideo stated that he has a document he will provide B. Villella with for review. R. Clark stated he would like a copy as well. R. Clark stated he read the NHDES April 2019 report and feels it was a good report with a lot of information. R. Clark stated that he sees no evidence that the blasting on Labrador Lane had adverse effects on the groundwater. R. Clark stated to represent problems on Main Street as a result of blasting on Labrador Lane is a stretch.

P. Carideo stated he will review his documents. S. Murphy stated that to be responsible the comments should be retracted publicly.

S. Murphy commented that RPC could probably help draft a blasting ordinance. S. Murphy commented that RPC gave a presentation of the services they provide for town roads at the last BOS meeting.

7. Adjourn

MOTION: D. Howard made a motion to adjourn at 10:40 P.M.

SECOND: S. Wentworth

VOTE: 7-0

Minutes prepared by Debbie Soucy, Secretary