

# HAMPSTEAD PLANNING BOARD

11 Main Street, Hampstead, New Hampshire 03841-2033

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## Minutes July 6, 2021

A meeting of the Planning Board was held on Tuesday, July 6, 2021 at the Hampstead Town Hall, 11 Main Street, Hampstead, NH. This meeting was broadcast live over HCTV 17.

**PRESENT:** Steve Wentworth, (Chairman), Sean Murphy, Randy Clark, Bob Villella, Mike Hanides, Kim Colbert, Robert Weimar (alternate), DJ Howard (alternate), Susan Hastings (alternate) and Steve Keach, Keach-Nordstrom Associates, Town Engineer.

### **CHAIRMAN'S REMARKS**

Next Public Hearing Date August 2, 2021

Filing Deadline for the August 2, 2021 meeting is July 6, 2021

Chairman Wentworth announced that alternate R. Weimar would be a voting member to replace C. Ashford.

### **Old Business**

#### **1. Map 17 Lot 172 – 200 Central Street – Subdivision of Land**

James Lavelle, Lavelle & Associates was present to represent the property owner, Rita Labella, was also in attendance. J. Lavelle explained the plan to the board stating there are 3 proposed new lots and one existing lot. J. Lavelle reviewed the lot sizes and indicated the lots have frontage on a Class V public highway. J. Lavelle noted that Bruce Gilday did the wetland mapping. J. Lavelle stated there was no engineer of record since no roadway is being proposed.

J. Lavelle stated the Hampstead Fire Department (HFD) provided the applicant with two options, one is a cistern, the second is to add to the Hampstead Area Water Company (HAWC) line. J. Lavelle stated they will make a choice prior to final approval.

J. Lavelle stated there are three driveway plans included with the plan set. J. Lavelle stated that Jon Worthen verbally approved the driveways. J. Lavelle stated he disagrees with town counsel opinion that there is not frontage for proposed lots 172-2 and 172-3. J. Lavelle indicated that J. Quirk went to the site with J. Worthen and reviewed the driveway for proposed lot 172-1 (6/4/2021 field report on file indicates sight distance is less than 400 feet in both directions).

J. Lavelle indicated the subdivision has received State approval. J. Lavelle stated B. Gilday addressed the concern about wetland on the adjoining property.

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J. Lavelle stated he did research and found the deed giving the town the property when Central Street was straightened. J. Lavelle indicated that when Central Street was straightened there was an additional piece added to the State Right of Way (ROW), he feels that the bulge in the road is part of Central Street and counts as frontage for the two proposed lots in question.

K. Colbert asked about the proposed driveways. J. Lavelle explained the plan for each of the driveways.

J. Lavelle indicated that the parcel south of the cemetery was granted a NHDOT driveway permit (Haggert property). Lavelle presented around a copy of a subdivision plan (C-13808). D. Soucy commented that this information has been previously reviewed by town counsel. J. Lavelle stated that he believes that S. Keach agrees with his assessment of the matter concerning frontage.

Attorney Diane Gorrow was present and responded to J. Lavelle comments on the Haggert plan by stating that plan C13808 was approved in 1980. D. Gorrow stated that the current definition of frontage was adopted in 1982 which reads "that part of the lot or lot line abutting an approved street, not interrupted by a lot or other ownership, or by a street." D. Gorrow noted in order to have frontage the applicant needs to own the "bump out" from the old highway. D. Gorrow referenced a plan from 1984 that refers to that section of bump out as the "old gravel road". The Zoning Ordinance definition of frontage requires that the lot line abut the approved street. Abut is not defined in the Ordinance but its common meaning is "next to". The definition requires the lot line to abut the approved street and not be interrupted by a lot, other ownership, or by a street. D. Gorrow stated the applicant does not own up to nor do they abut the approved road. Logically the town owns this piece of property. D. Gorrow commented that we know who does not own the piece of property and that is the applicant.

S. Wentworth commented that the board had a similar situation recently as it relates to Old Witcher Road and frontage. The applicant needed to go through the process of purchasing a sliver of land from the State.

J. Lavelle stated the land for Central Street was a public road, it is a public way, and the bulge in the road is still Central Street.

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S. Keach stated the board directed the question to Attorney Gorrow and she is unable to give an opinion that is favorable to the applicant. S. Keach stated that if Lavelle's research is valid Attorney Gorrow may have a different opinion. D. Gorrow stated the two lots in question do not have frontage. D. Gorrow commented that she cannot state who owns the piece of land in question. R. Clark stated the town could own the bump out section but that is not the approved street. R. Clark stated the sight distance issue has not been addressed.

J. Lavelle stated that in order for Central Street to be closed the abutters would need to be notified. No one told the Martell's that their frontage was being taken away.

Mr. James Andella spoke and stated the deed states Rita Labella has frontage on Central Street. J. Andella commented that this was a State Road and they signed off on a driveway permit. Mr. Andella commented that frontage does not go away. J. Lavelle commented that Central Street was a State road before being turned over to the town.

D. Gorrow commented that 200 Central Street is one lot of record and the existing driveway has frontage on Central Street.

J. Lavelle changed the discussion to the issue of sight distance for Lot 172-1 and indicated there would be an easement created for the lot in order to maintain the all-season line of sight. M. Hanides commented that the Land Subdivision Regulations (LSDR's) require a 400 foot all season sight distance in both directions. J. Lavelle commented that the 400 feet is debatable. R. Clark commented that the LSDR's are specific.

Chairman Wentworth read Chief Building Official Kris Emerson's letter dated 6/24/2021 which states it appears that the proposed driveways do not meet the required sight distance of 400 feet. Also, appears lots 172-2, 172-3 do not meet the definition of frontage as defined in the Zoning. J. Lavelle was given a copy of the letter.

J. Lavelle stated he will provide the board with more information. Lavelle initially requested a 30-day continuance and later changed his mind and asked for a 60-day continuance.

S. Keach stated that in order for the board to have a full and complete understanding the applicant needs to provide more information. S. Keach spoke to Lavelle's opinion

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about the bulge in the roadway and agrees the area in question is now a public ROW. D. Gorrow stated she respectfully disagrees with S. Keach opinion, the zoning talks about an approved street not a ROW. D. Gorrow stated the zoning is pretty clear you cannot have an interruption between the lot and the approved street. D. Gorrow said the applicant needs to submit information that addresses the Zoning Ordinance's definition of frontage.

S. Murphy asked about frontage. J. Lavelle stated he feels the road is approved although it doesn't need to be an approved road.

R. Weimar asked about the need for an easement as outlined in D. Gorrow letter dated 3/29/2021 part of which states "to put a driveway on the land between Central Street and the cemetery the owner would need permission in the form of an easement from the landowner. D. Gorrow explained as with any subdivision or site plan if a driveway needs to cross over someone else's land an easement is required for permanent access. If the Town owns the land, Town Meeting would need to approve a warrant article granting the easement." D. Gorrow reminded the board that the lots still need to meet the frontage requirement.

**MOTION: R. Clark made a motion to continue the hearing for property located at 200 Central Street, Map 17 Lot 172 to the September 7, 2021 public hearing.**

**SECOND: R. Weimar**

**VOTE: 7-0**

Attorney Gorrow left the meeting at 7:35P.M.

### **2. Map 1 Lot 091 – 651 Main Street – Subdivision of Land**

J. Lavelle was present to represent the developer. J. Lavelle gave the board a summary of the proposal indicating that this was the former Ross property with the same 8 proposed lots as was previously approved. J. Lavelle reviewed the plan sheets and indicated that sheet 4 has all the nuts and bolts of the roadway including grading, drainage, etc. J. Lavelle stated the plan was engineered to provide protection for the pear tree. J. Lavelle spoke about the previously granted waivers.

J. Lavelle stated the plans have been reviewed several times. J. Lavelle requested plan approval pending all State approvals. J. Lavelle commented that Gilday expects approval within the week.

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R. Weimar asked how the town ensures that the homeowners respect the drainage easements? To which S. Keach stated references will be made on the plans, which will be referenced in the final building lot transaction deeds. S. Keach stated that the future property owners would be allowed to perform landscape improvements only that would not impact maintenance access.

R. Weimar asked who is responsible for maintaining the drainage facilities that are shown on the plan. S. Keach responded that this is plotted as a public street and the maintenance will eventually be taken over by the Town once the road is accepted. S. Keach explained that the drainage easement will be described in the property owners deed once the land is conveyed. R. Weimar asked about the underdrains and S. Keach explained the plan and that field changes are typically during construction.

S. Keach reviewed his letter dated 6/30/2021 and indicated he would support a conditional approval this evening subject to the following special conditions:

- NHDES Subdivision Approval
- NHDES Wetland Approval
- NHDES Driveway Permit
- Posting of Performance Guarantee
- Certification from a LLS stating all boundaries are to be set
- Receipt of a letter from Keach confirming that all review comments offered in his 6/30/2021 letter have been satisfactorily resolved.
- All other standard conditions of approval

Chairman Wentworth asked for public comment.

Andrew Chisholm, 641 Main Street – commented that he appreciates the efforts that are being made to preserve the pear tree. A. Chisholm stated he has spoken with Greg Jordan from UNH and he would like to be involved in the construction process. G. Jordan has offered his services free of charge. A. Chisholm commented that this is the largest pear tree in North America as well as the oldest pear tree in NH. A. Chisholm stated that G. Jordan recommends moving the utilities trench to the opposite side of the street.

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D. Soucy commented that when she spoke with G. Jordan she advised him it would probably be most appropriate for him to attend the pre-construction meeting and explain what protections, etc. could be given to the tree during the construction process.

R. Weimar asked for clarification on what size radius of protection is needed for the tree, it was stated that a 22 foot radius from the center of the tree is recommended. S. Keach commented that 22 feet brings you to the edge of pavement. Keach reviewed the section of the roadway located near the tree and indicated the road is at the maximum fill level where the tree sits. Keach commented that he will make every attempt to preserve the tree. Keach talked about design options; maybe changing the grade in one spot or adding a guardrail.

S. Keach commented that during construction typical clearing and grubbing is done first. S. Keach talked about involving Greg Jordan in the pre-construction meeting.

R. Weimar asked if it were possible to place a wall near the tree for added protection. S. Keach explained the plans on sheet 10 as it relates to the tree. S. Keach commented that they could make something work.

Chairman Wentworth closed the public comment session and asked the board members for their opinions.

M. Hanides feels there are administrative items still outstanding. K. Colbert agreed that there are a list of items to be resolved. R. Clark commented that Mason has always been open to working with the town, however, he feels there are enough comments to be resolved to continue the hearing.

J. Lavelle stated that Mason doesn't need to do any of this at all. J. Lavelle commented that very often redesign is handled in the field and that's what would be done in this case to protect the tree. R. Clark commented that it would be useful to see a drawing showing the 2:1 slope with the guardrail.

J. Lavelle asked S. Keach if he could prepare a bond amount and Keach agreed to the request. J. Lavelle asked for a continuance to the next meeting.

Chairman Wentworth asked Lavelle if he wanted to hear the opinions of the other board members. S. Murphy stated he would like to discuss the tree issue a little more. R.

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Weimar agrees with R. Clark and would like to see a plan. B. Villella stated he agrees with Randy and can see his point, however, seeing a plan on paper is one thing and in the field it can be something totally different.

R. Weimar commented that a plan could be presented and then modified in the field. S. Wentworth commented that the plan presented could be modified in the field. S. Keach stated he would speak with Gregsak.

**MOTION: R. Clark made a motion to continue the hearing for property located at 651 Main Street, Map 1 Lot 091 to the August 2, 2021 public hearing.**

**SECOND: R. Weimar**

**VOTE: 7-0**

### **3. Map 13 Lot 121 – 27 Hazel Drive – Amended Site Plan**

J. Lavelle was present in the audience along with property owner James Shepard. Chairman Wentworth asked Lavelle if he is representing the applicant this evening. J. Lavelle stated that his client and Gregsak need to come to an understanding. J. Lavelle commented that he does not have new plans from Gregsak at this time. J. Shepard stated that he dropped a check off with Tim Lavelle 3 weeks ago. J. Lavelle stated he will address the matter with his office tomorrow.

**MOTION: R. Clark made a motion to continue the hearing for property located at 27 Hazel Drive, Map 13 Lot 121 to the August 2, 2021 public hearing.**

**SECOND: R. Weimar**

**VOTE: 7-0**

### **Planning Board Matters**

1. Town Engineer Comments – none
2. Correspondence
  - a. June ZBA DRAFT minutes
  - b. NHDOT letter re: replacement of pipe under NH Route 111, Johnson's Pond

### **3. Member Comments**

K. Colbert asked about the tree clearing on the Old Little Mexico Site. S. Keach explained that once the plan gets approval and posts a bond they can begin work. S. Keach commented that the approved plan shows the limits of what can be cleared.



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K. Colbert gave the board an update on the Master Plan Survey and stated that almost 800 responses were received. The next Master Plan Subcommittee meeting is scheduled for Thursday, July 15. D. Soucy indicated that J. Rowden, RPC will also be attending the July 19 workshop to give the board an overview of the survey results and next steps.

D. Howard asked Keach if the road plans for new subdivision plans include the ROW limits. Keach stated that they do in fact include the ROW in the road plan layout. D. Howard commented that is what he thought.

### 4. Review of Minutes (6/7 public hearing)

**MOTION: S. Murphy made a motion to accept the June 7, 2021 minutes as presented.**

**SECOND: B. Villella**

**VOTE: 5-0-2 (R. Clark and K. Colbert abstained from the vote)**

### 5. Adjourn at 8:45 P.M.

**MOTION: B. Villella made a motion to adjourn at 8:45 P.M.**

**SECOND: R. Weimar**

**VOTE: 7-0**

Minutes prepared by Debbie Soucy, Secretary