

HAMPSTEAD PLANNING BOARD

11 Main Street, Hampstead, New Hampshire 03841-2033

Minutes January 2, 2018

A meeting of the Planning Board was held on Tuesday, January 2, 2018 at the Hampstead Town Hall, 11 Main Street, Hampstead, NH. This meeting was broadcast live over HCTV 17.

PRESENT: Paul Carideo, (Chairman), Ben Schmitz, Glen Emerson, DJ Howard, Neil Emerson, Randy Clark (Alternate), and Scott Bourcier (Dubois & King)
The public attendance roster is available as an attachment to this document.

Chairman Carideo opened the meeting at 7:05 P.M.

Chairman's Remarks

Next Public Hearing Date February 5, 2018

Plan Filing Deadline for February 5, 2018 Meeting January 15, 2018

R. Clark is a voting member for this meeting.

Old Business

1. **07-064 & 07-068 Hurley Lot Line Adjustment** – *Conditional Approval expires 1/2/2018*

J. Lavelle requested a 90-day continuance as they are awaiting approval from NHDOT. J. Lavelle stated they had previously submitted paperwork to NHDOT and there had been a mix-up. J. Lavelle felt the next PB meeting would be more than sufficient time for NHDOT approvals.

MOTION: D. Howard made a motion to extend the conditional approval to the April 2 PB meeting.

SECOND: G. Emerson

VOTE: 5-1 (N. Emerson)

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

2. **06-019 PhanZone** – *Conditional Approval expires 12/31/2017 – Applicant requested a continuance*

The PB received a letter from the consultant requesting a continuance since they are awaiting approvals from NHDOT for the entrance permit. P. Carideo explained that this is a major driveway entrance off Route 111 and reminded the board that

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the Hampstead Fire Department (HFD) initiated this request to the PB during the approval process.

MOTION: N. Emerson made a motion to extend the conditional approval six months to the July 2 PB meeting.

SECOND: B. Schmitz

VOTE: 5-0

3. **06-108 Hampstead Self-Storage** – Conditional Approval expires 12/4/2017 – *Applicant requested a 90-day continuance*

P. Carideo explained to the board that all of the conditions of approval have been met and that the final mylar needed changes at the request of the Rockingham County Registry of Deeds (RCRD).

MOTION: N. Emerson made a motion to extend the conditional approval to the April 2 PB meeting.

SECOND: D. Howard

VOTE: 5-0

4. **06-006-2 & 006-3 17R Gigante Drive** – Site Plan Amendment – Storage – *Applicant ZBA rehearing 1/3/2018 - Applicant requested continuance to February 5 Planning Board meeting*

The applicant is on the agenda for the 1/3/2018 ZBA meeting. P. Carideo confirmed that the application has not yet been accepted by the PB. P. Carideo advised the board that the last notification of legal ad and abutter's was in May. N. Emerson commented that the ZBA has not had a full board in months and is unsure if there will be a full board tomorrow evening.

P. Carideo stated he was inclined to deny the applicant's request for an extension based on the fact that the applicant was seen before the PB in June and has had over 6 months to be heard before the ZBA. B. Schmitz asked if the application has not been accepted by the board why would the PB continue the case. P. Carideo

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explained that the application was on the agenda and is still part of the continuing public hearing.

B. Schmitz stated if the PB denied the request for continuance the applicant would need to file a new application which would include renoticing abutter's along with a new legal ad. B. Schmitz felt this would be the same amount of work for the applicant versus continuing the application. P. Carideo stated the issue is that the applicant is waiting for a full ZBA board as that is the applicant's right.

MOTION: N. Emerson made a motion to continue the public hearing to the February 5 PB meeting. The applicant will pay to renotice abutters in addition to a new legal ad.

SECOND: D. Howard

VOTE: 5-0

R. Clark returned to his spot on the board.

5. 11-170 & 11-249 Atwood & Keating Lot Line Adjustment – Applicant ZBA hearing 1/3/2018

J. Lavelle represented the applicant and stated they are requesting a continuance to the next PB meeting. J. Lavelle stated if it were ok with the board, he would be fine with the same procedure as the last applicant. The initial public hearing and notification for the Atwood/Keating LLA were sent back in July.

MOTION: B. Schmitz made a motion to continue the public hearing to the February 5 PB meeting. The applicant will pay to renotice abutters in addition to a new legal ad.

SECOND: G. Emerson

VOTE: 6-0

6. 19-009 Winchester Heights Elderly Housing

C. Zilch, SEC Assc., was present to represent the applicant and stated it has been several months since the first plan submittal. C. Zilch stated he is before the board today to give a status on the project. Revised plans were submitted to the

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PB office and the D&K office on Friday, Dec 29, these plans have not been reviewed by the Town Engineer as of yet. C. Zilch indicated he would be available for a second Department Head Review (DHR) if the board makes such a request. C. Zilch stated the applicant would also pay for a new legal ad and renote to the abutters.

C. Zilch stated the revised plan is the same concept with a different layout. The density is less than the Town would allow based on the Zoning Ordinances; the number of units has been decreased from 36 to 30. C. Zilch indicated that NH Fish & Game has subjective guidelines and they have spent a lot of time negotiating with the State as they feel the vernal pools are protected features on the site.

C. Zilch stated that the pervious pavement was the other main issue that has been addressed with the revised plan. The pervious pavement would have caused additional disturbance on the site versus a conventional roadway. C. Zilch indicated there have been changes in the drainage layout as well as increases in buffers.

C. Zilch stated this is still an Elderly Housing proposal under single ownership that will ultimately be converted to a condominium association. C. Zilch concluded his overview and asked the PB for a continuance in person.

S. Bourcier confirmed that he has the revised plans and stated that his review would be completed by the February 5 PB meeting. S. Bourcier indicated that he was hoping to schedule the second DHR for Wednesday, January 10. P. Carideo stated he requested a second DHR in order to give the Department Heads an opportunity to add their input.

C. Zilch stated with the revised plans there would no longer be the need to be heard before the ZBA regarding septic setbacks, etc.

P. Carideo commented that the public hearing for this application is still open and suggested that the abutter's be renoticed to be brought up to speed on the project. P. Carideo stated that no regulations have changed since the original submission however, the last public hearing was back in September 2017.

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MOTION: D. Howard made a motion to continue the public hearing to the February 5 PB meeting. The applicant will pay to renote abutter's in addition to a new legal ad.

SECOND: R. Clark

VOTE: 6-0

C. Zilch stated the applicant is seeking approval under a single ownership however, the units will be marketed as condo's. C. Zilch indicated that once the PB approves the plan they would file the appropriate paperwork for condo conversion. P. Carideo stated that the condo conversion would come back to the PB for approval with review by Town Counsel.

R. Clark asked C. Zilch why not file the paperwork concurrently. C. Zilch explained that the condo docs are very expensive to prepare and file and felt it did not make sense to file with the State Attorney General until the plans were finalized and approved by the Town PB. R. Clark asked if the plan stated they would be condo units. P. Carideo responded by stating the PB has to approve the plan as submitted until the applicant requests the conversion. P. Carideo commented that the Elderly Housing Regulations would still apply once the applicant requested conversion.

J. Beauregard, an abutter to the project, was in attendance and wanted confirmation that the applicant could not change the project into something other than elderly housing. J. Beauregard was concerned that the applicant could take advantage of the elderly housing ordinances and then market as something different.

N. Emerson commented that he thinks the discussion regarding condo's was brought up around midnight during the initial public hearing on the case. D. Howard asked if the PB could make one of the conditions of approval the condo conversion. P. Carideo stated the PB could not force the applicant to convert to condo's but indicated based on the cost of the project it would not make financial sense for the owner to rent the units. C. Zilch confirmed that once the number of units is finalized they would submit the condo documents.

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New Business

1. 06-026 Sweet Baby Vineyards – *Non-binding discussion*

Owner Lewis Eaton was present to speak to the PB regarding a change in the existing site plan for Sweet Baby Vineyards. P. Carideo reminded the board and audience that this was a non-binding discussion and would give the owner 15-minutes to speak to the board.

L. Eaton stated they are looking to use the barn that has been on the property since 1910. He stated that the barn has been renovated and access to the barn has been improved. L. Eaton stated they would like to rent the barn for small events and stated the barn would not be in use at the same time as the tasting room. L. Eaton stated he has met with Deputy Chief Warnock and he indicated he would not issue an occupancy permit without the PB approval. L. Eaton stated there is no bathroom facility in the barn and stated visitors would use the restroom facilities in the tasting room.

S. Eaton stated they are looking to run one event per week at the barn during the hours of 7 PM to 9 PM. S. Eaton indicated there has been a change in the law regarding Agritourism events.

N. Emerson asked how many people they are expecting to have at these events. L. Eaton responded they are limiting the number of guests to 99, as this is the same as the current approval for the tasting room. R. Clark stated that he has been to wine tasting events and people do not always like the wine and asked about the bathroom facility. L. Eaton stated they use dump buckets for wine disposal.

N. Emerson stated he has concerns about the parking same as he did the last time. N. Emerson asked about the fence the PB asked them to install. L. Eaton said that heavy winds knocked down the fence and they have since planted arborvitae in place of the fence.

N. Emerson stated his two issues are parking and lack of bathroom facilities. P. Carideo responded that the bathroom issue would be a code enforcement

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requirement. P. Carideo stated his issues would be parking, driveway permits, and screening for abutters.

L. Eaton stated he feels they are qualified for 160 people on the site but are asking for less density. P. Carideo stated his concern is that the PB has no way of monitoring whether or not the barn and tasting room are holding events concurrently. L. Eaton asked if a note could be added to the site plan indicating they would not run the two buildings concurrently. P. Carideo commented that there was a note on the original site plan about the fence and there is no longer a fence on the site.

P. Carideo stated that the PB needs to ensure the parking is adequate to cover multiple events. R. Clark asked how many parking spaces are on site for the current approval of 99 people. L. Eaton stated he brought the current plans with him and they show the parking.

P. Carideo stated that the PB needs to base the parking requirements on the Town's current Zoning Ordinances. R. Clark stated that although the existing parking on site may be accurate according to the regulations it does not seem to be enough. R. Clark counted 29 regular parking spaces and 3 ADA parking spaces for a total of 32 spaces. P. Carideo stated the Town regulations require one parking space for every 75 feet of floor space.

S. Eaton commented that it is typical to have barn events as well as events at apple orchards with no bathrooms.

B. Schmitz commented that he understands that the owners are trying to leverage the barn structure as part of the business. B. Schmitz stated that the PB needs to consider the worse-case scenario and plan for what could happen five years down the road. B. Schmitz indicated that adequate parking spaces for both structures would be the ideal scenario.

L. Eaton stated that Senate Bill (SB) 345 expanded the definition of Agritourism.

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S. Bourcier asked for the square footage of the barn. P. Carideo reminded the board members that this was a non-binding discussion. R. Clark noted that the existing site plan shows a tasting room and processing center. G. Emerson did a quick calculation for parking; Barn 1,800 SQFT/75 SQFT = 24 spaces required for barn.

P. Carideo stated he was concerned that the PB has no real authority to police the number of events that could be occurring on the site. P. Carideo stated they are currently proposing one event per week what if they decide to schedule two per week or adding a wine tasting, etc. the PB would have no way of knowing this. P. Carideo stated the PB needs to address safety issues for the community and the abutters. P. Carideo stated that the PB would rely on K. Emerson as the Health & Safety Official with regard to the bathroom issue.

S. Eaton asked if Hampstead had any requirements regarding barns and bathrooms. She stated they are not looking to cook food or wash dishes in the barn; they simply want to rent the space for events. S. Eaton asked what they needed to do to move forward.

P. Carideo stated that the PB can impose restrictions on sites but it is almost impossible for the Town to regulate without a substantial financial cost to the Town. P. Carideo stated the main concerns are traffic, parking, and abutters. He stated they need to submit an amended site plan to the PB office and indicated all original waivers should be noted on the plan.

2. **09-060 Hastings Drive** – *Proposed Subdivision Change*

P. Carideo addressed the other board members and stated that in the past he has abstained from this application due to a conflict, his previous employer did work for the developer; he no longer works for this firm and feels he no longer has a conflict of interest. P. Carideo polled the board and no one had an objection to his participation on this application.

J. Lavelle was present to represent the developer and provided copies of the original lot sizing requirements. The developer wants to build duplexes on lot 2 and lot 3 and the soils support this request. P. Carideo reminded the board that J.

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Lavelle was not the applicant's representative when the original subdivision plan was presented to the PB and that the final mylars were approved and recorded as single-family homes on all seven lots. P. Carideo reminded the board that the abutters showed concern at the original public hearing and that Mr. Jordan, the original consultant, stated that single-family homes would be on all of the lots (reference, 2/6/17 PB meeting minutes).

B. Schmitz advised J. Lavelle that the PB received direction from Town Counsel, Diane Gorrow, regarding the request for duplexes and have been advised that this modification would be subject to Section IV:E:1:C, Section IV(B)(5), and Section IV (D) of the Town of Hampstead Subdivision Regulations. The amended subdivision plan would require the applicant pay the cost to re-notice abutters along with a new legal ad.

J. Lavelle stated he would let the developer know and ask him how he wishes to proceed with the request.

Other Public Matters

1. 2018 Proposed Warrant Articles

P. Carideo read the proposed warrant articles and reminded the board and audience that the article numbers we are referencing during this evenings meeting may not be the same number as listed on the ballot.

Articles #1 and #2 are housekeeping items. Article #3 is proposing changes to subsurface system requirements that will be in line with the State of New Hampshire requirements. Article #4 further defines "owner" under the Accessory Dwelling Unit (ADU) zoning section.

Article #1

To see if the Town will vote to delete Article IV-5:6 Special Exception for Seasonal Dwelling Conversion, since the requirements for Seasonal Conversion were changed last year.

MOTION: R. Clark made a motion to submit Article #1 as read to the Town Warrant.

SECOND: B. Schmitz

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VOTE: 6-0

Article #2

To see if the Town will vote to delete Article III-2:3, 3 Special Exception for In-Law/Accessory Apartment since these were changed to Accessory Dwelling Units (ADU) last year.

MOTION: R. Clark made a motion to submit Article #2 as read to the Town Warrant.

SECOND: G. Emerson

VOTE: 6-0

Article #3

To see if the Town will vote to amend Article II-1:1 D. 1 and Article II-2:6 A. to read: No septic system, leach field, or other wastewater disposal facility shall be installed within 75 feet of any very poorly drained soil or surface water; or 50 feet from any poorly drained soil.

MOTION: R. Clark made a motion to submit Article #3 as read to the Town Warrant.

SECOND: D. Howard

VOTE: 6-0

Article #4

To see if the Town will vote to amend Article IV-14:2 5:H by further defining the owner to read: If ownership is by a legal entity (such as a corporation, LLC, trust, etc.) the "owner" for this section has to be the majority owner of the legal entity.

MOTION: R. Clark made a motion to submit Article #4 as read to the Town Warrant.

SECOND: D. Howard

VOTE: 6-0

Planning Board Matters

1. **Correspondence** – P. Carideo reviewed the correspondence for the board.
 - a) Town of Rye, ZBA Meeting, Cellco Partnership dba Verizon Wireless
 - b) 03-161 281 Main Street – LOMA Removal
 - c) 08-026 26 Cecil Ave – LOMA Removal

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- d) 08-040 30 Cecil Ave – LOMA Removal
- e) 08-041 34 Cecil Ave – LOMA Removal
- f) 08-218 167 Main Street – LOMA Removal

2. Member Comments

B. Schmitz informed the board of an email the PB received concerning a community information session on Boards and Committees that is scheduled for *Saturday, Jan 20 from 11 am to 1 pm at the Library*. B. Schmitz felt that since the board may be in need of members come springtime it would be nice to have representation at this event. This would also be an opportunity to display the Town Axis GIS. B. Schmitz, P. Carideo, and Secretary, Debbie Soucy stated they would attend the event on behalf of the PB. The board will put together some information for display at the event.

N. Emerson informed the PB that the ZBA asked if R. Clark would be interested in being an alternate on their board.

P. Carideo indicated that the Conservation Commission is looking to have the trails within Town mapped in order to better locate and respond to a lost or injured party along the trail system within Hampstead and the surrounding towns. P. Carideo asked B. Schmitz if any particular format of data collection is preferred in order to upload the data to the Town Axis GIS. B. Schmitz asked D. Soucy to reach out to Franco Rossi at CAI to determine their preference. B. Schmitz indicated that more than likely a shapefile would be acceptable.

D. Howard asked the board if they knew who is responsible for maintaining fire cisterns in Town. P. Carideo responded by stating the HFD typically maintains the cisterns. D. Howard stated that the cistern on Oldham Road has a tree growing on top of it and is inoperable. D. Soucy was asked to reach out to J. Worthen, Road Agent, and Deputy Chief Warnock, HFD to inquire about this matter.

P. Carideo asked the board if they felt the PB needed to meet for the regularly scheduled workshop in two weeks, Tuesday, Jan 16. It was agreed the board would meet to discuss other business matters.

3. Town Engineer

P. Carideo asked S. Bourcier to provide comments on current projects. *02-052 Labrador Lane* – S. Bourcier stated that there has not been an on-site meeting with the developer with regard to the driveway issues and anticipates the meeting with occur in Spring 2018.

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09-060 Hastings Drive – S. Bourcier stated the developer requested a bond reduction, some items have been completed but not to a point that the bond could be reduced, this request will remain open due to recent snow events.

06-019 PhanZone – S. Bourcier stated he is awaiting revised plans.

10-038 Owens Court - P. Carideo informed the board that Town Counsel, Diane Gorrow, has provided guidance on this site, however, the PB still needs confirmation from the owner, or his representative, as to what their plans are. P. Carideo stated they can proceed with the buildout as no regulations have changed since the original approval. P. Carideo advised S. Bourcier that a site walk would be needed for this case.

17-025 Central Street - B. Schmitz commented that construction has been ongoing at the Subdivision and the site looks like a mess. P. Carideo reminded the board that no bond was required on this Subdivision. S. Bourcier stated that he established street numbers for the Subdivision. P. Carideo stated that the Central Street Subdivision is located off existing road frontage and this is why no bond was required. P. Carideo stated it was unfortunate that the developer appears to have clear-cut all the lots and is concerned with downslope issues come spring. P. Carideo stated that there is well over an acre of disturbance on the site.

S. Bourcier stated he spoke with the Post Master and asked the board if they thought the Post Master should be invited to the DHR meetings. P. Carideo asked if other Towns followed this process. S. Bourcier stated each case is different and typically involve the Post Master on larger subdivisions. N. Emerson commented that most condo's require a mail kiosk and that Central Street was different because they are three duplex lots. B. Schmitz stated that inviting the Post Master to the DHR could serve as notice of a new development.

4. Minutes (12/4 PB Meeting)

MOTION: R. Clark made a motion to approve the 12/4 minutes as amended.

SECOND: G. Emerson

VOTE: 6-0

5. Adjourn 9:30 P.M.

MOTION: D. Howard made the motion to adjourn.

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SECOND: G. Emerson

VOTE: 6-0

Minutes Prepared by Debbie Soucy, Secretary