

HAMPSTEAD PLANNING BOARD

11 Main Street Hampstead New Hampshire 03841-2033

Approved Minutes December 5, 2016

PRESENT: Paul Carideo, Chairman; Neil Emerson, Glen Emerson, Dean Howard, Robert Waldron, Chad Bennett (Ex-Officio), Alternates Randy Clark and Chris Howard, Nick Cricenti (SFC Engineering) and Scott Bourcier (Dubois & King)

The meeting was called to order at 7:00 p.m. and was broadcast on CATV 17

1st Public Hearing

1. 01-018, Depot Development Site Plan – Public Hearing (598 Main Street)

Chad Bennett, Ex-Officio stepped down for the Public Hearing whereas he is an abutter. Alternate Randy Clark was appointed to the board for this hearing to replace the absent Ben Schmitz.

Mark Gross of MHF Design presented the application to the board for review. He explained that they are looking to add a fence along the backside of the drive thru area along with a 12 x 12 shed. The other portion of the amendment request is a change/correction of the delivery hours for the site. There had been a note in the SFC review letter regarding the elevation of the shed and that has been supplied to the board.

Mr. Gross stated that the project was approved in November 2012, and they opened in 2014. This has given them a few years to identify issues and what hours work for deliveries. He explained that the current hours listed on the site plan were originally just supposed to be the hours of delivery of the Dunkin Donuts Trailer Truck, but was incorrectly taken as the delivery times for the whole complex. According to Note 6, they are asking for the proposed delivery schedule.

Donut Deliveries 4 am to 5 am

Dunkin Tractor-Trailer deliveries after 9 am

All store deliveries to rear of store after 7 am

Trash pickup after 7 am

Gas deliveries 6 am to 11 pm

Deliveries to the front of the store 5 am to 11 pm

Snow Plowing allowed 24 hours a day

Snow Removal 6 am to 11 pm

Chairman Carideo noted that the deliveries for the Dunking Donuts tractor-trailer start after 9 am but have no end time. Mr. Gross stated that the owners will agree to 5 pm as a stop time. R. Waldon noted that the same was listed on the trash pickup. Mr. Gross agreed to make that 7 am to 5 pm as well and will adjust the plan notes.

R. Waldron asked Mr. Gross about the truck that delivers the donuts. Mr. Gross explained that a box truck delivers the donuts. They will open the back, remove the racks of donuts, deliver them and then is out of there, all in about 8-10 minutes.

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Mr. Gross explained that the donuts need to be in place for Dunkin Donuts to open at 5 am, and the store gets their delivery of items such as milk when they first open up which is at 5 am. N. Emerson asked if the fence and will help block any noise. R. Waldron asked if the request is due to neighbors asking for it. Mr. Gross responded that it is due to the complaints from the neighbors at the back of the store. Chairman Carideo asked if the fence would result in an issue with snow storage. It was agreed that the precautions are in place. N. Emerson asked how far back from the edge of the parking lot the fence would be. Chairman Carideo responded that it would be 12 feet from the back of the shed then even along the line to the dumpster.

The public was invited to give input.

C. Bennett, 589 Main Street, stated that he lives across the street so he has no issue with the delivery trucks except the gas trucks. He stated that the "Jake-brake" is applied going by his house at 6 am and wakes up his family, and this has happened at least three times. He noted that the store is open later on weekends and that there are late night gas deliveries. He noted that he would like to see the gas deliveries restricted to 7 am to 8 pm. He also noted that they have to listen to the backup alarms of the trucks as they are getting into position.

C. Bennett also presented a letter from his wife, Erin Bennett. She wrote to ask the board to deny the request for the change in delivery hours from 4 am to 11 pm. She gave reference in her letter to the Town of Hampstead Noise Ordinance, approved by Town Meeting in 2000. She particularly pointed out Section 3, (h) regarding the loading or unloading of vehicles.

C. Paz, 595 Main Street, read from his letter regarding the proposed delivery schedule changes. He also referred to the issue that some of the requested delivery times are outside what the adopted Noise Ordinance allows. He ended with asking the board to deny the request to expand the hours and hold to the noise ordinance as approved by Town Meeting.

J. Forbes, Friends of Ordway Park Chairman, read from her submitted letter. She noted concerns she has seen since the store opened with things such as the breaking down of the pavement where the trucks are taking the turn incorrectly. She pointed out that she had a concern with the wide turning arcs and interference with the parking adjacent to the park. She noted her concern that the damaged pavement will create a hazard to the pedestrians and impacts access to the park. The traffic patterns are more complicated than before the development and truck activity is significantly increased during construction months, which coincides with park activity. The other item she pointed out was that various types of trucks and vehicles are scraping the access ramp when exiting and this is because of inadequate engineering. She also noted that the traffic study was conducted when Depot Road was legally closed to truck traffic and seasonal activities were less. She also noted that while working in the park, she has seen an accident at least once a month during the summer when the road conditions were dry.

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She stated that she believes there has been an increase in the number of accidents at the intersection since the store was built. She stated that the trash is blowing into the park and the volunteers are frequently picking up trash such as receipts, wrappers etc. J. Forbes went on to state that they are finding they need to remove trash from the stormwater detention area (which was in place prior to the store) more often now and is concerned that the taxpayers may have to pay for trash guards.

J. Forbes also mentioned concerns with people on OHRV's leaving the trails on the OHRV's and entering the store area. She pointed out that this leads to increased traffic concerns and additional noise. She pointed out that during the review process, the consulting engineer dismissed concerns of the abutters that lights from the delivery trucks would be shining on them and she has noticed that the headlights do indeed shine into the second floor bedrooms of the residential properties. The last point she made was that this store is in a C-1 zone and most of the other stores similar to Depot Crossing are in a C-2 zone. The public session was closed.

Mr. Gross announced that the owners were willing to amend the hours and limit gas deliveries to 7 am to 10 pm. D. Howard questioned Mr. Gross and asked why not change all the hours to be within the same time frame. R. Waldron asked if it meant they are out by 10 pm or can pull up at 10 pm and start filling. Mr. Gross reported that the store closes 9 pm to 10 pm most nights except for Friday, which closes at 11 pm and based on that they agree to restrict the gas hours to the 7 am to 10 pm time frame and that means out by 10 pm. N. Emerson asked about the deliveries to the front of the store and asked why they need to be there at 5 am. Mr. Gross responded that there are certain groceries, such as milk, that they need when the store opens which is at 5 am. He also noted that most of the time the deliveries are around 5:30 am to 6 am. D. Howard suggested a time frame of all deliveries to be 7 am to 10 pm except the donut delivery, which would be 4 am to 5 am. He stated that he felt this fit in with what presented as the time frames of the noise ordinance. There was discussion on the noise ordinance and noise being subjective and not measurable. It was pointed out that what is loud at 6 am while there is no activity wouldn't be as loud at 7 am with more activity going on. J. Lavelle asked to speak and noted that the headlights shining on the homes could be corrected by having the lights off while they are on the site because the parking lot is well lit. He also noted to eliminate the backup noise the trucks should drive around the building to get into position. Mr. Gross reported that they have added more buffering to the site than they were required to in order to help minimize any noise. J. Forbes responded that the right plantings need to be placed to help buffer the noise and mature trees would have been more of a buffer. Mr. Cricenti was asked if he had any experience with noise ordinances and he responded that he recently had experience with two in Epping. The first was the speedway and the other was Sig Sauer. It turned out in both cases that there was more noise emanating from the two main roads (Route 125 and Route 101) than the sites themselves.

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Mr. Bourcier was asked if he had any experience with them as well. He replied that he had not reviewed any projects in regards to noise but agrees that an ordinance should apply to all. He also went on to state that it is all relative to what you hear, subjective and it would be difficult to collect the data.

They discussed the proposed expected fence, which Mr. Gross stated would be a vinyl stockade fence at 6 feet high and 100 feet long. G. Emerson asked if this would block any noise and N. Cricenti replied that he didn't think so because of the holes in the fencing. Mr. Gross mentioned that it should insulate the sound and they could add a note that the fence needed to be solid and not a picket fence.

C. Bennett asked the Planning Board to hold off on making any decision until the members all had a chance to review the Noise Ordinance. Mr. Gross stated that they were not interested in looking at the noise ordinance because they felt it was very subjective and wasn't going to change anything that they compromised on tonight. He asked that there not be a continuation of the public hearing based on the ordinance. The public hearing was closed at 7:58 pm.

MOTION: N. Emerson motioned to approve the Depot Development Site Plan Amendment for Map 01 lot 018, 598 Main Street

Site plan is for a 12 foot by 12 foot shed and a solid fence, both as shown on plan presented for this hearing. The delivery hours were amended during the public hearing from the proposed plan to the following:

Donuts (around back) 4 am to 5 am,

Dunkin Donut Tractor Trailer delivery truck 9 am to 5 pm,

Rear deliveries 7 am to 10 pm,

Gas deliveries 7 am to 10 pm,

Front of store deliveries are 6 am to 10 pm,

Trash removal 7 am to 5 pm,

Snow plowing allowed 24 hours a day 7 days a week, and snow removal 6 am to 10 pm.

SECOND by R. Clark

VOTE ON MOTION: 6-0

C. Bennett returned to the board at 8:02 pm.

2. 2017 Zoning Amendment-ADU (Accessory Dwelling Units) - Public Hearing- (Proposed ADU amendment is replacing Section IV-14 In-law Accessory Apartments)

R. Clark was appointed to sit in for B. Schmitz. The final amendment for this zoning change is number 8 and this has been reviewed by Town Counsel and discussed at prior meetings. There was no public present to discuss the article.

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MOTION: N. Emerson motioned to move the ADU article to the 2017 warrant.

SECOND by D. Howard

VOTE ON MOTION: 7-0

3. 2017 Zoning Amendment - Part I Common Articles, Article I-4:0 Definitions–Public Hearing

C. Howard was appointed to sit in for B. Schmitz.

This amendment is to define the definition for Residential Zone A and Zone B.

There was no public present to discuss the article.

4. 2017 Zoning Amendment - Section III-2:5 (B) - Public Hearing- Zoning Amendment

C. Howard was appointed to sit in for B. Schmitz. This article is being amended to use the same wording as the definition change for Article I-4:0. Mrs. Harrington noted that when Town Counsel suggested the change, she was actually just stating that the article should show the wording added to Article I-4:0 that the second floor area must be directly over the first floor area used for the calculation. The members agreed to keep the article as written for the public hearing. The two articles are to be listed as one article so that there is no issue with one passing and one failing.

MOTION: C. Howard motioned to pass Article 2 amendments on the definition under Article I-4:0 and Section III-2:5 to the 2017 warrant.

SECOND by N. Emerson

VOTE ON MOTION: 7-0

Continued Public Hearings

1. 02-037, John Thompson Subdivision – cont'd Public Hearing from 11/07/2016 (366 Main Street)

R. Waldron stepped down from the board and C. Howard was appointed to fill his seat. R. Clark was appointed to fill the seat for B. Schmitz.

Mr. Lavelle passed out some information on ownership in town of Old County Road, which was from a 1982 plan done by Vernon Dingman. There was also a plan near Depot Road and Route 121 that came out near the intersection of Hampstead Road (Sandown line). He presented these to show that there were similar situations to the one for the Thompsons' that has happened in town in the past using old roads. N. Emerson asked if the road used on the Beverly Drive to Depot Road plan (Old Johnson Road-D24257) was a road that was closed. Mr. Lavelle responded that it was discontinued. P. Carideo noted that neither of the plans Mr. Lavelle showed were designated as a trail system. Mr. Lavelle stated that the expert he hired, Don Wilson, was not able to get a report to him until the beginning of the year. He will give a copy of the report to the board as a point of reference. He will not be basing his drawing on the report from Mr. Wilson.

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A discussion ensued between Mr. Lavelle and R. Clark regarding the use of the road and where the boundaries of the Thompson property are listed. They agreed that in court cases using the center of an old road as the lot line, as well as other issues such as the legal history of the road is an important issue. Mr. Lavelle stated that Mr. Wilson will provide the legal history when available.

Mr. Lavelle went on to state that they didn't intend to use the old road in this case but just for a driveway. Now the driveway has moved to the other side of the property. He stated that he expected no decision tonight, but intended to show the board that moving the lines around for the front to allow it to meet its soils on its own without using the old road. He stated that the rear lot would meet the basic conditions of the variances granted by the ZBA exclusive of the old road. Mr. Lavelle also that the Thompsons would grant an easement to the town for their use of the portion of the driveway for these lots. He read the square footage for each lot with the use of the old road and without using the old road. It was noted by N. Emerson that the numbers read didn't match up to the plan given. Mr. Lavelle noticed that the plan was not updated with the current numbers. He stated that the front Lot was 66,604 square feet and exclusive of old road 61,884 square feet. This exceeds the requirements and makes the lot meet requirements on frontage and lot size by soil. He stated that they did this by moving the driveway from 30 feet to 25 feet and revised the line between the front and the rear.

The rear lot is at 48,843 square feet and if the old road were removed, it would be 47,111 square feet. The lot size is 55,186, which is 75.49% of the lot. The ZBA gave a variance on bedroom numbers and restricted it to three bedrooms. There will be a note on the plan restricting it to three bedrooms. There was a question on the need for an easement. Mr. Lavelle stated that if the Thompsons own the land, they will give an easement and if not then the easement is unnecessary.

Chairman Carideo asked Town Counsel, Diane Gorrow, who was present tonight, what she thought. D. Gorrow was asked by Chairman Carideo that if the applicant is willing to submit the plan to the stonewall and the calculations work for a four bedroom in the front and a three bedroom in the rear and the driveway to the opposite side of the home away from the old road would that work. D. Gorrow replied that the lots show as written in the deed to the stonewall and it is within the subdivision regulations and add the ZBA variances. She said that the town should not take an easement for something that it already has the right to use. She noted that this is a Class A trail which was done in 1997. There was a 6- month statute of limitations to challenge the change if there was an issue as to the process taken.

D. Howard suggested that Mr. Lavelle change the plan for Thompson to show the lot line at the stonewall, per the 1972 sub-division plan, and submit that for review. Mr. Lavelle can submit the

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work of Mr. Wilson later if he believes it alters the lot line. No action was taken this evening and the applicant was told to submit the new plans by 12/12 to show the areas and the property line. Mr. Lavelle stated that the applicants don't want to use the old road. He also stated that he will submit the new plans per the discussion and will forward the report from his expert, Don Wilson, when he receives it.

MOTION: N. Emerson motioned to continue the public hearing for the John Thompson Subdivision Map/lot 02-037, located at 366 Main Street to the January 3, 2017 meeting.
SECOND by G. Emerson
VOTE ON MOTION: 8-0

2. 06-019, DHT Sports Realty Site Plan – cont'd Public Hearing from 11/07/2016 (142 Route 111)
This public hearing was continued from the November 7, 2016 meeting. C. Howard was appointed to sit in for B. Schmitz. Mr. Lavelle stated that he had nothing new for this evening and that currently the clients are in limbo and he is not sure of the future of the plans.

MOTION: R. Waldron motioned to continue the public hearing for DHT Sports Map/Lot 06-019, located at 142 Route 111, to the January 3, 2017 meeting.
SECOND by G. Emerson
VOTE ON MOTION: 7-0

3. 06-054, James Holland Site Plan – cont'd Public Hearing from 11/07/2016 (35 Gigante Drive)
This public hearing was continued from the November 7, 2016 meeting. C. Howard was appointed to sit in for B. Schmitz. Mr. Lavelle stated that he spoke with N. Cricenti and that he was all set regarding the plans and they should be all set for a final review. There were items missing from the first plan submitted such as the utilities and well. Mr. Lavelle stated that page 2 and 3 show the overhead power and the well location with the protection area. He also stated that they will put in a firewall with two sections inside which will not exceed the NFPA requirements. D. Howard asked if this would be in the notes.
Chairman Carideo stated that it could be part of the conditions instead of on the notes. It was stated that the Building Inspector can track what needs to be there. D. Howard responded that he would need to know what is required. N. Emerson noted most the items are on the plan. R. Waldron asked if it is to be noted as limited to storage and not for rent. D. Howard responded that it was not against the zoning for that area. Chairman Carideo stated that as long as it meets the zoning and stated that there is no plumbing in the building just electric. J. Lavelle said that he would put the notes on the plan. The board noted that they didn't want to hamper the options down the road that are within the requirements. There was no public input.

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MOTION: N. Emerson motioned to approve the amended site plan for James Holland, Map/lot 06-054, located at 35 Gigante Drive, and that it needs to meet the Hampstead Fire Department requirements.

SECOND by D. Howard

VOTE ON MOTION: 7-0

4. 09-060, Hastings Drive Subdivision – cont'd Public Hearing from 11/07/2016 (Hastings Drive)
Chairman Carideo announced that the developers have requested a continuation to the January 3rd meeting. They submitted revised plans and wanted to give the members' time to review the revisions.

5. 17-051,306, Merryfield Ext. Subdivision/Lot Line – cont'd Public Hearing from 11/07/2016 (Merryfield Lane)

Chairman Carideo announced that the developer, Ernest Brown has submitted a request to withdraw the plan for the proposed subdivision/lot line adjustment known as Merryfield Extension.

Conditional Approvals with due dates of 12.05.16

6. 02-052, Labrador Lane Subdivision - (447 Main Street)

C. Howard was appointed to sit in place of B. Schmitz. The subdivision known as Labrador Lane has a conditional approval to 12.05.16. The conditions have not been met. The conservation easement was received today and forwarded to Town Counsel for their review. There were two outstanding with the conservation easements being one of them. The Mylar's are in to be reviewed.

MOTION: N. Emerson motioned to extend the conditional approval of Labrador Lane Subdivision, Brighton Drive Developers, Map/lot located at 447 Main Street 02-052, to the January 3, 2017 meeting.

SECOND: by G. Emerson

VOTE ON MOTION: 7-0

D. Moyer of 453 Main Street, an abutter to the subdivision asked to speak to the board about some issues he has with the work at the site. He stated that he had a survey done on his property and there were permanent markers on the wall and flags along the property boundaries. During the construction of the road, a lot of these were removed completely or just moved and placed onto the property of the subdivision. D. Moyer noted there was a dogleg marker on his side on a stone and it has been moved to near the water containment area. He also was concerned that there was not room to push snow where it was five feet from his wall. He stated that when they excavated for the swales they backfilled and pushed his wall his way. He went on to state that it looks like the work is complete and he wanted his concerns noted. N. Cricenti said that the boards are not in and that the

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Road Agent had no issue with the snow removal. N. Cricenti stated that he looked at the swales and doesn't see that it will have any effect the way Mr. Moyer thinks it will. Chairman Carideo asked N. Cricenti that if they still need to replace the corners that were disturbed as part of the right of way. N. Cricenti stated yes and that this was included in the bond amount.

D. Moyer asked if the contractors should be cutting up the stonewalls. Chairman Carideo responded that he agrees that they shouldn't but it is between the property owners, not the planning board.

As part of the road acceptance the corners need to be replaced and bond released before the road can be accepted. D. Moyer noted the workmanship done on the site and stated that it could have been done differently. Chairman Carideo noted that they can't dictate a contractor or how they do the work to the applicant.

7. 06-018, Sweet Management Site Plan - (184 Route 111)

There was no one present for this plan. C. Howard was appointed to sit in for B. Schmitz.

The conditional approval is up as of 12.05.16. The secretary was told to send a certified letter reminding the applicant that they need to meet the conditions of their approval or risk having the project denied.

MOTION: R. Waldron motioned to extend the conditional approval for Sweet Management Site Plan at Map/lot 06-016, located at 184 Route 111 to the January 3, 2017 meeting and for a certified letter be sent them.

SECOND by N. Emerson

VOTE ON MOTION: 7-0

8. 07-064, 068 - C. Hurley Subdivision - (99 Stage Road)

R. Clark was appointed to sit in for B. Schmitz. There was no one present to discuss the conditional approval. The only outstanding item was the DOT (Department of Transportation) approval. It was agreed to move it out further than one month.

MOTION: N. Emerson motioned to extend the conditional approval for the C. Hurley Subdivision Map/lot 07-064, 068, located at 99 Stage Road, to June 5, 2017.

SECOND by R. Waldron

VOTE ON MOTION: 7-0

BOARD BUSINESS

Chairman Carideo announced that this was the last meeting for Nick Cricenti before his retirement. Chairman Carideo thanked him for his 20+ years of service working with the Town of Hampstead Planning Board. He noted his sincere gratitude for serving the town and noted that he has dealt with Mr. Cricenti from both sides of the tables, as a Planning Board member and as an applicant. He

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noted that he has always found Mr. Cricenti to be fair and honest and that he has provided Chairman Carideo with a lot of insight and expertise. R. Clark noted the same and added that in his 10+ years of being a Chairman he learned a lot from Mr. Cricenti and that it was always great having such a knowledgeable expert.

Correspondence

10-004, FCC Letter regarding the proposed cell tower to be located at Map/lot 10-004, 311 Kent Farm Rd. It is expected that they will be filing for a public hearing for the January 3, 2017 meeting. It was noted that the balloon test was done and Chairman Carideo said that he was able to see it from Wheelwright Road and probably Granite Village.

09-060, A letter was received from the Conservation Commission. The members were given a copy in their package and told to review it for the January 3rd meeting.

R. Clark stated that D. Howard and himself along with a couple of members of the Conservation Commission met at the Hastings Drive site and did a site walk. He noted that it was very well marked out and they were able to find all the driveways and the crossings.

2017 Meeting Schedule- The proposed schedule was discussed. There are two months when the 1st meeting of the month is scheduled on a holiday. These will be moved to the Tuesday night instead. The schedule was accepted by voice.

Members Comments

N. Emerson reported that there is a petition article circulating that had been requested by the ZBA, but never got to the Planning Board. The deadline for the petition articles is December 14th. It will be discussed at the January meeting, but as a petition article, it will go on the warrant whether the Planning Board approves it or not.

Approval of Minutes

The minutes of November 7, 2016 were reviewed. B. Schmitz had submitted his changes to the minutes with four changes. Chairman Carideo asked if minutes in the future could have numbers down the side to make it easier to note where the changes are.

Page 1: Second to last sentence add "that" after wetland (from B. Schmitz)

Page 3: R. Waldron seconded the motion not B. Schmitz (from B. Schmitz)

Page 3: After section where the motion is, add D. Jordan "stated" instead of "sated"

Page 8: Last section under Map 06-054 second sentence change "lost" to "list"

Page 11: Don't bold the word "septage"

Page 12: Don't bold "is" and "location"

Page 13: Do not bold section under the motion.

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MOTION: R. Waldron motioned to approve the minutes of November 7, 2016 as amended.

SECOND by G. Emerson

VOTE ON MOTION: 6-0 (no alternates appointed to sit in seat of B. Schmitz)

MOTION: N. Emerson motioned to adjourn the meeting at 9:30 pm

SECOND by D. Howard

VOTE ON MOTION: 6-0 (no alternates appointed to sit in seat of B. Schmitz.)