

PRESENT: Todd Santora, Chairman; Charlyn Brown, Vice-Chairman; Lisa Brown-Kucharski, Shawn Hanson, Abigail Tonry, Members; Andy Brubaker, Alternate; Glenn Coppelman, Circuit Rider Planner; Mark Sikorski, Building Inspector; Susan Ayer, Secretary

ABSENT: Jim Ziolkowski, Selectmen's Representative
Greg Parish arrived late, joining the meeting after the completion of the first case.

The Chairman called the meeting to order at 7:00 PM, and named A. Brubaker a voting member, replacing Greg Parish.

CONTINUED: CASE #16-07-03 – Application from Richard Knight for Final Public Hearing for Subdivision creating a five (5) acre lot with existing house, remaining land to be a non-buildable 10.56 acre parcel, for property located at 12 Mill Lane, Map 1, Lot 6. Waivers requested.

T. Santora noted that Mr. Knight had gone before the ZBA in October but that a decision to table was made. He asked Mr. Knight what additional information he has for the Planning Board. Henry Boyd of Millennium Engineering addressed the Board on R. Knight's behalf, and also introduced Attorney John Colliander.

H. Boyd explained that they had been to the ZBA to seek relief from the Building Code in order to use the land as a non-buildable lot, but the ZBA could not give that relief. At this time, R. Knight is considering a conservation easement of some sort, and H. Boyd asked if a joint meeting with the Planning and Zoning Boards would expedite the process.

There was a discussion of conservation easements and it was noted the process is complex and costly, and would involve setting up guardianship of the property for the future so that there would be no violations of the easement.

The Board questioned the applicant on several points.

M. Sikorski asked about the 100 foot wide strip of land that runs behind the 15 acre parcel, specifically about the characteristics of the land in that strip.

H. Boyd said that without a complete study of the topography, he does know there is one upland section that might perc, but when wetland setbacks are taken into consideration, it would not be usable. He said he doubted a driveway would be approved to go all the way in to that section. M. Sikorski asked why that strip was left as it is when the lot was subdivided, and H. Boyd said he can only speculate that they only took what was needed for the building lot. He added that if a parcel is less than 5 acres it needs to comply with subdivision rules, and that is why it's there. He also noted that the strip is 125 feet wide, not 100.

T. Santora asked why R. Knight would not pursue deed restriction, and H. Boyd said that permanent use easement might affect the marketability of the 5 acre parcel.

The possibility of a third party land trust was raised. H. Boyd said he felt it might be difficult to find someone who wants to be involved in such a small parcel, and that R. Knight is only trying to preserve the land for his own use.

T. Santora said that he fears the applicant could go through a lengthy, costly process, only to find the Town does not want the land.

H. Boyd said that they are not here tonight to discuss particulars of an easement, but to request a joint meeting of the Boards. C. Brown said she can't see the benefit of a joint meeting if there is no definitive direction. J. Colliander said that the ZBA had expressed interest in the applicant

exploring conservation easements, that it seemed that was the only way they would consider making any changes, and that was why the ZBA case was tabled. He said there is no sense in going back to the ZBA, that they are here at the behest of the ZBA to explore parameters of a conservation easement. J. Colliander said that if this is not going to be acceptable, they can go no farther. If it is an acceptable option, they will go from here.

C. Brown said if the applicant wanted to take a Conservation route, they need to work with the Conservation Commission and would need to return to the ZBA to get relief from the prior ruling of 2000.

A. Tonry said that she felt this cannot be discussed without the applicant having an interested third party, and that he needs to consult with people before coming back to the Planning Board.

J. Colliander requested a continuance until February 28th in order to gather information and consult with possible third parties to an easement.

Public comment was closed at this time.

MOTION: To grant the applicant's request for a continuance of Case #16-07-03 until the Board's February 28 meeting, at 7:00 PM.

MOTION: A. Tonry

SECOND: A. Brubaker

UNANIMOUS

(At this time Greg Parish joined the meeting. Alternate Andy Brubaker stepped down from the Board as a voting member.)

CASE #16-11-01: Application from Tony Morgado, Morgado Development, for Final Public Hearing for a Lot Line Adjustment transferring two acres from Lot 5-8 to Lot 5-9, for property located at 60 Brown Road, Map 5, Lot 8. Waivers requested. Expedited Review requested.

T. Santora opened the public hearing and recognized applicant Tony Morgado as well as owners of the second lot, Liz and Brian Riordan.

L. Riordan gave copies of the deeds for both properties to the Secretary for the file, and it was noted that all fees had been paid.

MOTION: To accept the application as complete and invoke jurisdiction of the case.

MOTION: C. Brown

SECOND: S. Hanson

UNANIMOUS

T. Santora pointed out to the applicant that the lot numbers as shown in the Notes section on the plan are switched. He said the plan is correct, but the notes are in error.

T. Santora repeated a comment of G. Coppelman, saying that the proposed lot line adjustment will make the Riordan's parcel more conforming to lot size requirements.

Questions of the Board:

A. Tonry noted that there is a misspelling of the word "development" in the middle of the plan. This and the lot number error will need to be fixed as conditions of approval. A. Tonry also said that she finds it confusing that in the title block the address listed is 6 Marsh Lane, which is T. Morgado's business address, not the address of the property involved. While this is how the address is listed on the deed, and is the owner of record's address, it was decided it would be acceptable to leave the address off the title block.

The hearing was opened to public comment.

John Bailly of 56 Brown Road introduced himself as an abutter to the properties, and said that the lot line adjustment has his approval.

No further comments being heard, the discussion was closed to the public.

WAIVER REQUESTS

C. Brown said that due to the fact that this lot line adjustment has nothing to do with a building lot, that both lots are already built on, the need for compliance with subdivision regulations in Section 6 could be waived.

MOTION: To grant waiver requests from Subdivision Regulations Section 6.1.4 for engineer work, Section 6.2.16 topographic contours, Section 6.2.21, high intensity soil survey, as well as the requirement to show existing culverts, due to the fact that the application is for a minor lot line adjustment.

MOTION: C. Brown

SECOND: G. Parish

UNANIMOUS

MOTION: To approve the applicant's request for a lot line adjustment to Map 5 adding two acres to Map 5, Lot 9, and decreasing Map 5, Lot 8 to 41.36 acres in accordance with the plan by E. J. Cote & Associates dated October 3, 2016, subject to the following conditions:

1. That new monumentation be set and a Certificate of Monumentation be provided for the file before the mylar is signed and recorded.
2. That new deeds be provided for the file showing the appropriate acreage added to lots before the mylar is signed and recorded.
3. That any and all fees due the Town of Hampton Falls and its consultants be paid before the mylar is signed.
4. That Note 2 be corrected to reflect correct Map and Lot.
5. That the address be removed from the title block.
6. That the spelling of the word "development" be corrected in the center of the plan.

MOTION: S. Hanson

SECOND: A. Tonry

UNANIMOUS

CASE #16-11-02: Application from Unitil Forestry Department for Final Public Hearing for Scenic Road Alteration Permit to perform tree trimming along portion of Brown Road to accommodate line construction needed to feed The Meadows at Grapevine Run, and removal of trees along Brown Road. Plan on file with Town.

Chris Moultroup of Unitil Forestry Department introduced himself and took questions of the Board.

G. Parish said that he and his wife have an agreement with Unitil and he was unsure whether this constituted a conflict of interest. He offered to abstain from the voting.

T. Santora said that his concern is that Brown Road is a designated Scenic Road, and 19 trees are being removed. He also said he felt this should have been anticipated by the Town's engineers or Avesta Housing before now.

C. Moultroupe said that 12 of the 19 trees are dead or dying, some are leaning; some are set back from the road and fall more into the category of hazard trees than being in the way. The only healthy trees are some cherry trees which are in the way of the cross bar of the utility pole.

T. Santora asked what exactly is to be done with the power poles, and what they will look like.

C. Moultroupe said that the existing poles have one wire. There will be a new pole with a cross bar on State Route 88. The power is being upgraded from single phase to three phase.

There was a lengthy discussion of how to minimize the number of trees cut, whether some might be trimmed, and whether it would be feasible to replace some of the cut trees.

S. Hanson said that he had looked at the area and that some are dead or dying, and that he did not see any old growth trees. C. Moultroupe said they are not high value trees, and also said that he can prune instead of cutting in some cases, but he would not recommend it.

It was determined that no stone walls will be affected.

Homeowners need to give permission for the cutting. C. Moultroupe said he has talked with Dick Robinson of 20 Brown Road, where many of the trees are located, and D. Robinson gave his permission.

G. Parish said he is against taking down healthy trees, and would like them to be saved if at all possible. C. Moultroupe said he is worried about the esthetics after pruning, but he could try.

T. Santora said he is inclined to go ahead with the proposal and work with residents and Avesta in the future if replanting seems warranted.

The hearing was open to public comment.

G. Coppelman asked when the work would be done; C. Moultroupe said he would like to start next week.

No further comment was offered. The hearing was closed to public comment.

MOTION: To accept the application as complete and invoke jurisdiction of the case.

MOTION: C. Brown

SECOND: S. Hanson

1 ABSTENTION; 5 IN FAVOR, PASSES

MOTION: To approve the applicant's request for a Scenic Road Alteration Permit to perform tree trimming along portion of Brown Road to accommodate line construction, subject to the following:

That only those trees as outlined on the plan that are leaning, dying or dead will be taken down; any live trees will be trimmed lightly unless the homeowners prefer that they be taken down.

MOTION: S. Hanson

SECOND: C. Brown

1 ABSTENTION; 5 IN FAVOR; PASSES

CASE #16-11-03: Application from Sean Roaf for an amended Site Plan to add an outdoor, fenced area associated with a new dog day care business onsite, for property located at 4 Lafayette Rd., Map 7, Lot 48.

Applicant Sean Roaf and Attorney John Colliander were present to discuss this case.

T. Santora revealed that he has done business at the applicant's business, In Tune. Other Board members offered that they had also done business there, but it was not thought this constituted a conflict of interest.

C. Brown provided information on a previous Site Review Agreement from 2006 which amended the business hours and days of operation, as well as a letter from M. Sikorski from a preliminary meeting with the applicant on October 3, 2016. At that time, M. Sikorski had outlined what would be needed for the proposed expansion. Present at that meeting were S. Roaf, G. Coppelman, M. Sikorski and Atty. Colliander.

T. Santora said that an email from Colleen Roaf was received that gave the details that the proposed fence is a 6' chain link fence. He asked J. Colliander if it would be possible to have the fence, and distances to the lot lines, shown on the plan. J. Colliander said a hand drawn fence added could not be recorded as a plan, but the information would be supplied on an affidavit to be recorded.

S. Roaf said they had discussed not needing a surveyor, and that he had requested a waiver from new plan submittal items as they are not producing a new plan. There was a discussion of fences not requiring setbacks as they are not considered structures. However, T. Santora pointed out the fence represents an extension of the business use.

The waiver request was made via e-mail. S. Roaf signed a copy of the e-mail that contains the waiver request, fence details and authorization of J. Colliander to speak for him, for the file. It was noted that the fence is temporary, and will be taken down if the dog care business vacates.

The Board asked about the neighboring properties, which are either wooded or occupied by businesses.

The owner of the dog day care business was present and answered questions about the business. It was determined that she takes care of up to 25 dogs at a time, of various sizes. The fenced area is for "quiet time" and would not be used by all dogs at once. The fenced in area is not to enable more dogs to be on site; most of the time the dogs are kept inside. Current hours of operation are 7:00 AM until 6:00 PM, weekdays only. A. Tonry noted that the Site Plan agreement from 2006 set the hours as 7:00 AM until 10:00 PM, 7 days per week, and questioned if they should be changed. After some discussion, it was decided that the hours can remain as they are, as weekends may be added in the summer, although the business owner does not anticipate being open past 7:00 PM.

The fence will be hand drawn on the existing site plan and J. Colliander will draft an affidavit for Board signatures and recording, to include the fence information (temporary, chain link, six feet high, location on property) and business hours.

The Chairman opened the hearing for public comment. No comments were heard; the public comment portion of the hearing was closed.

There were no further questions of the Board.

MOTION: To accept the application as complete and invoke jurisdiction of the case.

MOTION: G. Parish

SECOND: L. Brown-Kucharski

UNANIMOUS

MOTION: To grant a waiver of the requirement for a new site plan for tax Map 7, Lot 48, as only a temporary fence is being installed.

MOTION: G. Parish
SECOND: L. Brown-Kucharski
UNANIMOUS

MOTION: To approve amendment to the site plan recorded in March, 2005 along with Site Review Agreement of February 9, 2006, to include an agreement solely for a dog day care business, that allows for installation of a six foot temporary chain link fence, with hours of operation seven days per week, 7:00 AM until 10:00 PM.

MOTION: C. Brown
SECOND: L. Brown-Kucharski
UNANIMOUS

**REVIEW AND APPROVAL OF PRIOR MEETING MINUTES: September 27, 2016;
October 25, 2016**

MOTION: To approve the minutes of October 25, 2016 as written.

MOTION: C. Brown
SECOND: S. Hanson
1 ABSENTION, 5 IN FAVOR, PASSES.

The Board reviewed minutes of September 27 in light of a letter received from David West of Evergreen Drive, who was present.

T. Santora said he had one comment, about the fifth bullet point under Public Comment on page 2, that he did not recall anyone saying that the lighting on Mr. West's neighbor's shed was approved by his neighborhood association.

Mr. West said he would like any reference to the neighborhood association struck from the record.

D. West was reminded that the meeting minutes need to reflect what was discussed at that meeting, and that included references to the neighborhood association.

After some discussion, it was agreed to amend the fifth bullet point on page 2 to read:

~~"Floodlights shining in D. West's windows from the rink area are in the purview of the neighborhood association rules. D. West said that the lighting went beyond what was approved by the association. were objected to by Mr. West."~~

C. Brown asked that the last bullet item be amended to to read:

"C. Brown said that the Town has Subdivision regulations about down *shielded* lighting, but the Evergreen subdivision went in before the regulations were in place *so that it would not have been an added note to the plans.*"

C. Brown also asked that on page 3, the last paragraph be amended to read,

"C. Brown said she has received the new Great Bay Matters publication, and those interested can borrow it *from the Planning Board Secretary.*"

After some discussion, the last paragraph on page 2 was amended to read:

~~"The Board was in agreement that this is not an issue over which the Planning Board has jurisdiction, but rather an issue for the neighborhood association. Planning Board issue, as it is a non permanent structure and because the permissions came from the neighborhood association, not the Town. There does not appear to be anything to be~~

~~done by the Building Inspector or Planning Board that is supported by the Building Code or Ordinance~~

C. Brown asked that in the first bullet on page 2, the word “foundation” be replaced by the word, “base,” as it has been established that this is not a foundation.

MOTION: To approve the minutes of September 27, 2016 as amended.

MOTION: C. Brown

SECOND: L. Brown-Kucharski

1 ABSENTION, 5 IN FAVOR, PASSES.

T. Santora opened the meeting to public comment in order to allow further discussion of Mr. West’s letter.

The Chairman said that all have read the letter. With regard to minutes changes, he repeated that what was discussed at the meeting is what is reflected in the minutes, and what happened at the meeting can’t be changed after the fact.

D. West said that he felt there was bias on the part of M. Sikorski, and that was discussed at the September meeting as well.

T. Santora asked if the perceived bias took place at the meeting or in meetings that took place at other times. D. West said he thought M. Sikorski was biased in the way he presented the issue to the Board before the meeting, and in written communications.

T. Santora said that as no case was brought before the Planning Board regarding the ice rink, it was not germane to discuss further. He said that while he empathizes with D. West, nothing can be done by the Planning Board.

The Chairman closed the public comment portion of the meeting.

COMMUNICATIONS TO BOARD MEMBERS

NHDES Best Management Practices – Groundwater Protection

C. Brown drew the Board’s attention to an email G. Coppelman had sent to them in September regarding best management practices for groundwater protection, recommending that an item be added to the Site Plan Review Regulations.

C. Brown said she felt this should be on the agenda for December.

The Secretary was asked to re-send the original email to Board members, and to prepare a legal notice for this Public Hearing, to be on the agenda for the December meeting.

CIP update

T. Santora reviewed decisions made by the Selectmen at the most recent budget meeting, regarding items for the 2017 Warrant with recommendations from the Capital Improvement Plan Committee.

OTHER BUSINESS

Review of Zoning Ordinance Table of Uses, Section K, Item 3, page 16.

T. Santora said this topic was brought to his attention by Tony Franciosa, due to an inquiry about a possible auto repair/auto body business proposal for T. Franciosa’s property (Compass Point Properties, LLC) on Route 1, Map 7, Lot 61.

This would fall under the Table of Uses, Section K, Item 3.5, but looking at that section of the Ordinance Mr. Franciosa noted that there is a doubled line, with differing information.

Having been on the Ordinance and Regulations Committee at the time, T. Franciosa identified the document as one revised for the 2014 Warrant.

After some discussion, it was felt that this is a clerical error which can be corrected, it is not a change.

MOTION: To remove the clerical error of the second to last designation in Table of Uses, Section K, Item 3.5, Service and repair of passenger cars and light trucks, of N-P-P-N, based on receipt of revised public hearing notice.

MOTION: G. Parish

SECOND: C. Brown

UNANIMOUS

There was a discussion of whether the Table of Uses, Section K, 3.5 includes auto body repair. Research will be done, but consensus was that auto body was intended to be included in auto repair.

MOTION: To adjourn at 10:14 PM.

MOTION: A. Tonry

SECOND: S. Hanson

UNANIMOUS