

Official
As of 04/16/12

HOOKSETT PLANNING BOARD
MEETING MINUTES
HOOKSETT MUNICIPAL BUILDING
Monday, March 19, 2012

CALLED TO ORDER

Chair J. Gryval called the meeting to order at 6:02pm.

ATTENDANCE – PLANNING BOARD

Chair John Gryval , Vice-Chair Dick Marshall, Town Administrator, Dr. Dean E. Shankle, Jr., Frank Kotowski, Town Council Rep. Susan Lovas Orr, Town Administration Rep. Leo Lessard (DPW Director), Martin Cannata, David Rogers, Tom Walsh, and Robert Duhaime.

Absent: Yervant Nahikian and Brendan Perry.

REPRESENTING TOWN OF HOOKSETT

Town Planner, Jo Ann Duffy and Dan Tatem, Stantec.

J. Gryval: David Rogers will be voting tonight in place of Brendan Perry.

APPROVAL OF MINUTES OF 03/05/12

D. Marshall motioned to approve the minutes of 03/05/12 with edit by S. Lovas Orr. Seconded by D. Rogers.

Vote in favor. J. Gryval, T. Walsh, and D. Shankle abstain.

2012 PROPOSED ZONING AMENDMENTS SECOND PUBLIC HEARING FOR AMENDMENTS NO. 2, 4 & 6 AND FIRST PUBLIC HEARING FOR NEW AMENDMENT NO. 3

ARTICLE 2

The proposed amendments **for the second public hearing** consist of the following:

Amendment No. 2

Are you in favor of the adoption of Amendment No. 2, as proposed by the Hooksett Planning Board, for the Hooksett Zoning Ordinance to amend Article 3, Section A., General Provisions, “No permits in any district for any nonresidential or multi-family uses, **nor any change**, or expansion of use, or construction shall be issued prior to site plan approval by the Planning Board per NH RSA 674:43 and as detailed in the Non-Residential Site Plan Review Regulations of the Town of Hooksett as adopted and amended by removing “nor any change”?

The purpose of Amendment No. 2 is to eliminate the words, “nor any change” from this paragraph because the Town currently has a “Change of Use” process in place to address minor site plan changes.

J. Gryval: Read Amendment No. 2 into the minutes.

Open public hearing

No comments.

Close public hearing

*D. Marshall motioned to send Article 2 Amendment No. 2 to the voters. Seconded by F. Kotowski.
Vote unanimously in favor.*

Amendment No. 4

Are you in favor of the adoption of Amendment No. 4, as proposed by the Hooksett Planning Board, for the Hooksett Zoning Ordinance to amend Article 26, Section 3 Non-Conforming Uses, Lots and Structures, by eliminating the entire text requiring the merger of two or more contiguous lots in single ownership and by adopting all provisions of RSA 674:39-aa, which provides for the opportunity to reverse previous involuntary mergers?

The purpose of Amendment No. 4 is to eliminate the involuntary mandate merger requirement, per RSA 674:39-aa and to allow previous involuntary mergers to be reversed.

J. Gryval: Read Amendment No. 4 into the minutes.

D. Marshall: To apply to reverse the involuntary merger, do they go to the Town Council?

J. Duffy: Yes.

Open public hearing

No comments.

Close public hearing

*D. Marshall motioned to send Article 2 Amendment No.4 to the voters. Seconded by M. Cannata.
Vote unanimously in favor.*

Amendment No. 6

Are you in favor of the adoption of Amendment No. 6, as proposed by the Hooksett Planning Board, for the Hooksett Zoning Ordinance to amend the following articles: Article 10, Commercial, Section I. Buffer Zone; Article 11, Industrial, Section D. Buffer Zone; Article 12, Mixed Use 1, Section G. Buffer Zone; Article 13, Mixed Use 2, Section H.G. Buffer Zones; Article 14, Mixed Use 3, Section G. Buffer Zones; Article 15, Mixed Use 4, Section G Buffer Zones, by replacing these Sections with the following language: Buffer Zone – Whenever a commercial or industrial use abuts a residential use, zone or district, a buffer zone shall be provided subject to the approval of the Planning Board. Please see Article 22, Definitions, for details”?

The purpose of Amendment No. 6 is to amend the requirements of the buffer zone between residential uses or zones and industrial and commercial uses or zones.

J. Gryval: Read Amendment No. 6 into the minutes.

Open public hearing

No comments.

Close public hearing

D. Marshall motioned to send Article 2 Amendment No.6 to the voters. Seconded by D. Rogers.

Vote unanimously in favor.

ARTICLE 2

The proposed amendment **for the first public hearing** consist of the following:

Amendment No. 3

Are you in favor of the adoption of Amendment No. 3, as proposed by the Hooksett Planning Board for the Hooksett Zoning Ordinance to amend Article 22, Definitions, by adding a definition for “Change of Use” – Any proposed use that differs from the currently approved use and has an impact on certain aspects of the use, including but not limited to water, sewer, traffic, noise, parking, lighting, hours of operation and drainage, or a change of use as recognized by the currently adopted Building Code.

The purpose of Amendment No. 3 is to add a definition to Article 22.

J. Gryval: Read Amendment No. 3 into the minutes.

Open public hearing

Charlie Crawford, 6 Crane Way: Does it (Amendment No. 3) offer industrial in commercial or is it all together in zones?

J. Gryval: They would have to prove the use fits the zone.

Close public hearing

*D. Marshall motioned to accept Article 2 Amendment No. 3 as is with only a first hearing. Seconded by F. Kotowski.
Vote unanimously in favor.*

*D. Marshall motioned to send Article 2 Amendment No.3 to the voters. Seconded by S. Lovas Orr.
Vote unanimously in favor.*

FIRST PUBLIC HEARING TO DISCUSS AND VOTE TO ADOPT THE ENERGY CHAPTER INTO THE MASTER PLAN

J. Munn, SNHPC: The latest version of the energy chapter includes editorials and reformatting.

Open public hearing

No comments.

Close public hearing

D. Marshall motioned to adopt the Energy Chapter into the Master Plan. Seconded by D. Rogers.

M. Cannata: Will SNHPC help us to implement this chapter?

J. Munn: No, it will be your energy advisory committee and it will be on your next CIP.

T. Walsh: Referred to recommendations in the Energy Chapter (i.e. streets).

J. Munn: The chapter is all advisory (i.e. improving sidewalks – no particular site or intersection identified). The chapter is an overall guide for the Town.

R. Duhaime: The chapter falls under a sustainable community.

Vote unanimously in favor.

COMPLETENESS & PUBLIC HEARING

- DENNIS DEMERS (#12-06)**
65 Farmer Rd., Map 26, Lot 81
One-lot subdivision

*D. Marshall motioned to continue the application to April 16, 2012. Seconded by D. Marshall.
Vote unanimously in favor.*

CONTINUED TO APRIL 16, 2012.

CONTINUED PUBLIC HEARING

2. AUSTIN WOODS (#08-02)

South Bow Rd. & Mountain View Rd., Map 12, Lots 13 & 14-4 AND Map 16, Lot 53

- proposal to subdivide Map 12, Lot 14-4 into a 6-lot conventional subdivision, consolidate Map 16, Lot 53, and Map 12, Lot 13 into one lot, and simultaneously subdivide it into 37 residential lots and 2 open space parcels/conservation open space subdivision.
- proposal for lot line adjustment to provide for the transfer of parcel "A" (15,130 sq. ft.) from Map 16, Lot 53 to Map 16, Lot 53-1
- Special Use Permit for Conservation Subdivision – Zoning Article 8, Sec. K

J. Duffy: Staff and Stantec had several meetings with the developer over the last 1–1 ½ months trying to work on outstanding issues. The indented items in the Town Planner Comments are things we should talk about. The developer put together a phasing plan to build the project out. Part of our discussion is on phases; how to bond or propose a letter of credit for the project. The surety should be a "site reclamation bond" vs. roadway bond submitted at or prior to the pre-construction meeting. Phase II, prior to issuance of building permit, have a complete surety. I was waiting for their engineer to get back to me to see if they agree to that. A Special Use Permit (SUP) is required for a Conservation Subdivision, and there are 6 criteria to meet for the SUP. The Board needs a separate vote for the SUP. Timber rights, applicant to extinguish prior to Planning Board chair signing the plans. There are two waivers and staff recommends both of those waivers. There have been several discussions with Mr. and Mrs. Hillis to address their concerns. Last weekend Mr. Fillmore met with Mr. and Mrs. Hillis on site. Per an agreement letter dated March 15, 2012 between Mr. Fillmore and the Hillis, Mr. Fillmore agreed to perform testing on their well and if anything happens from the blasting in phase I or III, he will replace their well. Mr. Fillmore also agreed to adding 35 Green Giant Arborvitaes in the ROW at the Hillis property to block any vehicle lights from the new roadway. Mr. Fillmore will also bring stone on the Hillis site, so the Hillis' can build their own stone wall. Mr. Fillmore will help them to get access "relocate" to the back of their property. We have gone over this project numerous times, and staff believes Mr. Fillmore has done all he possibly can.

Open public hearing

John Hillis, 19 South Bow Rd.: The letter from Mr. Fillmore dated March 15, 2012 and the letter prior, March 1, 2012, has slightly different wording. The language should include home construction phase III impact to our well. The March 15th letter does not contain this language. We prefer the language in the letter March 1, 2012. I received the March 15th letter two business days ago. We would like time to review the wording. We would like to see the changes in the drawings that Mr. Fillmore said would be done. LS1 sheet 70 open areas have trees and would like to see them stay. If they are not in the blueprints, I would like to see them there. Our site should be seeded and green vs. rock. I would like to see update drawings, and I would like wording on the proposed agreement to have "home construction".

J. Duffy: Note on plan states to install 17 Green Giant arborvitaes, preserve existing trees, and preserve existing trees of the property line.

J. Hillis: The side slope details say grass? Mr. Fillmore has agreed to “home construction”, and now I have seen the tree depiction. One other item, my letter presented to the Board 4th page, who takes responsibility for the buffer zone? All buffer zones are in the control of the homeowners association. This ROW area of plantings will be deeded to the Town. I would not expect any taxpayer in Hooksett to pay for these. A cluster subdivision is stringent. This is a separate issue from the letter.

J. Gryval: I did a lot of reading on the buffer. Did the Planning Board ever determine if a buffer is needed?

J. Duffy: Buffer refers to the “proposed structure and perimeter of track”, and there are no proposed structures by the Hillis property. The buffer would be where the new homes are built. A buffer is proposed in the open space. You would have to determine if the open space is adequate. Stantec reviewed this project many, many months ago, and everyone agreed there was adequate space between properties. A roadway doesn’t qualify as a structure.

J. Gryval: The Planning Board didn’t determine a buffer is required for the Hillis property. This would be between the developer and the abutter (Hillis). It would be a deal between those two.

J. Duffy: The additional trees Mr. Fillmore is planting will become the ROW and eventually the ownership will go to the Town. I believe Mr. Hillis’ concern is if something happens to those trees, who responsible to replace them?

L. Lessard: 3,4, or 5 yrs. when the road is accepted and Mr. Fillmore hands it to the Town, the trees will all be in place and growing good.

J. Gryval: Will the buffer along the road be taken care of?

J. Duffy: There is no buffer along the road, because it is not a structure. There is a proposed buffer in the open space area.

J. Gryval: No other buffer is to be established.

D. Shankle: I point out a ROW is not a buffer. It is the Town’s ROW and we will do what we need to do in the ROW.

R. Duhaime: In the past sitting on this Board, and being a landscaper by trade, why not place the shrubs on their property. I assume there is a guardrail and you will be plowing. This way the taxpayers won’t be responsible to maintain them. If he has them on his property, then he maintains them.

J. Gryval: Why did the issue of the buffer come up, when the Planning Board did not make the buffer requirement?

Close public hearing

Special Use Permit (SUP)

J. Gryval: Has the SUP criteria been met?

Nate Chamberlin, Eric Mitchell Assoc.: SUP 6 criteria:

- a) Town's Master Plan and Article 8 = Yes. We are clustering houses closer together and will have perpetual conservation land that the homeowners and general public can enjoy vs. conventional subdivision. We are minimizing the infrastructure. We are well over the amount required for open space. The two open spaces are: 1) slightly fragmented, and 2) large chunk on southern border.
- b) Town's Zoning Ordinance & Development Regulations = Yes. For several years we reviewed these again and again with Town staff and their engineer. We identified areas of deficiencies with zoning and met those requirements.
- c) Rural Character, etc. = Yes There is a large track of permanent conservation land with wetland soils. We are also preserving stone walls. There will be access to this land by us adding a couple of parking spaces to both: 1) middle of Causeway Dr. and 2) at Austin Dr. cul-de-sac. This will preserve the rural character.
- d) Site Layout Privacy of Dwelling Units & Natural Character = Yes.
- e) No Adverse Impact to Adjacent Property = Yes. We have infiltration basins. Our wetland impacts are approved by DES and the Conservation Commission. We have box culverts with natural bottoms for wildlife. The traffic is covered by impact fees. The lots have on-site sewage and on-site wells.
- f) Contiguous Network of Open Space or "greenways" = Yes. There is a large piece of open space that abuts the Town land on the northern end. There will be passive recreation. We will connect to existing trails and have new trails. The Conservation Commission reviewed and signed-off on our project. Wheeled vehicles would be prohibitive in this area.

***F. Kotowski motioned to grant the special use permit (6 criteria a-f have been met).
Seconded by S. Lovas Orr.***

S. Lovas Orr: You mentioned you will add to the trail. Will there be access and space for parking to these trails? I want to make sure that is being considered.

N. Chamberlin: There will be two parking spaces at Austin drive at the end of the cul-de-sac and two spaces at Causeway Drive by infiltration basin #2.

S. Lovas Orr: Will there be any other access? A trailhead proposed or available for the future?

N. Chamberlin: You can access from Mary Ann Rd. as well.

D. Shankle: How do you plan on marking them (parking spaces), and how will they be laid out?

N. Chamberlin: They will be on the edge of pavement. They are paved. The end of the cul-de-sac will have parallel spaces, and off Causeway will be perpendicular.

S. Lovas Orr: I am thinking of other issues we are going through right now. For anyone purchasing these homes, can I ask we make sure they are aware there are public trails and that is what the spaces are for?

B. Fillmore: Yes, it is in the Conservation Easement document.

N. Chamberlin: The Conservation Commission and Homeowner's Association can maintain the trails.

T. Walsh: When I first got these drawings I went to "P" drawings, "DP" and "DR". For the house sites I was looking at other existing developments that were clear cut. Every house on your sites has existing trees to remain, and I thought that was great. For preservable trees, I walked the site this weekend to see if it looked like your drawings. Evolution & clarification, what will the end result look like? I read through the Conservation Easement. It looks like a 10 yr. for profit logging operation, staging, and parking areas for the main space of the open space. How will this all work for real?

N. Chamberlin: They will only clear what is necessary for roadway and drainage. For the house lots they will only clear for septic and well.

T. Walsh: On the forester drawings, they are lumping areas to take out trees and that is what threw a flag up for me.

B. Fillmore: We don't plan on doing that. As part of Article 8 Conservation Subdivision, we had to develop that plan and have a licensed forester. We won't touch any area in the Conservation Easement.

R. Duhaime: Jo Ann, is passive recreation still in our regulations just for the residents?

J. Duffy: Open space is for residents and the public.

Vote unanimously in favor (SUP).

J. Duffy: Comments for our Town Attorney on review of the legal documents for this project include that the "Conservation Subdivision Notice of Approval and Statement of Covenants and Restrictions" is approved to content, but that the Planning Board must select type of **common land** ownership as either: 1) private **OR** 2) cooperative **OR** 3) public.

D. Shankle motioned the common land ownership shall be private. Seconded by L. Lessard.

N. Chamberlin: The recreation areas are on the plans.

T. Walsh: Who oversees the logging operation, DPW? Grantee approval rights? I want to make sure this gets done.

Vote unanimously in favor (Common Land).

Waiver #1 Development Regulations Part II Section 2.03(1)(a)11 – site specific soil mapping.

J. Gryval: Read the waiver into the minutes.

N. Chamberlin: We are only asking for this waiver in the open space. This area won't be touched

*M. Cannata motioned to grant waiver #1. Seconded by L. Lessard.
Vote unanimously in favor (waiver #1).*

Waiver #2 Development Regulations Part II Section 2.01(24) – location of specimen trees > or equal to 1' diameter (preservable trees).

J. Gryval: Read the waiver into the minutes.

D. Marshall motioned to grant waiver #2. Seconded by D. Rogers.

D. Shankle: What would this waiver do?

J. Gryval: So he doesn't have to map these trees in areas not being touched.

N. Chamberlin: The area is a permanent open space.

Vote unanimously in favor (waiver #2).

WAIVERS ABOVE PER RSA 674:36 (II) (n)

J. Gryval: The fire sprinkler system requirement for this project, referred to RSA 674:36 IV per HB109 Act 203 (read from RSA) . . . "IV. The Planning Board shall not require, or adopt any regulation requiring, the installation of a fire suppression sprinkler system in proposed one- or 2-family residences as a condition of approval . . ."

D. Marshall: We are grandfathered to require sprinkler systems, because we already have it in our regulations.

D. Shankle: It says adopt, but we already have it.

J. Gryval: Then all homes will be required to have sprinklers.

J. Duffy: There will be a note on the plan for phasing and bonds.

N. Chamberlin: These homeowners will pay 1/37 of taxes on the open space property.

D. Marshall: Don't they have right to say what should happen on the open space, if they are paying 1/37 of the taxes?

S. Lovas Orr: The trail system will be available to you. I don't see that as a negative if I was purchasing in this subdivision, as long as the purchaser knows up front.

D. Marshall: And there should be a condition that if Mr. Hillis doesn't sign the agreement letter with the developer, the plans don't get signed by the Planning Board Chair.

J. Duffy: Should we put a deadline for Mr. Hillis to sign the letter?

J. Gryval: I disagree, one person (Hillis) could hold up this whole project.

B. Fillmore: Per my discussion with Mr. Hillis tonight, I added two words to the agreement letter. He can sign it tonight.

J. Hillis: Yes, I will sign it (signed letter submitted tonight for the Planning Board records with a copy to the developer and Mr. Hillis).

D. Marshall motioned to approve the application conditional:

- All review fees are paid-in-full
- Check payable to Merrimack County Registry of Deeds is submitted to the Community Development Dept. for LCHIP fees and tax stamps
- 2 mylars, 11 paper copies (22x34), 1 paper copy (11x17), and 1 digital
- All outstanding comments from Stantec are addressed to Stantec's satisfaction (see letter dated 11/02/11 from Stantec). Applicant submits two (2) final plan sets directly to Stantec for their review and final letter to the Community Development Dept. recommending plans be signed and recorded
- All outstanding Federal, State, and local permits are obtained and submitted to the Town and Stantec
- All waivers noted on plan cover sheet
- Applicant to extinguish timber rights prior to the Planning Board Chair signing the plans for recording
- Add a note on plan \$10,000 for the Conservation Commission should be paid at the pre-con meeting, and that the developer needs to maintain the trail system until it is transferred to the Conservation Commission.

- Add a note on plan the common land ownership is private.
- Add a note on plan that surety is to be established for Phase I site reclamation at or prior to the Phase I pre-construction meeting. Phase II to be fully bonded prior to the issuance of the first CO in Phase I
- Add a note on plan stating that an active quarry is located nearby and the homeowners may experience vibration and noises from this site.
- Applicant to revise the 6 documents in the following bullet per Town Attorney e-mail dated 3/2/12 (see attached).
- Applicant to provide the original signed documents to Community Development for recording with plan set: 1) Conservation Subdivision Notice of Approval and Statement of Covenants and Restrictions, 2) Conservation Easement Deed Conservation Subdivision, 3) Articles of Association, 4) Declaration of Covenants and Restrictions of Austin Woods Homeowners Association, 5) Austin Woods Homeowners Association By-Laws, and 6) Access, Utility, and Drainage Easement Deed.
- Applicant to submit check payable to Town of Hooksett for Town Attorney review fees and recording of 6 documents in above bullet.
- Applicant to provide Community Development with PDFs of Planning Board signed plan set prior to the pre-construction meeting
- Applicant agrees to attend a required pre-construction meeting after (a) all sureties are submitted and approved, (b) site plan compliance monitoring escrow is in place and the Inspection Funding Agreement is signed and submitted, (c) the plans are signed and recorded, (d) contractors schedule of work is submitted, and (e) if applicable, retaining wall shop drawings are submitted
- Applicant agrees to site plan compliance monitoring
- Add a note on plan "Approval of this plan shall expire five (5) years as recorded in the Planning Board Minutes, unless the right to develop has vested."
- Applicant agrees to remit \$362,017 in impact fees 10 days prior to the issuance of the Certificate of Occupancy subject to NHRSA 674:39 (Schools \$4,978 x 43 = \$214,054, Public Safety \$1,326 x 43 = \$57,018, Recreation \$695 x 43 = \$29,885, and Roadway \$1,420 x 43 = \$61,060)

Note: The above conditions in no way reflects all requirements to be met by the applicant per the Town of Hooksett Zoning Ordinances, Development Regulations, Minutes of Boards/Committees/Council, Stantec, and Merrimack County Registry of Deeds.

Vote unanimously in favor (conditional approval).

OTHER BUSINESS

3. CHANGE OF USE

J. Duffy: Matt, CEO, informed me today that a gun shop is looking to move into the Calico House.

J. Gryval: Will they be doing auctions?

J. Duffy: Also, Riley's existing gun shop wants to have a sign with a big gun on it. It doesn't meet the zoning for the size of the sign.

Hooksett Roadway Impact Fee Legislation to Use on State Roads

D. Marshall: At the last SNHPC meeting we discussed the proposed roadway impact fee legislation. It passed the Senate and is going to the House. SNHPC is confident the major parties (homebuilders' assoc., and municipal assoc.) will support it, but we may have a problem with a small cluster of representatives who want "no fees" for anything. I ask Mr. Kotowski to spread the word to support this legislation.

F. Kotowski: David Hess is very active on that front. Those of us in Hooksett will do the right thing. There is a small group who want "no fees", and they can make a lot of noise. Compared to where this bill was 6-8 months ago, you can thank David Hess for a lot of that. It is the legitimacy to use impact fees in corridors for which they were derived. Our major roads are State highways for the most part. It will be a major change if it passes, but one never knows. Hopefully it will work out.

M. Cannata: Do you think this will set a precedent, and will be done again 5-10 yrs. from now?

F. Kotowski: You can look at legislation years from now and see it had been tweaked several times.

Development Regulations – Checklist Minor Subdivision

J. Duffy: For the Demers (Farmer Rd.) minor subdivision, they will be asking for a waiver for site specific soils. The minor and major application checklist both show the same condition, however the minor checklist should be different. Are we allowed to change the checklist or do you think it would need a public hearing? The text was changed 2 yrs. ago, but the checklist was not changed.

J. Gryval: The checklist is part of regulations.

D. Marshall: The checklist is part of the subdivision regulations, therefore you would need a hearing to change it.

J. Duffy: OK he will put in a waiver. Next time we could have a hearing, we will change this.

***D. Rogers motioned to adjourn at 7:20pm. Seconded by D. Marshall.
Vote unanimously in favor.***

ADJOURNMENT

Chair J. Gryval declared the meeting adjourned at 7:20pm.

Respectfully submitted,

Donna J. Fitzpatrick, Planning Coordinator