

**Official
As of 10/01/12**

**HOOKSETT PLANNING BOARD
MEETING MINUTES
HOOKSETT MUNICIPAL BUILDING
Monday, September 10, 2012**

CALLED TO ORDER

Chair J. Gryval called the meeting to order at 6:00pm.

ATTENDANCE – PLANNING BOARD

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

APPROVAL OF MINUTES OF 08/20/12

M. Cannata motioned to approve the minutes of 08/20/12. Seconded by F. Kotowski. Vote unanimously in favor.

***PUBLIC HEARING – WAIVER REQUEST(S) & EXTENSION REQUEST(S) –
CONDITIONAL APPROVAL PERIOD**

- **Waiver Request** - Development Regulations (5/2007) section 6.09 Approval Null and Void
- **Extension Request** – Development Regulations (6/4/2012) section 10.03 2) Time Limits for Fulfilling Conditions.

1. *ADSISBRO, LLC (#09-18)

1228 Hooksett Rd., Map 34, Lot 30

Site plan to construct a 4,400 sq. ft. office building with associated site improvements and a Conditional Use Permit. Application conditionally approved on 09/14/2009 and expires on 09/14/2012. Applicant requesting a 1 yr. extension to this approval to 09/14/13.

Open public hearing

No comments.

Close public hearing

D. Marshall motioned to grant waiver request to 6.09 above. Seconded by T. Walsh. Vote unanimously in favor.

Waivers above per RSA 674:44 (III) (e)

*D. Marshall motioned to grant an extension to September 14, 2013 for the Time Limits for Fulfilling Conditions period. Seconded by D. Rogers.
Vote unanimously in favor.*

DISCUSSION

2. GILBERT BLOCK (Map 19, Lot 4-A) MS&G, David Campbell

David Campbell, MS&G Attorney: Mr. Chairman, with me tonight is Ron Corriveau, MS&G Project Manager. This is a simple request. 40-50 yrs. ago there was an agreement with Gilbert Block with option to purchase. The lot is a non-conforming lot of record. Two different plans in your packet tonight show it was an existing lot of record in 2003. In May 2010 it was recorded. The two plans show it doesn't have frontage on Rte. 3. It pre-existed the zoning ordinances in the town. The taxes have been paid by Gilbert Block as per print summary of Map 19, Lot 4-A. We are asking the Board to make an affirmative vote that this is a lot of record and provide a letter to Gilbert Block and MS&G stating such that the lot is transferrable. The title people look at it now and get nervous for a non-conforming lot of record.

J. Gryval: The lot is owned by MS&G?

D. Campbell: Owned by MS&G and leased by Gilbert Block.

J. Gryval: For a lot of record, it is not a lot unless it is subdivided. If Gilbert Block wants to buy it, it will need to be subdivided.

D. Campbell: It is already a lot of record and it can be transferred. We came to the Board for site plan and it was approved.

J. Gryval: We approved a site plan on a section of a larger parcel.

D. Campbell: It is a non-conforming lot of record. The site plan was approved, because it was a non-conforming lot of record. It is transferrable.

J. Gryval: Have we ever approved a site plan with a non-conforming lot of record?

J. Duffy: The lease on file is back to 1984. The property card states it was built in 1940. In 2000 it changed to an assembly line. We recognized a portion of the property was leased and the site plan was approved. We have no record the property was ever subdivided. The parcel, if subdivide, has no frontage on a town road and that is an issue. 5 acres is leased as part of the overall parcel to Gilbert Block.

J. Gryval: The overall larger parcel doesn't have to be subdivided.

D. Marshall: Is the lease still in effect?

J. Duffy: The lease at the Merrimack County Registry of Deeds said it is good for 20 yrs.

D. Campbell: It (lease) has been extended; just not recorded. It hasn't changed in 28 yrs.

D. Marshall: If this Board declares it a lot of record, you can sell it. Then we are left with an access issue?

D. Campbell: When we subdivide the property, we will put in access to that property. As I read your ordinances and State law, it is a lot of record and recorded. The plan was signed by the Planning Board. The tax map shows it as a lot of record.

D. Shankle: I went to the tax office and they said the front sheet with 19-4-A is a leased Area. They put that on there to tax Gilbert Block directly as a courtesy. It is the same as the previous Burger King site. It is just for billing purposes.

D. Campbell: That is what the tax office is doing, and I agree with that. The Planning Board plan is recorded at the registry. Strange I agree, but we do come across them.

J. Gryval: The Planning Board was just approving and signing the site plan. It is a site plan for a section of a larger portion.

D. Marshall: In order for a lot to be a lot of record, it has to be recorded. It is not described by metes and bounds.

D. Rogers: The 11/14/2003 alta-plan is a surveyed plan. The issue for us is title and transferability.

R. Duhaime: It is an existing lease lot.

D. Campbell: If leased lot, we abide by the subdivision regulations. This pre-dates that and we acknowledge it is non-conforming. A lease is the same as a fee lot.

R. Duhaime: MUD district?

D. Campbell: In 2001 it is MUD#5. This was the last time zoning was changed. I can bring it up to your legal counsel and continue this discussion.

J. Gryval: We can continue this discussion at a later date.

D. Campbell: I will submit something to Jo Ann for your attorney to review.

D. Rogers: Is the title request from a title company? Has the application for financing not been made at this point?

D. Campbell: It seems clear that we need to be on the same page with the Town. I will

research more for legalities.

PUBLIC HEARING – WAIVER OF SITE PLAN

3. KEYLAND PROPERTIES, LLC (#10-07)

412 West River Rd., Map 13, Lot 1

Proposal for a 300 sq. ft. (approximate size) existing farm stand with one outdoor vendor.

➤ **Waiver Request** – Development Regulations (6/4/2012) Part III – waiver of site plan

Alden Beauchemin, Keyland Enterprises, LLC: My wife and I own the property at the corner of Hackett Hill Rd. and Rte. 3A. Back in 2010 we received approval for a temporary farm stand. The Planning Board at the time had concerns with traffic issues and possibly parking. They conditionally approved to come back in for further review to make sure the farm stand was going on as intended. Traffic and parking, everything has been working out fine. It was built as a farm stand. The owner to my right is Brian Johnson and he leases the land. So far we are very happy with their operation and it blends in with the neighborhood. We are seeking an approval for a farm stand and one vendor. In your packet there is a letter summarizing my request, and I hi-lited and noted the development in that area to include Ritchie Bros., winery, and restaurant. The biggest thing holding us back is the intersection of Hackett Hill Rd. and Rte. 3A. \$400,000 was approved by the Town Council and \$800,000 by the State to improve this intersection. By no means are we at the point to finalize anything firm with the farm stand. When development in this area does happen, the farm stand is on piers and can be unbolted and moved.

J. Gryval: Originally you were approved for one year only. Now you want to make the farm stand full time.

A.Beauchemin: Or until the development happens in this area or at least 2 yrs.

J. Duffy: My suggestion was to have the limitation on years be removed. Treat it like any other application, so they won't have to come back here next year. If a different use on the site, then they would need to come back.

D. Marshall: What do you expect the intersection improvements will do to your property?

A.Beauchemin: The State built Hackett Hill Rd. and left my property access on Rte. 3A. It is very limited and doesn't support future expansion. DOT in the future will relocate my access to Hackett Hill Rd.

D. Marshall: They will break the limited access?

A.Beauchemin: Yes. The current driveway is a safety issue. It will certainly be a great improvement to relocate the driveway. I am working with an idea for the site. I own 300 ft. along the river across the street from my property. Down the road I will work on a final plan for pedestrian access parking where the farm stand is now to get to the river.

J. Duffy: Initially he did not do a site plan.

D. Shankle: Dick with the traffic light going in there, what do you think about this?

D. Marshall: If the State is authorizing breaking a limited access to this property, that Rte. 3A access will get closed. In my years with DOT, we break only for a duly authorized town road. If they grant it, that's fine.

D. Shankle: Whether they do or don't does this impact something on this application?

J. Duffy: No and a waiver of site plan is not needed.

Open public hearing

No comments.

Close public hearing

*F. Kotowski motioned to approve the proposal for a 300 sq. ft. (approximate size) existing farm stand with one outdoor vendor and no time limit. Seconded by T. Walsh.
Vote unanimously in favor.*

***PUBLIC HEARING – WAIVER REQUEST(S) & EXTENSION REQUEST(S) –
CONDITIONAL APPROVAL PERIOD**

- **Waiver Request** - Development Regulations (5/2007) section 6.09 Approval Null and Void
- **Extension Request** – Development Regulations (6/4/2012) section 10.03 2) Time Limits for Fulfilling Conditions.

4. *MFR Industrial Properties, LLC (#09-21)

1158 Hooksett Rd. condo/unit #2, Map 39, Lot 39

Site plan to increase parking spaces (53 required, 75 proposed). Application conditionally approved on 09/14/2009 and expires on 09/14/2012. Applicant requesting a 1 yr. extension to this approval to 09/14/13.

Jim McCloud, MFR Industrial Properties, LLC: I was only made aware of this expiration a couple of months ago. Granite State Shuttle Service had received their conditional approval for additional parking spaces. I haven't opened my business yet. We want to get settled in without throwing out what Granite State Shuttle spent money to do. We request a 1 yr. extension to give me the option for what we plan on doing back there.

J. Duffy: Granite State Shuttle is gone as you know. If there is a change of use, they will have to come back before the Board.

Open public hearing

No comments.

Close public hearing

D. Marshall motioned to grant waiver request to 6.09 above. Seconded by T. Walsh.

Vote unanimously in favor.

Waivers above per RSA 674:44 (III) (e)

D. Marshall motioned to grant an extension to September 14, 2013 for the Time Limits for Fulfilling Conditions period. Seconded by D. Rogers.

Vote unanimously in favor.

5. **RESCHEDULED TO OCTOBER 1, 2012 PLANNING BOARD AGENDA**
***BROOKVIEW SR. HOUSING (#07-29)**
1631 Hooksett Rd., Map 14, Lot 32
Site plan for a proposed 3-story residential structure, with parking underneath, which will contain 42 2-bedroom units of older person (55 yrs. +) housing. Application conditionally approved on 11/02/2009 and expires on 11/02/2012. Applicant requesting a 1 yr. extension to this approval to 11/02/13.

J. Gryval: At the request of the applicant, this item has been rescheduled to the October 1, 2012 Planning Board agenda.

OTHER BUSINESS

6. **APPOINTMENT OF FY 2013-2014 CIP COMMITTEE MEMBERS**

Submissions for nomination and appointment:

- Tom Walsh, Planning Board member
- Donald Winterton, Planning Board alternate
- Marc Miville, Budget Committee member
- Dana Argo, School Board member
- James Danis, P.E.& Resident

D. Marshall: James Danis states in his letter of interest that he will miss the first 2-3 meetings (out of 8). Missing the first 2 or 3 meetings would impact his participation and vote on the CIP Plan. I do not recommend he be appointed due to attendance issues. Also, I have a problem with a member of the CIP Committee choosing who should be on committee. We have spent 20 yrs. looking for input from the School Board, and they said they didn't need to participate. Now Dana is the one we got. I understand Marc's argument, but we need someone like Dana dealing with the CIP.

F. Kotowski: I think Dana Argo is the best candidate we could have. He is the Chair of the School Board. Also we should send a letter to James Danis that we greatly appreciate his interest in this committee. His past and current experience would be an asset to this committee, however we felt him missing the first 2 or 3 meetings would impact his participation and vote on the CIP Plan. Therefore, based on attendance the Board did not appoint him to the committee this year. However, we invite him to attend our CIP Committee meetings in the audience to see how the Hooksett CIP process works for his future interest on being on this committee.

D. Marshall: I would encourage Dana to attend more CIP Committee meetings.

M. Cannata: I agree with Richard. I have had a number of terms on CIP. Missing the first 3 you lose momentum and the dynamics involved in it.

R. Duhaime: I have had several years on the CIP. It does waste the committee's time if someone misses 2-3 meetings, because then you have to get them caught up on the discussions.

D. Marshall: The statute says the Planning Board is responsible for the CIP and are allowed to have a sub-committee. Robert (Duhaime) has suggested he would like to serve on this year's CIP Committee.

D. Winterton: As for a CIP Committee Chair, I would prefer someone who has been on there before as a Planning Board member.

D. Marshall motioned to appoint the following individuals to this year's CIP Committee FY2013-2014, with Tom Walsh be appointed as the CIP Committee Chair:

- Tom Walsh, Planning Board member
- Donald Winterton, Planning Board alternate
- Robert Duhaime, Planning Board alternate
- Marc Miville, Budget Committee member
- Dana Argo, School Board member

Seconded by M. Cannata.

Vote unanimously in favor.

D. Shankle: The Town Charter states in section 5.7 Capital Improvement Plan "The Town Administrator, after consultation with the Planning Board, shall prepare and submit to the Council a capital improvement plan . . .". One thing I was assigned to do when I first got here was review the charter for changes. I want to try to write-up the CIP process the way it actually works and include it in the charter. Right now it is not in the charter. At the 9/12/12 Town Council meeting we will discuss codifying the CIP process into the charter.

R. Duhaime: In the past, we asked for a Town Council member on the CIP Committee. If the council is more involved, it makes for a better CIP Plan transition.

D. Marshall: I would argue against a Town Council rep. If the CIP Committee unanimously approves the CIP Plan, then he has sealed his vote.

R. Duhaime: He is only one member of the Town Council.

D. Marshall: I don't think it is fair. After CIP Committee & Planning Board vote on the CIP Plan, then it goes to Dean. He will cut where he feels it needs to be done, and then it goes to the Town Council and then to the Budget Committee.

R. Duhaime: At the OEP workshop, councilors serve on the CIP Committees in other towns and cities.

M. Cannata: Dean, your presentation to the Town Council this Wednesday on the charter, is the CIP part of it?

D. Shankle: If you guys would like, we can discuss the CIP process now to get your input.

D. Marshall: I have always thought the charter was always in conflict with State law. State law is specific on the Planning Board role on the CIP Committee/Plan. The State says the Planning Board will prepare and approve the CIP Plan.

D. Shankle: Another thing for the charter that conflicts with State law is that you have people on your Planning Board voting that don't live in your Town. That would mean me and Leo (DPW Director).

D. Marshall: Check with legal counsel. We went through this already with another Town Administrator.

Marc Miville: I apologize for not arriving until now. Have any of you read my letter? I am very adamant about the contents. I don't see how a sitting CIP member can sit on its own proposal for \$1.5 million and miss most of the meetings. Not to single out anyone, but an example is a School Board member. Their Board meetings are in conflict with the CIP Committee schedule. I compared this year's schedule and he will miss 3 out of 7 CIP Committee meetings. I thought I would bring this to your attention without prejudice. It is not appropriate.

M. Cannata: Is the issue if 3 meetings are missed, or do you find the School Board problematic because of a conflict of interest?

M. Miville: Say the Fire Dept. had a \$400,000 fire truck on their CIP, this would be cause for recusal if there was a Fire Dept. rep. on the CIP Committee. What if a board or committee voted against somebody else's plan, just to get their's through? I said that last year when the School Board and Conservation Commission presented and voted on their own proposals.

M. Cannata: When is it more appropriate that they recuse themselves?

M. Miville: Recusal if appearance of potential improprieties that could be involved.

R. Duhaime: That would be like Planning Board members voting on Jo Ann's budget.

F. Kotowski: Sometimes we (Planning Board members) may be in conflict on an application and walkaway. Example of a Fire truck, whoever involved with it will not vote on that issue.

M. Miville: We should include in the CIP handbook the rules. A School Board member on the CIP Committee previously missed 5 out of 6, last year missed 3-4. I know he wants to be nominated again this year.

J. Gryval: It could present a problem, but they could add positive input to the other CIP items.

M. Miville: Why would the School Board want to know about the feasibility study for the southern leg of the parkway? In 2009 someone suggested a School Board member be on the CIP Committee. This is not in the handbook, and not a requirement. All it says is one Planning Board member and 4 others to be appointed on the CIP Committee.

J. Gryval: We will look into this in the future.

R. Duhaime: You can make that recommendation in the CIP self-audit.

M. Miville: Several meetings ago we discussed having a rep. from the Town Council on the CIP Committee. I am OK with that. Last year we had Nancy VanScoy. There has been no further discussion on that. It would complement the CIP Committee to have a Town Council rep. I would like to think someone from the Council would want to be on the CIP Committee.

J. Gryval: If another rep. from the Town Council would like to be on the CIP Committee, they can let us know.

F. Kotowski: Dean is that going to be one of the things you look at for the CIP process and how it relates to the charter and make-up of the committee? At some point, we will hear the best way to go forward in the future.

D. Shankle: If people have input on the CIP process, I would like to know what worked and what didn't.

M. Miville: So I am hearing that moving forward a sitting board member who has CIP plans being proposed should recuse themselves?

M. Cannata: It would take some of heat off, if it is the Planning Board's "preference" that this is the criteria for stepping down vs. a conflict of interest.

J. Gryval: Even if you ask them to step down, they don't have to. We should change the handbook in the future.

M. Miville: When changing the handbook, CIP handbook page 9 #1 "acquisition, or lease, of land or interests in land for public purpose"; example purchase of conservation land.

D. Winterton: On the CIP Committee Agenda, we should look at rescheduling the November 6th meeting, because it is voting day.

CIP PLAN FY 2013-2014 – COMMUNITY DEVELOPMENT (PLANNING BOARD)

J. Duffy: I need to submit the CIP for the Planning Board by 9/21. Last year we submitted: 1) feasibility study for the southern leg of the parkway, and 2) funds for the master plan updates. Do you want to keep both going?

Board consensus: Yes.

M. Miville: For the feasibility study last year, you wanted it on the 6 yr., CIP Plan but pushed forward toward the 6th year.

7. APPROVAL OF STANTEC INVOICES

D. Marshall motioned to authorize the Planning Board Chair to review and approve the Stantec SPR & SPC invoices presented as of 9/10/12. Seconded by D. Rogers. Vote unanimously in favor.

8. CHANGE OF USE

- a. **1105 Hooksett Road, Map 41, lot 57** – Use of vacant building for storage of recreation equipment and add showers in basement. Requires review by Bldg and Fire.
- b. **146 Londonderry Turnpike, Map 43, lot 48** – Use existing retail space for production of wine with off-site sales. Approved by staff.
- c. **140 Bicentennial Drive, Map 46, lot 47** – Use existing retail space for math tutoring. Bldg to check restrooms, Fire and Bldg need to do walk through.

NHDOT PUBLIC HEARING – 293 EXITS 6 & 7

J. Duffy: Leo will be attending this hearing.

SNHPC ANNUAL DINNER

J. Duffy: Dinner meeting is this Friday.

COLLEGE PARK DRIVE

D. Marshall: Has the State accepted College Park Drive? It has been years waiting for them to accept with nothing formal.

J. Duffy: The State plows that road. We will be responsible for sidewalks.

L. Lessard: The next two Wednesdays I will be attending a CMAQ training on how it works for sidewalks. We plan on doing the sidewalks next Spring.

PLANNING BOARD ALTERNATE NOMINEE & APPOINTMENT

J. Duffy: The Town Council previously nominated Thomas Prasol as Planning Board alternate. The Council's appointment of Tom is scheduled for 9/12/12.

J. Gryval: In the future, we should be receiving the documents Planning Board nominees submit to the Council.

*D. Marshall motioned to adjourn at 7:10pm. Seconded by D. Rogers.
Vote unanimously in favor.*

ADJOURNMENT

Chair J. Gryval declared the meeting adjourned at 7:10pm.

Respectfully submitted,

Donna J. Fitzpatrick,
Planning Coordinator