

1 Sandown Planning Board
2 Minutes
3 June 3, 2014
4

5 **Date:** June 3, 2014

6 **Place:** Sandown Town Hall

7 **Members Present:** Ernie Brown - Chairman, Matt Russell -Vice Chairman,
8 Ed Mencis – Secretary, Steven Meisner, Steve Brown – Ex Officio

9 **Also Present:** Town Engineer - Steve Keach, Recording Secretary - Andrea Cairns

10 **Absent:** Doug Martin, Mark Traeger, Lisa Butler – Alternate

11
12 **Opening:** Mr. E. Brown opened the meeting at 7:10 p.m.

13
14 **Review of 5/20/14 Minutes**

15 **MOTION:** Mr. Russell made a motion to approve the 5/20/14 minutes as written. Mr. S. Brown
16 seconded the motion. Members voted in favor. Mr. Mencis abstained. The motion passed.

17
18 **Public hearing for review of a minor subdivision application submitted by Nordic Lincoln**
19 **Realty Trust. The property is shown on Sandown Tax Map 22, Lot 55 and is located at 56**
20 **North Road, Sandown, NH. The application proposes to subdivide the existing 26.8 acre lot**
21 **into two lots.**

22
23 Mr. Mencis stepped down.

24
25 *Mr. Kevin Hatch, Cornerstone Survey Associates presented the application.*

26
27 Mr. Hatch reviewed the history of the project noting that they had approval in 2007 and that
28 approval expired so they need to bring the application back for approval.

29
30 Mr. Hatch noted the original lot came out of the parent lot to create a 3.38 acre lot. There was a
31 third lot that was also created and approved. The variance expired after a year, so the conditional
32 approval from the Planning Board also lapsed after a year. The third lot that was created did not
33 require a variance. The variance was granted because the building envelope for the parcel is
34 accessed through an existing road. The road frontage isn't really being used as frontage since they
35 will use that access road. It will have an easement over a portion of that access road. The access
36 road avoids the need for a new wetlands impact.

37
38 Mr. Keach noted that lot 55-2 depended on an easement over lot 55-1, so the approvals for the
39 two lots are dependent on each other. Even though there are two separate drawings, it should be
40 treated as a single application.

41
42 **MOTION:** Mr. Russell made a motion to accept the application for a public hearing. Mr. S.
43 Brown seconded the motion. All members voted in favor. Mr. Meisner abstained. The motion
44 passed.

45
46 Mr. Meisner stepped down because he was part of the hearing for the Zoning Board.

47
48 Mr. Keach reviewed his letter dated June 3, 2014

49

50 Mr. Keach noted that because the property is also in Chester, they would need to have the plans
51 signed by the Chester Planning Board in accordance with RSA 674:53. He noted Ms. Cairns
52 should send a letter to Chester asking if they have any concerns with the application.

53

54 Mr. S. Brown questioned if they still had a quorum since Mr. Meisner stepped down from the
55 board instead of abstaining from the vote.

56

57 Mr. E. Brown and Mr. Keach didn't know. They had five to open the meeting, four to accept the
58 application, but now only three to vote on the application.

59

60 Mr. Keach felt that as a member of the zoning board, because he sat on the case for the zoning
61 board Mr. Meisner was doing the right thing in stepping down.

62

63 The board could not determine if they could proceed and have the decision unchallengeable. They
64 determined it would be best to postpone the hearing until they have a full board to act on the
65 application. The hearing will be continued to June 17, 2014.

66

67 Mr. S. Brown asked if this board had a policy about attendance. Mr. Traeger has missed several
68 meetings and Mr. S. Brown wondered if he should be asked to step down. He finds it frustrating
69 to have board members that don't show up. Mr. E. Brown agreed it is frustrating, but Mr. Traeger
70 is not the only one absent. He will call Mr. Traeger and express his concerns.

71

72 Mr. E. Brown noted if there is anyone that wants to be an alternate on the Board, to please step up
73 and contact them. They are in need of additional members.

74

75 Mr. Mencis and Mr. Meisner stepped back in.

76

77 **Other Business**

78 Mr. Hatch had the final mylars for the Chestnut Hill Auto application which was conditionally
79 approved on May 6, 2014. Mr. Keach reviewed the plans and noted they were ready to be signed.

80

81 The Board reviewed the mylars. The Board approved and signed them.

82

83 **Public Hearing for review of amendments to the Sandown Subdivision Regulations. These**
84 **amendments are for the purpose of updating the language regarding PREA accounts. The**
85 **proposed changes are below:**

86

87

13.3.2 Additional Fees

88

*In accordance with RSA 676:4,I(g), reasonable fees, in addition to fees for notice under
89 676:4, I(d), may be imposed by the Board to cover administrative expenses and costs of
90 special investigative studies, review of documents and other matters which may be
91 required by particular applications (see Section 11.23). The Planning Board may
92 require the applicant to deposit, in escrow with the Town, an initial amount of money
93 sufficient to cover the costs of any professional review or preparation. The Planning
94 Board may make such determinations any time following formal acceptance of the
95 application. The applicant shall be notified of such determinations any time following
96 formal acceptance of the application. The applicant has the right to a good faith
97 estimate of all costs associated with processing their application, inspecting the plan for
98 compliance with the town's regulations, and for inspection services. The applicant
99 understands that these are estimates only and how efficient their engineer is in*

100 *providing plans that meet the town's regulations, and the quality of the road*
101 *construction with adherence to the town's regulations and best building practices will*
102 *determine the applicant's final costs. Failure of the applicant to deposit such funds with*
103 *the Town within fifteen (15) days of the date of notification, shall be sufficient basis for*
104 *the Planning Board's denial of the application.*

105
106 *A positive balance must be kept in the escrow account and all incurred charges to the*
107 *project must be paid in full within thirty (30) days of the charges having been incurred.*
108 *The Planning Board will only meet with applicants with positive escrow balances and*
109 *no outstanding balances over (30) days. Pursuant to RSA 676:13, no building permit or*
110 *certificate of occupancy will be issued if any inspection fees, or performance guarantees*
111 *are not paid or current. Upon completion of the review or study process, any unused*
112 *funds in excess of \$5.00 shall be returned to the applicant.*

113
114 ***14.2 Procedure for Inspections and Fees***

115 *The Town's Engineer shall be notified by the Sandown Planning Board only after a*
116 *properly filled out inspection request is received. All inspection requests shall be*
117 *received at least two (2) working days prior to construction initiation at the Sandown*
118 *Planning Board Office. A positive balance must be in the escrow account and all*
119 *incurred charges to the project must be paid in full within thirty (30) days of the charges*
120 *having been incurred in order for any inspections to be scheduled.*
121 *Inspections shall be forwarded by the Sandown Planning Board to the Board Engineer's*
122 *Office by fax with a follow up phone call after it has been determined that appropriate*
123 *inspection fees are deposited into the PREA account.*

124
125 *The developer is responsible for the hourly charge of the Board Engineer's services,*
126 *which at a minimum, includes travel to and from the site, inspection time, tolls, mileage*
127 *and secretarial services. Cancellation of the Board Engineer's services must be received*
128 *at least one day prior to his scheduled appearance. In cases where the Board's Engineer*
129 *is not notified in advance that his/her services are not required, a minimum charge of*
130 *four (4) hours shall be assessed to the requesting developer.*

131
132 *The developer shall provide the Town of Sandown and its Engineer a safe and full*
133 *access to all the construction operations at any requested time.*

134
135 *Structural calculations (by a registered Engineer in the State of New Hampshire) may*
136 *be required by the Town as evidence of adequacy of proposed excavation supports.*

137
138
139 Mr. Meisner questioned who would give the good faith estimate. Mr. Keach noted he would be
140 the one to do that and would do that in writing.

141
142 Mr. Russell questioned if they would be notified that they are no longer in compliance. Ms.
143 Cairns would take care of that notification by sending a letter. If the applicant didn't respond, she
144 would inform the board.

145
146 **MOTION:** Mr. Russell made a motion to approve the amendment to the Sandown Subdivision
147 Regulations to update the language regarding PREA accounts as written. Mr. Meisner seconded
148 the motion. All members voted in favor. The motion passed.

149
150

151 **Other Business**

152 Mr. E. Brown noted that the hydrant is being removed from Meghan Drive. It was being pulled
153 out by Thursday. He wished as a board they could do something about it.

154

155 Mr. Keach noted they know how it got there and that it was asked to come out. He read the
156 correspondence from Chief Tapley to DES, he's sure they took it into consideration but they still
157 ordered it to come out.

158

159 Mr. Russell questioned if Chief Tapley was going to enforce the original condition on the
160 subdivision approval. Mr. E. Brown noted they still had the pond. Mr. Keach noted that it wasn't
161 the best option.

162

163 Mr. Russell thought it would be a good idea to remind developers in town that they need to get
164 the proper permits before they work in wetlands.

165

166 Mr. E. Brown would like to discuss the requirements in the CUP regulations at the next meeting.
167 It's not clear if they need to simply apply for state approval or have state approval and it states
168 they need to get RCCD approval which they no longer require. He noted when Tim Lavelle was
169 before the board, he couldn't receive the permit without DES approval and Mr. Brown questioned
170 why the permit couldn't stand on its own merits.

171

172 Mr. Keach noted that in many cases when someone comes in to get approval, they may have any
173 number of permits pending, including state subdivision approval. RSA 676:4 I(i) states that they
174 can conditionally approve an application upon receipt of state or federal permits relating to the
175 case, but can't refuse to hear the application until they are given. That RSA is an "either/or"
176 statement, so the town regulations match that same language.

177

178 Mr. E. Brown felt the town permit should be separate from the state. He then questioned if it was
179 an actual permit that was being issued. Mr. Keach noted it was a notice of decision.

180

181 Mr. Keach noted that the town currently relies on Gerry Miller to review the applications instead
182 of going to RCCD. He noted any changes to the regulations would need to go on the ballot. He
183 noted if previous attempts to amend the wetlands regulations had passed, these items would no
184 longer be an issue.

185

186 Mr. E. Brown noted that a CUP should stand on its own merit and not be conditional on the
187 state's permits. Mr. Keach noted there are two separate jurisdictions – local and state. You have
188 to have both.

189

190 Mr. Meisner questioned if the CUP would be null and void if they didn't get the state permit. Mr.
191 Keach noted it's similar to local and state septic designs. They can't move forward without state
192 approval.

193

194 Mr. Russell noted that Mr. Lavelle wasn't asking for a CUP, he was asking for an after-the fact
195 conditional use permit. We couldn't have granted it if you read through the conditions since most
196 of them were violations. In his opinion, they should be issuing a fine instead.

197

198 Mr. E. Brown didn't want to get into that project, he just feels Lavelle brought up a good point
199 and raised questions. He feels they should look at the regulations and fine tune them.

200

201 Mr. Keach noted the existing language has been part of the regulations for over 20 years. This
202 board is more sophisticated than boards may have been when that was written. The Conservation
203 Commission is much more sophisticated. There was a lot more reliance on state agencies and
204 outside agencies.

205

206 Mr. Russell noted that may not always be the case. The Conservation Commission is currently
207 struggling to keep members as well. There needs to be a check and balance. DES has dropped the
208 ball and the CUP gives the town the opportunity to do some checking and nudge DES when there
209 was something going on. The intent is important and needs to be kept.

210

211 Mr. E. Brown wants to address the issue for future applicants. The applicant kept saying that he
212 didn't really need one since the only way they would grant it is if the state approved it. Mr. Keach
213 noted the reason the Board needed to do that is because the zoning ordinance requires you to
214 approve it that way.

215

216 Mr. Russell noted the applicant wanted them to once again disregard our own regulations and
217 give him something that was not deserved.

218

219 Mr. E. Brown questioned when the next applicant came in, do they still have to approve it with
220 the condition that they receive DES approval? Mr. Keach noted right now they have to approve it
221 that way because that's the way zoning is written.

222

223 Mr. Keach noted in regards to the RCCD issue, they were no longer offering that service. In order
224 to conduct town business, the substitution was to provide the services of Gerry Miller. It might
225 make sense to eliminate that reference to RCCD. Mr. Miller's work is implicit to the
226 Conservation recommendation.

227

228 Mr. E. Brown questioned if they should review that at the next meeting. Mr. Keach felt they had
229 to address the RCCD reference at the very least. It was too early to post an amendment, but they
230 could create something in the interim. An applicant should be able to pick up the regulations and
231 follow them exactly.

232

233 Mr. E. Brown noted he's looking to make things more defined so when someone comes in they
234 know exactly what they need to do. Mr. E. Brown requested that be placed on the agenda for the
235 next meeting.

236

237 **Schedule**

238 Ms. Cairns will be on vacation the first week of July and August. The Board decided to move
239 their meetings to the third Tuesday of those months. The meetings will be held on July 15, 2014
240 and August 18, 2014.

241

242 **MOTION:** Mr. Mencis made a motion to adjourn. Mr. Meisner seconded the motion. All
243 members voted unanimously in favor. The motion passed. MEETING ADJOURNED at
244 8:49 p.m.

245

246 Respectfully Submitted,

247 

248 Andrea Cairns