

**City of Keene**  
**New Hampshire**

**PLANNING BOARD**  
**MEETING MINUTES**

**Monday, March 25, 2024**

**6:30 PM**

**Council Chambers,  
City Hall**

**Members Present:**

Harold Farrington, Chair  
Roberta Mastrogiovanni, Vice Chair  
Sarah Vezzani  
Armando Rangel  
Ryan Clancy  
Kenneth Kost  
Michael Hoefler, Alternate  
Randyn Markelon, Alternate

**Staff Present:**

Evan Clements, Planner  
Megan Fortson, Planning Technician  
Jesse Rounds, Community Development  
Director

**Members Not Present:**

Mayor Jay V. Kahn  
Councilor Michael Remy  
Gail Somers, Alternate  
Tammy Adams, Alternate

**I) Call to Order – Roll Call**

Chair Farrington called the meeting to order at 6:30 PM and a roll call was taken.

**II) Minutes of Previous Meeting – February 26, 2024**

Chair Farrington offered the following changes:

Line 675: Indicate Karen Grey gave the presentation

Line 760: Add the word “he” after the word “that”

Line 766: Replace the word “out” with the word “put”

Line 812: Replace the word “flushing” with the word “fleshing”

A motion was made by Roberta Mastrogiovanni to approve the February 26, 2024 minutes as amended. The motion was seconded by Kenneth Kost and was unanimously approved.

**III) Final Vote on Conditional Approvals**

Chair Farrington stated that as a matter of practice, the Board will now issue a final vote on all conditionally approved plans after all of the “conditions precedent” have been met. This final vote

will be the final approval for the application and will start the 30-day appeal clock. He asked if there were any applications tonight that are ready for a final vote. Planner Evan Clements stated there were no applications ready for final approval.

IV) **Extension Request**

1. **SPR-06-23 – Site Plan – Roosevelt School Housing, 438 Washington St – Applicant Monadnock Affordable Housing, on behalf of owner the Community College System of NH, requests a second extension to the deadline to satisfy the precedent conditions of approval for the Site Plan Application, SPR-06-23, for the proposed renovations to the former Roosevelt School building and the construction of a new ~12,646-sf 2-story building with associated site improvements to create a 60-unit multi-family housing development on the property at 438 Washington St (TMP #531-054-000). The site is 2.4 ac and is located in the Low Density District.**

Ms. Sandy Clark, Facilities Director for Monadnock Affordable Housing/Keene Housing, addressed the Board and stated that this extension request is the same as the last request. The City of Keene and the property owners are still working on figuring out issues related to the retaining wall on the property. It is her understanding that bids for the project were sent out last week.

A motion was made by Roberta Mastrogiovanni that the Planning Board grant a 180-day extension to the timeframe to satisfy the precedent conditions of approval for the site plan application, SPR-06-23. The motion was seconded by Kenneth Kost and was unanimously approved.

V) **Continued Public Hearings**

1. **PB-2024-01 – Surface Water Protection Conditional Use Permit – 186 Gunn Rd - Applicants and owners Ashley & Peter Greene request a reduction in the Surface Water Protection buffer from 75’ to 30’ to allow for the future subdivision and development of the parcel at 186 Gunn Rd (TMP #205-013-000). The parcel is 11 ac and is located in the Rural District.**

A. **Public Hearing**

Ms. Ashley Greene, applicant and owner, addressed the Board and stated she is before the Board again to address the concerns raised by staff at last month’s meeting. The first item to address is why the proposed mitigation measures should be considered “extraordinary.” The second is to address the wildlife study that was submitted to address the final wildlife-related concerns. The third is to further investigate other potential lot locations on this property. She indicated that she was going to turn the presentation over to their wetlands scientist to address the first two items.

Mr. Jason Bolduc from Meridian Land Services addressed the Board next. Mr. Bolduc stated after the last meeting they looked into the proposed mitigation measures. Essentially, the definition of “extraordinary” is “going beyond what is usual, regular or customary.” He stated they feel that they have met this definition by proposing three strategic mitigation measures, including the construction of infiltration trenches along the driveway, the use of drywells and infiltration trenches; and installing spruce plantings along the proposed wetlands buffer. He added that these

are extraordinary measures because a typical single family home does not need to install any of these measures.

He noted that the proposed driveway meets all City requirements. Mr. Bolduc stated that there were concerns regarding potential runoff from the driveway, which is why they proposed the installation of drywells to collect runoff. They even created a maintenance requirement for the drywells to ensure their effectiveness. This information was obtained from the state website and has been added to the plan and is designed to be specific to this site. He noted this information is outlined on page P1 of the plan set.

To reiterate what was stated at the last meeting, the spruce plantings were added to aid in soil stabilization and to act as natural marker for the wetlands buffer. These will be smaller spruce trees but along the edge, where there are mature trees, markers can be added there as well.

There was also concerns raised at the Conservation Commission regarding the presence of wildlife on the property. He noted that information has been provided to staff from a search done on the NH Natural Heritage Bureau Endangered and Threatened species website, which not only looks at the subject area, but a buffer around the subject area as well. There were no “hits” for a threatened or endangered species recorded for this parcel.

Mr. Bolduc stated he has also included a Wildlife Action Plan map from the state depicting the supporting landscape in the area where the house is proposed to be located. He pointed out that they are not proposing to impact a high-value wildlife habitat. They would potentially be impacting supporting areas around that highest value wildlife habitat, which typically acts as a buffer. The proposed building lot cannot support those wildlife species, but this type of land typically acts as a buffer for the highest value wildlife habitats. He referred to another map showing wildlife corridors and an approximate area where the new lot is located (approximately 400 feet behind the building area).

Mr. Bolduc stated there was additional concerns raised regarding spotted salamanders, deer, and hemlock. He indicated that he has provided documents to staff from the UNH website and the Fish and Game website, to demonstrate that those three species are widespread and secure in the State of NH.

Ms. Greene addressed the third action item staff mentioned at the previous meeting, which was to evaluate the entire property for other potential subdivision locations. She indicated that if the Board were to approve this application to move forward as a pilot case, Meridian would do a full topographical survey of the entire parcel at a cost of approximately \$5,000 to \$6,000. Since the last meeting, Meridian was able to provide an aerial map outlining where a potential lot line could fall on the west side of the property. The map shows that this other potential lot location overlaps with two areas on the property that the owners use on a regular basis. One is a grass road that they use for sugaring maples, and the other is a rock wall and a clearing they use for their nature program for home schooling. Hence, this their method of demonstrating that there are no other suitable areas for subdividing and developing on that side of their property. This concluded the applicant's comments.

Mr. Clancy asked in terms of the buffer zone whether there was any thought given to adding an understory to the spruces, moss, ferns, stone, or rhododendrons. Mr. Bolduc stated they had not looked into this, but agreed that this is something that could be done. He felt that rhododendrons would probably do quite well. Installing stone wall could potentially impact wildlife movement.

The Chair asked for staff comments next.

Mr. Clements addressed the Board. He stated that he first wanted to reiterate the role of the Planning Board, which is to review applications and make sure they meet the Board's standards. Some applications are black and white and some applications are more subjective. This application is both. He noted that applicants work with staff behind the scenes to craft an application that staff feels meets the Board's standards to the best of their ability.

This application is harder because it is a Conditional Use Permit (CUP). CUPs are located in the zoning ordinance and so there has to be strict adherence to what is written in that article in the zoning ordinance. To deviate from that any of the CUP regulations would require seeking a variance from the Zoning Board of Adjustment.

Mr. Clements stated the two issues that they have been working on the most with this application have been siting the future development area on the property. The standard most related to the review of this is Section 11.6.2.A of the Land Development Code (LDC), which states that, "*the proposed use or activity cannot be located in a manner to avoid encroachment into the Surface Water Protection Overlay District.*" Mr. Clements stated that without understanding all of the site features of the entire parcel, it is his belief that it is impossible to determine if this standard has been met.

Mr. Clements went on to say that the other standard in question is related to the buffer reduction request and what constitutes the definition of the "*extraordinary mitigation measures.*" He felt that the applicant has tried to find a good middle ground for the appropriate level of mitigation. He stated that ultimately it is the Board's responsibility to decide if these two standards have been met. He added that as the applicant had mentioned, a full topographic survey of the entire property will be completed before they come back for a subdivision. Mr. Clements felt it is not out of the realm of reasonableness for the Board to ask for that information before granting a CUP.

Mr. Clements referred to another document included in the Board's agenda packet, which was an email from Councilor Andrew Madison, Vice Chair of the Conservation Commission, clarifying the prior letter that was sent from the Conservation Commission. Councilor Madison clarified that they were recommending the denial of this application. The provisions they included at the end of the letter were additional mitigation recommendations, if the Planning Board decided to ignore their recommendation and approve this application.

Mr. Clements then explained how the Board should discuss the merits of this application as well as its decision. The common practice with Land Use Boards in Keene is that the motion is made in the affirmative with conditions. If that motion does not pass, then that is a denial.

Mr. Clements went over the recommended conditions of approval, which included the following.

1. *“Prior to final approval and signature by the Planning Board Chair, the following conditions precedent shall be met:*
  - A. *Owner’s signature appears on the plan.*
  - B. *Submittal of four (4) full sized paper copies and a digital copy of the final plan set.*
  
2. *Subsequent to final approval and signature by the Planning Board Chair, the following conditions shall be met:*
  - A. *Prior to the issuance of a driveway permit or building permit for the proposed lot, a Stormwater Management Plan for site development shall be submitted to the Community Development Department for review and approval by the City Engineer.*
  - B. *Prior to the issuance of a building permit for new construction on the proposed lot, submittal of a financial security for the proposed landscaping in a form and amount acceptable to the City Engineer shall be submitted.*
  - C. *Prior to site development, the wetland buffer shall be flagged by a certified soils scientist licensed in the State of New Hampshire and verified to be in place by the Community Development Director, or their designee, during a pre-construction meeting.*
  - D. *Prior to the issuance of a Certificate of Occupancy for new construction, the wetland buffer shall be re-flagged by a certified soils scientist licensed in the State of New Hampshire and verified to be in place by the Community Development Director, or their designee, to ensure that site development did not impact the wetland buffer in excess of the approved buffer impact.*
  - E. *Prior to the issuance of a Certificate of Occupancy for new construction, a year 0 landscape inspection shall be conducted by the Community Development Director, or their designee, to ensure that the required landscaping has been installed as depicted in this application.”*

Mr. Clements stated that following the initial landscaping inspection, there needs to be a one-year follow up inspection to ensure that all plantings are in good health. Any plantings that might have died will need to be replaced and then reevaluated again one year later before the full bond can be released. This is an additional cost to the end user of this new lot and additional staff time at the taxpayers’ expense to manage this single-family residence far in excess of what is normally is done for a typical single family-residence within the City of Keene.

He went on to say the Certificate of Occupancy for new homes often becomes time sensitive. Generally, a contractor might not be aware of any pending conditions of approval created by the Planning Board. Landscaping complicates this issue because if a Certificate of Occupancy is ready for issuance in November, the property would not be able to install landscaping until the spring before they can sell the house. Mr. Clements added these extra steps are what concerns staff.

Mr. Clancy referred to the Conservation Commission’s response to the Board and stated that it seems like a summary instead of a clarification of what the Board was asking. Mr. Clements referred to the two sentences stating that, *“the Conservation Commission does not recommend that this application be approved for the reason stated in the letter and the decision was a vote of five to two.”* Mr. Clements stated the recommendation was very much to deny this application. He added the original letter was ambiguous and so is the follow up email.

The Chair asked for public comment. With no public comment, the Chair closed the public hearing.

The Chairman asked for a motion on this application.

A motion was made by Roberta Mastrogiovanni that the Planning Board approve, PB-2024-01, as shown on the plan set identified as “Surface Water Protection Conditional Use Permit Exhibit” prepared by Meridian Land Services, Inc at a scale of 1 inch = 60 feet, dated December 14, 2023 with the following conditions:

1. Prior to final approval and signature by the Planning Board Chair, the following conditions precedent shall be met:
  - a. Owner’s signature appears on the plan.
  - b. Submittal of four (4) full sized paper copies and a digital copy of the final plan set.
2. Subsequent to final approval and signature by the Planning Board Chair, the following conditions shall be met:
  - a. Prior to the issuance of a driveway permit or building permit for the proposed lot, a Stormwater Management Plan for site development shall be submitted to the Community Development Department for review and approval by the City Engineer.
  - b. Prior to the issuance of a building permit for new construction on the proposed lot, submittal of a financial security for the proposed landscaping in a form and amount acceptable to the City Engineer shall be submitted.
  - c. Prior to site development, the wetland buffer shall be flagged by a certified soils scientist licensed in the State of New Hampshire and verified to be in place by the Community Development Director, or their designee, during a pre-construction meeting.
  - d. Prior to the issuance of a Certificate of Occupancy for new construction, the wetland buffer shall be re-flagged by a certified soils scientist licensed in the State of New Hampshire and verified to be in place by the Community Development Director, or their designee, to ensure that site development did not impact the wetland buffer in excess of the approved buffer impact.
  - e. Prior to the issuance of a Certificate of Occupancy for new construction, a year 0 landscape inspection shall be conducted by the Community Development Director, or their designee, to ensure that the required landscaping has been installed as depicted in this application.

The motion was seconded by Kenneth Kost. Ms. Vezzani stated she has heard what the Conservation Commission requested and felt the applicant has done what has been requested of them. She clarified that if the applicant addresses what is requested by the Conservation Commission, but staff indicates that the applicant might not get a Certificate of Occupancy, she wondered if this was really an issue for the Planning Board to address. She stated that she understands that the Conservation Commission indicated that the Board should only approve this application if the applicant was willing to meet the four conditions outlined in the original letter, but she felt that they have not clarified anything additional. They reiterated again that this is what they are recommending and the applicant is indicating they are willing to meet those conditions.

Mr. Clancy agreed that the Conservation Commission had not given any clarifying information, so he had reviewed their minutes to see how the two individuals who voted in favor of the application had felt. Mr. Therriault was in favor and did not see an issue with the wetlands and was happy with the drywell and swales to help with the driveway runoff. He noted Mr. Therriault has an engineering background and felt that if he believes this is considered an extraordinary mitigation measure, at least for the driveway runoff, which the Commission had concerns with, then he agreed with his recommendation that the applicant's plan is sufficient. Ms. Richter voted against the application, but it wasn't due to the presence of the wetlands. She saw them as wetlands that didn't have any flood retention or filtration value. He stated that these two comments stood out to him.

Mr. Hoefer noted one of the Board's tasks is to decide if they think extraordinary mitigation measures are being proposed. He stated that he was satisfied with the measures proposed by the property owners, including the drainage swales and dry wells. He felt that the combination of those mitigation measures to collect runoff goes above and beyond what a normal single-family home would need in an ideal lot situation.

In looking at the surface water buffer zones and the regulations, it seems part of the reason this discussion is happening is because of the zoning district this property is located in. He referred to the municipal code posted online as a reference. Mr. Clements stated the Article 11 of the Land Development Code, which outlines the Surface Water Protection Overlay requirements, is what Mr. Hoefer should be referencing. Mr. Hoefer clarified whether in different districts this buffer can be reduced. Mr. Clements answered in the affirmative and noted that in an urbanized area the buffer is already reduced. In the Rural Zone, it is 75' and can be reduced to 30'. The property owner is requesting a buffer reduction to 30'.

Ms. Markelon felt a lot of work has been put into this application, but noted that she is not comfortable with the reduction from 75 feet to 30 feet. She felt that when someone has a large piece of property and you want to develop that lot you look at the parcel as a whole.

Mr. Kost added that he too feels that a lot of work has gone into this application. He stated one issue that stands out for him is the recommendation from the Conservation Commission and the fact that no added clarification was provided by them. He went on to say that when this land was purchased, the Surface Water Protection Ordinance was already in place, which should have made this a known limitation of the property. He commended the effort of the landowners to try and construct a house on this property.

Mr. Rangel stated he too is concerned about the proposed siting of the subdivision. The idea of the topographical survey of the whole site really makes sense in order to determine the best place to build and subdivide a new lot. He felt the owners have done a lot of work in terms of looking into mitigation efforts, but expressed concern about the amount of work placed on potential buyers of the property and what they would have to maintain in perpetuity. He questioned if this could be a prohibitive type of situation in terms of a sale.

Ms. Mastrogiovanni stated she agrees with what everyone has said and noted that she felt a survey of the entire parcel to determine whether the proposed lot is the only developable portion of the

site is important. She stated she is concerned about the runoff that already happens from Gunn Rd, which is detrimental to many property owners.

Ms. Vezzani stated she is always concerned about runoff. She noted the applicant knew the buffer existed when they purchased the property, but noted that rules do change. She felt this property is a small piece of land being developed on a sparsely occupied road compared to the acres of land that have been developed over the years in the city. Ms. Vezzani agreed this property could be a burden for buyers, but this market is burdensome for buyers. However, this is something a buyer would be aware of.

Mr. Hoefer clarified that the runoff would go towards the house and hence would not have any impact on Gunn Road. Mr. Bolduc stated the road is higher and the house and driveway are lower. There is a brook 400 feet downslope through a heavily vegetated forest. Mr. Hoefer asked whether requiring a full topographical survey was in the purview of the Board. He felt this would be the best location to build based on the effort put forward by the applicant and asked whether the Board could determine if there is a better location for this home. Chair Farrington stated his understanding of the Surface Water CUP regulations is that there can't be a better location for potential development on the property when the rest of the lot is compared to the area where the owners are proposing to develop, so he felt that asking for a full survey was under the purview of the Board.

Mr. Clancy stated that he had raised this issue last month – the runoff would be flowing away from Gunn Road towards the property and into the woods. Based on the conversation at the Conservation Commission regarding the current house and proposed lot, the pole barn site is a worse location for development than what is being proposed with respect to road frontage and driveway location.

Mr. Kost stated he wasn't absolutely sure there were no other areas on this lot that the applicant could build on, but it could be based on the case from engineering and other environmental impacts. There are, however, other locations not looked at for development due to other reasons, such as family privacy, etc. He added that how one chooses to use their land is certainly the landowners' prerogative.

Chair Farrington stated his obstacle for approval is that the code requires an exhaustive process of eliminating other pieces of the total parcel. He stated he understands the reasons that were given for eliminating other potential building sites, but those were not strictly for reasons aligning with the Land Development Code, but rather, were based on the owners' use of the property.

The Chairman further stated these types of applications are required to go to before the Conservation Committee for a reason and their recommendation is to not to approve this the plan. This is another factor for him to consider as well.

Mr. Clancy clarified that the applicants still have to go through the subdivision process, so this project will need to come before the Board again. The Chair agreed. Mr. Clancy asked if that was the case won't the concerns being raised be addressed in that setting as well. Mr. Clements stated the subdivision application would require a survey of the entire 11-acre parcel; however, if the Surface Water CUP is approved this evening, the Board is approving the proposed site that the



applicant has brought before them. They will come back with a subdivision application for the lot that they have already presented to the Board this evening. The Chairman clarified if the application is approved tonight, the Board has given up on the opportunity to explore the best development location on the entire property. Mr. Clements answered in the affirmative and noted the Board is determining that this proposed site meets the CUP standards, which state that the *“proposed use and our activity cannot be located in a manner to avoid encroachment into the Surface Water Protection Overlay District.”*

Ms. Greene asked for permission to address what they had asked Meridian to do in terms of looking at the overall property. She explained that Meridian was not asked not to look at the remaining property. What they were asked to provide was a conceptual map of all the possible lots that could be developed. They provided two other possible locations other than where there proposed home is currently located. She noted there is only one other possible location because of the frontage and the pie-wedge shape of the land. She stated they know where the possibilities are and this was the only location they would be able to subdivide. Mr. Bolduc stated they have not done any survey on that section of the property due to the homeowner just wanting to work on the east side based on how they currently use the parcel.

Mr. Clancy stated he would like to add a few more conditions to the motion before it is voted on.

A motion was made by Ryan Clancy to amend the motion. The motion for amendment was seconded by Michael Hoefler. A motion was made Roberta Mastrogiovanni to table the original motion. The motion to table was seconded by Michael Hoefler and was unanimously approved.

A motion was made by Ryan Clancy to amend the original motion to add the Conservation Commission’s recommendation of implementing the action plan recommended by Mr. Bolduc, which would include the following:

1. *The installation of infiltration trenches around the dwelling.*
2. *Native plantings along the driveway.*
3. *Annual maintenance as depicted on the driveway exhibit.*
4. *Adding an understory to the buffer perimeter, which could include moss, ferns and rhododendrons, or other species so that the buffer zone is a complete vegetation buffer not just trees spread out.*
5. *Revised exhibit plan as to a no cut zone*
6. *Prohibiting fertilizers and herbicides.*

The motion was seconded by Sarah Vezzani and carried on a 6-2 vote with Kenneth Kost and Roberta Mastrogiovanni voting in opposition.

A motion was made by Roberta Mastrogiovanni that the Planning Board approve PB-2024-01 as shown on the plan set identified as “Surface Water Protection Conditional Use Permit Exhibit” prepared by Meridian Land Services, Inc at a scale of 1 inch = 60 feet, dated December 14, 2023 with the following conditions:

- 1) Prior to final approval and signature by the Planning Board Chair, the following conditions precedent shall be met:
  - a. Owner's signature appears on the plan.
  - b. Submittal of four (4) full sized paper copies and a digital copy of the final plan set.
  - c. Submittal of a revised landscaping plan that includes an understory and a complete vegetative buffer.
  - d. Revised exhibit plan with a note that the buffer shall be considered a no cut area and prohibiting the use of fertilizers and herbicides on the property.
  
2. Subsequent to final approval and signature by the Planning Board Chair. The following conditions shall be met:
  - a. Prior to the issuance of a driveway permit or building permit for the proposed lot, a stormwater management plan for site development shall be submitted to the Community Development Department for review and approval by the City Engineer.
  - b. Prior to the issuance of a building permit for new construction on the proposed lot submittal of a financial security for the proposed landscaping in a form and amount acceptable to the City Engineer shall be submitted.
  - c. Prior to site development, the wetland buffer shall be flagged by a certified soil scientist licensed in the state of New Hampshire and verified to be in place by the Community Development Director or their designee during a pre-construction meeting.
  - d. Prior to the issuance of a Certificate of Occupancy for new construction, the wetland buffer shall be re-flagged by a certified soils scientist licensed in the State of New Hampshire and verified to be in place by the Community Development Director, or their designee, to ensure that site development did not impact the wetland buffer in excess of the approved buffer impact.
  - e. Prior to the issuance of a Certificate of Occupancy for new construction, a year 0 landscape inspection shall be conducted by the Community Development Director, or their designee, to ensure that the required landscaping has been installed as depicted in this application.
  - f. The annual maintenance of stormwater systems as depicted on the driveway exhibit shall be required.

The motion was seconded by Kenneth Kost. It was a 4-4 vote – the motion did not carry. The Chairman expressed his appreciation to the applicant for all their work on this application.

2. **SPR-01-13, Modification #3 – Site Plan – Cheshire County Shooting Sports Education Foundation, 19 Ferry Brook Rd - Applicant SVE Associates, on behalf of owner the Cheshire County Shooting Sports Education Foundation, proposes several site modifications, including the relocation of the previously approved stormwater management system, on the property at 19 Ferry Brook Rd (TMP #214-021-000). The parcel is 55 ac and is located in the Rural District.**

The Chairman recused himself from this application as he is a member of the applicant's organization. He turned the item over to Vice-Chair Mastrogiovanni.

A. Public Hearing

Ms. Liza Sargeant of SVE Associates addressed the Board representing the Cheshire County Shooting Sports Education Foundation. She stated that the applicant had site plan approval in 2020 and there were several items that were not installed to match that site plan, so the applicant is trying to address those items today. The outstanding issues include the installation of a bike rack, the relocation of a light pole, the relocation of the accessible parking space, and the improper installation of the drainage system. Ms. Sargeant stated that during the City's site inspections, they noticed that the large gravel berm located on the southwestern portion of the site was not included on the previously submitted site plan.

She referred to the site plan showing where those items are going to be located. She explained that originally, the stormwater treatment area was proposed to be located on top of the hill. However, during construction, they found a large boulder right where the stormwater treatment system was going to be located. They are now proposing to install the stormwater treatment system down at the bottom of the slope. She also pointed to where the bike rack and light pole are going to be located. Ms. Sargeant stated that in the 2020 application, the trailer located at the rear of the club house building that is currently used for classes was not included on the proposed conditions plan. The applicant is proposing to retain the trailer and will need a building permit in order for it to become a permanent structure on the site. They are proposing to screen it with a 10' tall stockade fence.

She noted that within the surface water protection buffer, there is currently a stockpile of topsoil and some boulders. She explained that due to the fact that these are within the buffer, they will need to be removed. The berm that was not included on the prior site plan has been shown on the updated site plan, but it needs to be seeded and loamed to be stabilize it. She noted that they are also proposing to install silt fencing around the berm while it is being stabilized.

Mr. Kost asked about the stormwater system being moved down the slope and asked whether more runoff would now be coming into it. Ms. Sargeant stated the hydrology has been adjusted to accommodate the new location. Mr. Kost asked what happens to the stockpile. Ms. Sargeant stated it would be up to the applicant to decide where this pile is going to be moved to. Mr. Kost also noted that in the architectural part of the application, it mentioned the use of concrete masonry unit block for the building exterior, but vinyl siding was actually installed. Ms. Sargeant referred this question to the applicant. Mr. Otto Busher, Board President of the shooting range, in response stated that this is a block perimeter wall filled with solid concrete and vinyl was installed around the outside of the building. The solid wall serves to prevent projectiles and will dampen the sound.

Mr. Hoefler noted that this is Modification #3 to the approved site plan and asked whether this site plan has been previously approved. Planning Technician, Megan Forston, stated she would address this during her review of the staff report.

Staff comments were next. Ms. Forston stated the subject parcel is an existing 55-acre lot and is the site of the Cheshire County Shooting Sports Education Foundation. The site includes several different features related to the operation of the club, including outdoor and indoor shooting ranges

and a clubhouse. To address Mr. Hoefer's question, Ms. Forston stated this parcel has undergone site plan review previously. The initial Major Site Plan application came before the Planning Board for review in 2013 for the expansion of their recreational operation to include an 26,000-sf indoor shooting range. This application was conditionally approved in February 2014, but subsequently amended as part of another Site Plan application. The updated application came before the Board as Modification #1 and expired prior to the commencement of any work. The applicant then filed a second modification that was conditionally approved by the Board in August 2020 for the construction of a 3,300-sf indoor shooting range and the construction of this project was subsequently completed.

During site visits from January-November 2022, City staff noted that there were several deviations from the most recently approved site plan modification. Today the applicant is before the Board for a third modification, which was addressed by Ms. Sargeant. This proposal adds the items observed during the site visits to the approved site plan for the property, including the installation of the updated stormwater management system, the change to the exterior finish materials for the clubhouse and indoor shooting range, and adding the trailer that is used for classroom space to the plan.

Ms. Forston stated that in terms of regional impact, staff has made a preliminary evaluation that the proposed site plan does not appear to have the potential for regional impact, but it will be up to the Board to make a final determination.

In regards to the Board's Site Development Standards:

**Drainage:** In the narrative and plans for this project, the Applicant states that the stormwater level spreader will be relocated from the top of the slope to the west of the clubhouse/indoor shooting range to the bottom of the slope any stormwater will sheet flow to the proposed level spreader at the bottom of the slope. Included in the proposed motion it is recommending that the Board may want to consider making the submittal of a letter stamped by a Professional Engineer licensed in the State of NH confirming that the level spreader has been installed and is functioning properly as a subsequent condition of approval.

**Sediment & Erosion Control:** The narrative states that the engineered berm on the western portion of the property was constructed using surplus materials from the site and has historically been used by the shooting range as an overflow shooting range and space for approximately six public events per year. The Applicant has indicated they would like to continue using the berm for the same purpose moving forward and plan on seeding and mulching the berm to stabilize it. Ms. Forston noted that as was indicated by Ms. Sargeant, the site plan indicates there is a topsoil pile, boulder pile, and portion of the berm within the 75' surface water buffer.

The Applicant proposes to remove these encroachments from the buffer area. Staff is recommending to the Board including a subsequent condition of approval requiring that the surface water buffer be flagged by a soil scientist licensed in the State of NH and that the Community Development Director, or their designee, inspect the site after removal of these materials from the buffer. She added that the Board may also want to consider adding a precedent condition of

approval requiring the submittal of a security to cover the cost of sediment and erosion control while the new stormwater management system is being installed.

**Snow Storage and Removal:** The narrative states that snow will be stored on site. This standard appears to be met.

**Landscaping:** No landscaping changes are being proposed as part of this application. This standard is not applicable.

**Screening:** The narrative and plan indicate that a 10'-tall stockade fence is going to be installed along the west and south sides of the trailer used as a classroom to obscure it from view of vehicles entering the site along the driveway to the south. Because this trailer will not be visible from any public right-of-way this standard appears to be met.

**Lighting:** The only change proposed for lighting is the relocation of one of the parking lot lights, hence this standard is not applicable.

**Sewer & Water:** The site is served by on-site well and septic. No changes are proposed - this standard is not applicable.

**Traffic & Access Management:** The bike rack will be located in the same location as was indicated in Modification #2. Staff is recommending that the Board require documentation showing that the bike rack was installed in the appropriate location as a subsequent condition of approval.

**Filling & Excavation:** The narrative states that there will be fill added to the site for the emergency spillway that will be located to the southwest corner of the proposed level spreader. Construction vehicles entering the property could access the site using Route 9, which is the closest highway to the south. The Board may wish to ask the Applicant to clarify how much fill is proposed to be added to the site and if a construction vehicle plan is necessary. The Board will need to determine if this standard has been met.

**Surface Waters & Wetlands:** The proposed conditions plan shows that the topsoil, boulder piles and engineered berm are located within the 75' wetlands buffer. The topsoil and boulder piles are proposed to be removed. The Board may want to consider adding the recommended subsequent condition of approval related to a site inspection to confirm these materials have been removed. If it is not removed within the 75' wetlands buffer the applicant would need to obtain a Surface Water Conditional Use Permit (CUP).

**Hazardous & Toxic Materials:** This standard is not applicable.

**Noise:** No changes are being proposed noise level - this standard appears to be met.

**Architecture & Visual Appearance:** As was indicated previously, the only change that was made was from a painted red concrete masonry unit finish to tan horizontal siding. It would be up to the Board to determine whether or not that meets the Board's standards.

This concluded staff comments.

Mr. Clancy noted that two years ago staff noticed these issues. A year and four months ago, the City started the process of enforcement. He asked for clarification on what the last year and four months of enforcement has looked like. Ms. Forston stated the City first issued a notice of violation in December of 2022; notifying the Board President at the time that the City had conducted site visits on November 16th and 17th of the property and had noticed several deviations from the approved site plan. The noted deviations from the approved site plan included the lack of a bike rack on the property, lighting installed in different locations from what was shown on the approved plan, the relocation of the accessible parking space the fact that the space wasn't delineated properly.

The drainage system required by the Planning Board as part of the previous site plan approval had not been designed and installed as approved, which in the estimation of the City Engineer meant that it couldn't function properly. The site plan also did not include the trailer located behind the clubhouse building or the large, engineered berm. She went on to say that in September 2023, a letter to the shooting range was sent stating that in July and November of 2022, the City conducted site inspections and there were still several discrepancies noticed on the site and requested they respond to the City by October 6, 2023 as to when they were going to rectify the issues on the site.

In November 2023, a courtesy letter was sent indicating that the applicant either needed to bring this site into compliance by March 21<sup>st</sup> or they needed to submit an updated site plan application by November of last year. Mr. Clements added that enforcement is a slow process and involves a significant amount of back and forth between City Staff and the violator in an attempt to achieve compliance in the most effective manner possible. He added that at certain points, the applicant was just looking to make corrections to bring the site into conformance with the existing approval, but for a variety of reasons that option was not viable. At the present time, the applicant is ready to make the necessary changes and get the property back into compliance.

Ms. Sargeant added there was also some back and forth between various directors at the shooting range and different consultants, which also contributed to the delay. Mr. Clancy asked whether there was any response from the applicant between December 2022 and September 2023. Community Development Director, Jesse Rounds, stated he did not recall that there was any response, but added that he believes in encouraging compliance rather than issuing violations. There were many courtesy letters sent, which he stated was his choice in an attempt to bring this site into compliance.

Mr. Busher addressed the Board and stated three Chairpersons ago is when this project started and many of the correspondence from the City went to a previous Board President and did not make it to his desk. He stated that he has been working on this item since last fall and the winter delayed the project. He stated they are before the Board in good faith to address the issues and to get back into compliance.

The Vice-Chair asked for public comment. With no comment from the public, the Vice-Chair closed the public hearing.

A. Board Discussion and Action

A motion was made by Ryan Clancy that the Planning Board approve SPR-01-13, Mod. 3, as shown on the plan set identified as “Cheshire County Shooting Sports Education Foundation, 19 Ferry Brook Rd, Keene, New Hampshire” prepared by SVE Associates at a scale of 1 inch = 20 feet on January 15, 2024 and last revised on February 9, 2024, with the following conditions:

1. Prior to final approval and signature by the Planning Board Chair, the following conditions precedent shall be met:
  - a. Owner’s signature appears on the title page and Sheet C-1 of the plan set.
  - b. Submittal of a security for sediment and erosion control in a form and amount acceptable to the Community Development Director and City Engineer.
  - c. Submittal of five full-size paper copies and a digital PDF copy of the final plan set.
- 2) Subsequent to final approval and signature by the Planning Board Chair, the following conditions subsequent shall be met:
  - a. Prior to the commencement of site work, the Community Development Department shall be notified when all erosion control measures are installed and the Community Development Director, or their designee, shall inspect the erosion control measures to ensure compliance with this site plan and all City of Keene regulations.
  - b. Within three months of the date of final approval for this application, the bike rack will be placed in the approved location and a photo will be sent to Community Development save in the project folder to document the installation.
  - c. Within six months of the date of final approval for this application, the topsoil, boulder piles, and portion of the berm within the 75’ surface water will be removed. The buffer will then be flagged by a soil scientist licensed in the State of NH and subject to an inspection by the Community Development Director, or their designee, to confirm that the materials have been sufficiently removed to ensure compliance with the Surface Water Protection Ordinance.
  - d. Within three months of the installation of the level spreader and other stormwater management mechanisms, a letter stamped by a Professional Engineer licensed in the State of NH shall be submitted to the Community Development Department stating that the stormwater management systems were installed and function appropriately.

The motion was seconded by Kenneth Kost and was unanimously approved.

A motion was made by Ryan Clancy that the Planning Board finds there is no regional impact from this project. The motion was seconded by Kenneth Kost and was unanimously approved.

The Chairman rejoined the Board.

VI) Boundary Line Adjustments

1. **PB-2024-02 – Boundary Line Adjustment – 194 & 216 Marlboro St - Applicant Brickstone Land Use Consultants, on behalf of owners Noah & Michael Crawford Bange & 216 Marlboro Street LLC, proposes a boundary line adjustment that would transfer ~4,131-sf of land from the ~0.28-ac lot at 194 Marlboro St (TMP**

**#589-015-000) to the ~0.94-ac lot at 216 Marlboro St (TMP #589-016-000). Both parcels are located in the Neighborhood Business District.**

A. Board Determination of Completeness

Ms. Forston stated the Applicant has requested exemptions from submitting a drainage report, traffic analysis, and soil analysis. Staff have determined that the requested exemptions would have no bearing on the merits of the application and recommend that the Board accept the application as complete.

A motion was made by Roberta Mastrogiovanni that the Board find the application, PB-2024-02, to be complete. The motion was seconded by Kenneth Kost and was unanimously approved.

B. Public Hearing

Mr. Jim Phippard of Brickstone Land Use Consultants addressed the Board on behalf of Noah & Michael Crawford Bange & 216 Marlboro Street LLC. He stated that the two properties in question are located on the north side of Marlboro Street and are both non-conforming lots. The proposal is a boundary line adjustment to transfer approximately 4,000 square feet from the rear portion of 194 Marlboro Street to 216 Marlboro. He noted that no new non-conformities would be created as a result of this land transfer. He noted that the existing house at 194 Marlboro St is within the front setback and the detached garage is within the side setback. Removing 4,000 square feet from 194 Marlboro St will still leave the lot with 8,000 sf, which meets the minimum lot size requirements in the Neighborhood Business District.

He went on to explain that the parcel 216 Marlboro St is another non-conforming lot for a number of reasons. The existing pavement near the northeastern corner of the site, which has been there for many years, encroaches into the wetlands setback. At some point, there was asphalt added at the rear of the property. When you calculate the lot coverage for the site, it is over the allowed 65% maximum impervious surface coverage limit by 0.3%. No one knows when exactly this asphalt was added. Either way, the owner has decided he wants his lot to conform as much as possible, so he removed a little over 800 square feet of that pavement. Hence, that encroachment no longer exists and the lot coverage drops back under 65%, which meets the zoning requirements for lot coverage. Mr. Phippard stated this is a straightforward boundary line adjustment and no new non-conformities are being created. This concluded his comments.

Mr. Hofer asked whether the southeast corner was also in noncompliance and some adjustments have been made here as well. Mr. Phippard answered in the negative.

Staff comments were next.

Ms. Forston addressed the Board and stated the subject properties are located in southeast Keene on the northern side of Marlboro Street. There are residential uses that abut the parcels to the north, northwest, and southwest and commercial uses lie adjacent to the south, east, and northeast. Beaver Brook is located directly to the east and forms the eastern property boundary for 216 Marlboro Street. Both parcels are located in the Neighborhood Business District, which requires a minimum



lot size of 8,000 sf and a maximum impervious surface coverage of 65%. The parcel at 216 Marlboro Street is currently at 66% lot coverage on the site. The purpose of this boundary line adjustment is to adjust the common lot line between the parcels to transfer approximately 4,131 square feet of land from the northern portion of 194 Marlboro Street to 216 Marlboro Street. This will bring the property at 216 Marlboro into compliance with impervious surface requirements. In addition to this, 810 square feet of pavement was removed from the northeastern portion of the 216 Marlboro Street site just adjacent to Beaver Brook. Both of these adjustments will reduce the lot coverage on the Bergeron Mechanical (216 Marlboro Street) site to a maximum of 58% lot coverage.

Ms. Forston then went over the subdivision regulations. The first item she addressed was lots. As was indicated by Mr. Phippard, 194 Marlboro Street is currently out of compliance with zoning due to the presence of the single-family home within the 5-10' front setback required in the Neighborhood Business District. Staff consider this to be an existing non-conformity that will not be altered by this application. The parcel at 216 Marlboro Street has 66% lot coverage, which is 1% over the allowed maximum lot coverage in the Neighborhood Business District. The proposed lot line adjustment and the removal of pavement will bring the lot into compliance with the zoning requirements. Hence, this standard appears to be met.

In terms of the "*Character of Land*," both parcels are existing developed properties – one with an existing house and detached garage at 194 Marlboro St and one with an existing building with paved parking at 216 Marlboro Street. The eastern portion of the parcel at 216 Marlboro Street is within the floodway as well as the 100-year flood zone. No new development is proposed as part of this application and given that 810 square feet of pavement is proposed to be removed, this standard appears to be met.

Ms. Forston then addressed "*Scattered or Premature Development*." Because these are existing developed lots served by both City sewer and water with frontage along Marlboro Street – this standard is not applicable.

In terms of the "*Preservation of Existing Features*" - there are no other changes proposed other than relocation of the common boundary line. This standard is not applicable.

*Monumentation:* Pins have already been set by a surveyor and they were inspected by Public Works Department on March 19<sup>th</sup>. This standard has been met and does not need to be included part of the conditions of approval for the application.

In terms of the "*Special Flood Hazard Area*" – Ms. Forston stated the land being transferred is outside of the floodplain and there are no impacts to the proposed area of the parcel at 216 Marlboro St that is within the floodplain. This standard appears to be met.

*Fire Protection and Water Supply:* Both parcels are serviced by existing City water and sewer. The applicant noted in their submittal items that there are fire hydrants present on Marlboro Street near the lots. This standard appears to be met.

With respect to “*Utilities*” - Both sites are served by City water and sewer and no changes to the existing utilities are proposed. This standard appears to be met.

With respect to the Board’s Site Development Standards:

**Drainage & Stormwater Management** - The submittal states that stormwater on the properties currently sheet drains to vegetated areas on the sites and there are no changes proposed to these existing patterns. This standard is met.

**Sediment & Erosion Control** – The only applicable item is the removal of 810 square feet of pavement at 216 Marlboro Street which appears to be within the 30’ surface water buffer. In lieu of having this area evaluated by a wetlands scientist, the property owner decided to remove the pavement in the area to delete the need for submittal of a Surface Water Protection Conditional Use Permit. This standard appears to be met.

**Snow Storage & Removal:** Snow is stored around the perimeter of the paved areas and removed from the site as needed. This standard appears to be met.

**Traffic & Access Management:** There are no changes proposed to on-site traffic circulation. This standard appears to be met.

**Surface Waters & Wetlands:** The easternmost portion of the parcel at 216 Marlboro Street is within the floodway and the removal of pavement negates the need for a Conditional Use Permit. This standard appears to be met.

Ms. Forston noted there was a recommended motion included in the staff report with conditions of approval, including getting the Owners’ signatures on the plans; the performance of a lot monument inspection; the submittal of four paper copies and a digital copy of the final plans; and the submittal of recording fees. She noted that Mr. Bergeron and Mr. Phippard have already addressed these conditions, so staff’s recommendation to the Board is that they issue final approval for the application at the meeting tonight with no conditions of approval.

Ms. Forston stated staff does not feel this application meets the threshold for regional impact. The Chairman asked whether regional impact is something that needs to be voted on each time. Mr. Clements stated there was a recent State Supreme Court decision that states if the Board doesn't make a determination of regional impact, it could render a decision void. By including this in the staff report and reminding the Board to indicate that an application meets regional impact it protects Board decisions from potential challenges in the future. He added the language needs to be part of the deliberation.

With reference to public comments, the Chairman stated this was not a public hearing, but asked if there was anyone from the public who wanted to comment on this application. With no public comment, the Chair closed the public hearing.

C. Board Discussion and Action

A motion was made by Roberta Mastrogiovanni that the Planning Board issue final approval on the boundary line adjustment between the properties at 194 & 216 Marlboro St, as shown on the plan identified as, “Plan Showing Boundary Line Adjustment Between Properties of 216 Marlboro St, LLC; 216 Marlboro Street; Keene, NH 03431; Parcel Number 589-016; And; Noah Crawford Bange; 194 Marlboro Street; Keene, NH 03431; Parcel Number 589-015” prepared by DiBernardo Associates, LLC at a scale of 1 inch = 20 feet on January 17, 2024 and last revised on March 11, 2024 with no conditions.

The motion was seconded by Kenneth Kost. Ms. Markelon stated this application does not appear to have any regional impact. The motion made by Roberta Mastrogiovanni and was unanimously approved.

2. **PB-2024-03 – Boundary Line Adjustment – 2 & 12 Gilbo Ave - Applicant Huntley Survey & Design PLLC, on behalf of owner the City of Keene, proposes a boundary line adjustment that would result in the transfer of ~216-sf of land from the City-owned right-of-way known as 12 Gilbo Ave (TMP #575-014-000) to the ~1,204-sf parcel at 2 Gilbo Ave (TMP#575- 013-000) and transfer ~434-sf of land to the Main St & Gilbo Ave public right-of-way. All land is located in the Downtown Core District.**

Ms. Mastrogiovanni recused herself from the review of this application.

A. Board Determination of Completeness

Ms. Forston stated the Applicant has requested exemptions from submitting a drainage report, traffic analysis, and soil analysis. Staff have determined that the requested exemptions would have no bearing on the merits of the application and recommend that the Board accept the application as complete.

A motion was made by Randyn Markelon that the Board find the BLA application, PB-2024-03, to be complete. The motion was seconded by Armando Rangel and was unanimously approved.

B. Public Hearing

Mr. Russ Huntley of Huntley Survey and Design addressed the Board. He stated that Ms. Mastrogiovanni had hired him to survey her business, the Corner News Store, which is located at the corner of Main Street and Gilbo Avenue, as well as the land beneath and around it so she could enter into negotiations with the City to purchase the land beneath her building. Mr. Huntley provided some background on this property.

He indicated that all the land located under both parcels was originally owned by the B&M Railroad. In the mid-1930sm they started dispensing all their properties. In 1958, they sold a fairly significant sized parcel to the City. This land goes under Gilbo Avenue and down the street and also includes some of Saint James Street and the Gilbo Ave parking lot. He referred to an area shown in blue on the map that was not included in the initial sale of land. In 1961, that portion was also sold to the City of Keene. In 1984, the City of Keene sold the building shown in the blue area to one of Ms. Mastrogiovanni’s predecessors, which is the present Corner News Building. In 1987,

B&M Railroad also sold the same plot of land, so now we have this building partly on a parcel owned by the City of Keene.

He indicated the proposal is for Mastrogiovanni to be able to buy the land beneath her building and the land in the fenced in area behind the building. The City could then just add the remainder of the parcel to the public right-of-way. Mr. Huntley stated that in talking with the City Engineer it was discovered that the land behind the Corner News building is part of the Gilbo Avenue public right-of-way layout. He stated that what they are trying to do is to redesign this area so the blue portion could be sold to Ms. Mastrogiovanni, so she can own the land her building is located on. He stated the issue is trying to convey this information on a plan because there so many layers to this history of this parcel. However, he noted that he still felt that this is a pretty simple boundary line adjustment. This property is located in the Downtown Core District where there are no dimensional setbacks and no frontage requirements. This concluded Mr. Huntley's presentation.

City Engineer, Don Lussier, stated what they are trying to accomplish is very simple; to add the land beneath the building and make it one parcel again. He noted that, however, the history of this site is long and winding. What appears on the records is that when City Council laid out the road as a public road, it simply took the acquisition it received from B&M Railroad, including the Corner News and Transportation Center sites, and indicated that everything the City acquired from B&M Railroad was now part of the public right-of-way. As a result of this, the land under the buildings is part of the highway, by definition. The follow up step to this boundary line adjustment is going to be a City Council process to update the actual defined public right-of-way to just include the land outside those buildings. He added that staff does not see any regional impact from this boundary line adjustment and felt it is in everyone's best interest to move forward.

Mr. Clancy asked whether this was the only property in the City that has this type of issue. Mr. Lussier stated it probably is not, but that it seems like the worst case he has seen since starting with the City eight years ago. He said that most of these property issues are around the Railroad land. Mr. Kost asked whether there will still be some portion of land between Corner News and the Transportation Center that will be public land. Mr. Huntley responded by saying the land that would go to Corner News is what is already enclosed by a chain link fence.

Staff comments were next.

Ms. Forston stated the subject properties are located in downtown Keene along the west side of Main Street directly north of the Margaritas Mexican restaurant. Commercial uses abut in all directions and the Cheshire Rail Trail is located directly to the south. The approximately 1,200 square foot parcel at 2 Gilbo Avenue is owned by the City of Keene and is located at the corner of Main Street and Gilbo Avenue. There is an existing approximately 744-sf building located on top of this land that houses the Corner News shop. All properties involved in this proposal are located in the Downtown Core District, which has "build-to lines" in place of setbacks and does not have a maximum impervious surface coverage or minimum lot size.

She stated the purpose of this lot line adjustment is to transfer about 216-square feet of land from the City-owned property known as 12 Gilbo Avenue to the property at 2 Gilbo Avenue. An additional 434 square feet of land will be transferred from 2 Gilbo Avenue and will become part

of the public right-of-way that includes Gilbo Avenue and Main St. The City's ultimate intent is to convey this land to Ms. Mastrogiovanni. She noted that there will be three easements created following the boundary line adjustment to allow for passing and repassing over the City-owned bike trail directly to the south.

In terms of regional impact, staff does not believe this application has any regional impact.

Ms. Forston then addressed the Subdivision Regulations. She stated that because there are not dimensional requirements outlined in the zoning for the Downtown Core District, the "Lot" standard is not applicable.

In terms of the "Character of Land," the land involved in this proposal is already developed. This standard is not applicable.

*Scattered or Premature Development* – This standard is not applicable.

*Preservation of Existing Features* - There are no changes proposed to the site itself. This standard is not applicable.

*Monumentation* – Staff recommends the inclusion of the typical lot monument inspection as a precedent condition of approval that will need to be met prior to the signature of the final plans by the Planning Board Chair.

*Special Flood Hazard Area* – This property is not within a special flood hazard area. This standard is not applicable.

*Utilities* – The property has access to City water and sewer. This standard appears to be met.

With reference to the Site Development Standards:

*Drainage & Stormwater Management*: This standard is not applicable.

*Sediment & Erosion Control*: This standard is not applicable.

*Sewer & Water*: This property is serviced by City water and sewer and no changes are proposed to the existing utilities. The standard appears to be met.

*Traffic & Access Management*: Although portion of the land is going to be transferred to the Gilbo Avenue right-of-way, there is no impact on traffic or access management. This standard appears to be met.

*Surface Waters & Wetlands*: No surface waters or wetlands present on or adjacent to this land. This standard is not applicable.

Ms. Forston stated there is a recommended motion included in the staff report for this application.

Mr. Kost clarified that the Board is voting on a lot line adjustment and sometime in the future the City will undertake land transfer negotiations with Ms. Mastrogiovanni and the City Council. Staff agreed.

C. Board Discussion and Action

A motion was made by Kenneth Kost that the Planning Board approve PB-2024-03 for a boundary line adjustment between the properties at 2 & 12 Gilbo Ave and the public right-of-way, as shown on the plan identified as, “Proposed Conditions, Boundary Line Adjustment” prepared by Huntley Survey & Design PLLC at a scale of 1 inch = 5 feet on February 15, 2024 with the following conditions:

- 1) Prior to final approval and signature by the Planning Board Chair, the following conditions precedent shall be met:
  - a) Owners’ signatures appear on the plan.
  - b) Inspection of the lot monuments by the Public Works Director or their designee following their installation or the submittal of a security in an amount deemed satisfactory to the Public Works Director to ensure that the monuments will be set.
  - c) Submittal of four (4) full sized paper copies, two (2) mylar copies, and a digital copy of the final plan set.
  - d) Submittal of a check in the amount of \$51.00 made out to the *City of Keene* to cover recording fees.
  - e) Submittal of draft easement documents shall be submitted for review by the City Attorney’s Office.
  
- 2) Subsequent to final approval and signature by the Planning Board Chair, the following condition shall be met:
  - a. Copies of the recorded easement documents shall be submitted to the Community Development Department.

The motion was seconded by Randyn Markelon, who also stated that this application does not have any regional impact. Mr. Clancy stated he finds this application fascinating and hopes the housekeeping issue gets resolved. The motion was unanimously approved.

Roberta Mastrogiovanni rejoined the Board.

**VII) Changes to Planning Board Application Fee Schedule: The City of Keene Community Development Department proposes to amend sections of Article 25, “Application Procedures” of the Land Development Code and Chapter 100 of Appendix B of the City Code of Ordinances to change the certified mailing requirement to a “Certificate of Mailing”; create a fee for Cottage Court Overlay Conditional Use Permit applications; and establish fees for Earth Excavation Permit applications.**

Mr. Clements stated the City is proposing to change the fee schedule for all Land Use Boards in the City. At the present time, the City is charging applicants a Certified Mailing rate to meet the statutory requirement that abutters are notified by verified mail. The Post Office offers a product

called a “Certificate of Mailing” that the City Attorney believes also meets the statutory requirement. When you deliver the letters to the post office, the post office gives you a receipt that they have received the letters and that meets the statutory requirement and is much cheaper than a certified mailing.

Mr. Clements added that the City also needs to add a Conditional Use Permit application fee for the Cottage Court Overlay CUP, which the City is hoping to have on its books by May. He added that the City Clerk’s office considers fee schedule amendments to be part of the Rules of Procedure process. He explained that the proposed change to the Rules of Procedure needs to first be discussed at a public meeting and then at the next Planning Board meeting, the Board can vote to adopt those changes. He further stated that because the fee schedule is also in the City Code of Ordinances, it will need to go before Council for approval as an ordinance change. The Cottage Court overlay application fee will be \$100, which is in line with the existing Hillside, Surface Water, Congregate Living and Solar Energy CUP application fees.

Mr. Clements stated the state RSAs related to earth excavation permits for gravel pits has some language in it indicating that a municipality cannot charge more than \$50.00 for an excavation permit. The fee schedule is also proposed to be changed to include a \$50.00 Earth Excavation Permit fee. There is proposed to be a separate application fee be added to cover the cost of some of the work that is required for the review of these types of applications. These changes can be voted on at the next Planning Board meeting on April 22<sup>nd</sup>.

**VIII) Master Plan Update**

**IX) Project Updates**

The Chair stated the that Master Plan Steering Committee met for the second time on March 12<sup>th</sup>. The project consultant, Future IQ, attended the meeting in person and laid out a project plan. The plan is to have the update completed by June/July 2025.

The next big item is to identify nearly 100 stakeholders in the community for consultants to interview. There will also be opportunity for general population interviews and workshops.

Mr. Clancy asked if because these meetings are not recorded whether the Board could get a copy of the draft minutes before their next meeting. Mr. Rounds agreed this could be done.

**X) Staff Updates**

Mr. Rounds stated he had promised some training, which is forthcoming. He added that staff appreciates the work that went into reviewing the 186 Gunn Rd CUP application. The Chair noted that the state offers training webinars that Board members can access through the State Office of Planning & Development.

**XI) New Business**

Mr. Clancy asked whether other communities are also paying attention to the regional impact issue and whether Keene gets any information when we are impacted by a potential project in another

community. Mr. Clements stated that other community are statutorily obligated to notify us of these types of project, but noted that the City can't force other Planning Boards to run their business in a particular way.

He added that staff does try to keep themselves informed as to what is going on in other communities. For example, there was a recent project in Swanzey for contractor storage bays on the Swanzey side of Base Hill Road. He noted that the proposal was similar to the Blackbrook Road contractor bays that were approved last year. He indicated staff learned about this project and reached out to the planner in Swanzey and informed them that this could be considered a development regional impact and recommended that they should probably be treated as such. Mr. Rounds stated he attended two of the meetings where this project was discussed, and the town was in the process of transitioning between planners and hoped the issue would be fixed in the future. Mr. Rounds stated Mr. Clancy is correct in that most of these communities are not aware of the impact that some of their developments would have on other municipalities. He added it is difficult for staff to pressure other communities unless staff becomes aware of particular projects.

**XII) Upcoming Dates of Interest**

- Joint Committee of the Planning Board and PLD – April 8th, 6:30 PM
- Planning Board Steering Committee – April 9th, 11:00 AM
- Planning Board Site Visit – April 17th, 8:00 AM – To Be Confirmed
- Planning Board Meeting – April 22<sup>nd</sup>, 6:30 PM

The Chairman adjourned the meeting at 9:05 PM.

Respectfully submitted by,  
Krishni Pahl, Minute Taker

Reviewed and edited by,  
Megan Fortson, Planning Technician