

**CITY OF KEENE  
NEW HAMPSHIRE**

**PLANNING BOARD  
MEETING MINUTES**

Monday, March 23, 2015

6:30 PM

Council Chambers

Members Present

Gary Spykman, Chairman  
Mayor Kendall Lane  
Andrew Bohannon  
Nathaniel Stout  
George Hansel  
Douglas Barrett

Staff:

Rhett Lamb, Planning Director  
Karen Purinton, Planner  
Michele Chalice, Planner

Members Not Present:

Christine Weeks  
Eleanor Vander Haegen

**I. Call to order – Roll Call**

Chair Spykman called the meeting to order at 6:30 PM and a roll call was taken. Chair Spykman welcomed Douglas Barrett to the Board.

**II. Minutes of previous meeting** – February 23, 2015

George Hansel offered the following corrections:

Page 5, second paragraph down, typographic error “include” should be “included”

Page 5, sixth paragraph, instead of “projects” to change it to read as “storm water system analysis that Mayor Lane ...

Page 8, seventh paragraph, delete the “a” before the word “necessary”

Gary Spykman offered the following correction:

Page 11, second paragraph end the sentence after the word “acceptable”.

The motion was made by James Duffy that the Planning Board accept the February 23, 2015 meeting minutes as amended. The motion was seconded by Andrew Bohannon and was unanimously approved.

**III. Election of a new Planning Board Steering Committee member**

Item put on hold until a Vice-Chair is elected to the Board.

#### **IV. Public Hearings**

1. **CUP-2014-01 – Wetland Crossing – 490 Washington Street – Conditional Use Permit** – Applicant/Owner Toby Tousley proposes to construct a wetland crossing in the 30' Surface water Protection Ordinance buffer from wetlands. The site is 2.61 acres in size and located in the Low Density Zoning District (TMP# 012-02-005).

Planner Karen Purinton explained that with a Conditional Use Permit there is no completeness review.

Mr. Toby Tousley of 499 Washington Street addressed the Board. Mr. Tousley stated that this property is located in a residential area. He referred to the area of the wetlands and noted that this is not an area that should be disturbed. It drains through the south part of the property to a culvert which is located next to 472 Washington Street. Mr. Tousley went on to say that the City has contracted to reconstruct Washington Street and part of this work involves upgrading the existing 18-inch culvert to a 36-inch culvert to help eliminate some of the unusual flooding events that have occurred.

He indicated that when the City notified him that they were going to be performing this work he felt this would be the time to gain proper access to the rear portion of his property. He added that at the present time to gain access he has to drive through the wetlands. Hence, felt the prudent thing to do would be to bring the access 30 feet away from 472 Washington Street and then gain proper access. Mr. Tousley stated that the neighborhood concern is that he is planning on constructing high-rise apartments on this rear lot but this is not something he could do even if he wanted to as there is a limit as to what he can build here because he has to maintain a 30-foot buffer around the wetlands. He indicated that his wife would like to construct a greenhouse and do some planting but this is the extent of what he plans for this area. The size of the culvert the City is proposing will still exist. He noted to the low point on the property which would still need a drainage point for any collection that could happen.

Mr. Bohannon noted that if there is going to be an area that is still going to collect water, what are the chances of that water backing up and impacting 472 Washington Street. Mr. Tousley stated that this design was proposed by the City Engineer but felt that the new proposal would make things much better. Mr. Hansel asked whether there is a cost difference for the City to move this. Mr. Tousley stated that he would be paying the extra costs incurred by the City. Mr. Hansel asked what kind of material Mr. Tousley was proposing for this area; grass/gravel. Mr. Tousley stated that he expects to see it in grass.

Chair Spykman asked when the larger culvert is put in and the bottom of the culvert is set lower than the existing culvert, whether it will drain down the wetland more than it is right now. Mr. Tousley stated that his engineer has clarified that the inlet level will be the same and will not be lower and the wetlands will remain at the same level.

Staff comments were next. Ms. Purinton agreed that as Mr. Tousley had previously indicated there isn't much development that can occur regardless of the status of this project. She indicated that the Conditional Use Permit process rises out of the surface water ordinance adopted in 2013 and provides for a buffer around all wetlands. For this property, the buffer is 30 feet because it is located in the low density zone.

Ms. Purinton stated that the City is going to be starting work on portions of Washington Street in the spring and the Conservation Commission has also looked at the project. Once the project was looked at closely it was realized that the drain was actually located on Mr. Tousley's property not on Maxine Phelps' property who the City had been dealing with earlier. As a result, negotiations pursued with Mr. Tousley and the City came up with this design. Tonight with the Conditional Use Permit, the Board is looking at the impacts of a 30-foot buffer and whether the driveway is going to be grass or gravel. The Board is not looking at the changes to the wetlands or the relocation of the headwall. Ms. Purinton also clarified that no new curb cut is being requested with this application.

Ms. Purinton noted that the relocation of the headwall could impact the small wetland on Mr. Tousley's property as it drains off the hillside. She noted that the existing pipe is going to be removed even though it was stated that the pipe will remain. Ms. Purinton called the Board's attention to page 18-20; the applicant has addressed the criteria that have been used to evaluate a Conditional Use Permit. The Conservation Commission has also reviewed the application and has chosen not to intervene because they have determined the project will not negatively impact the wetlands.

In speaking to the City Engineer, the question planning staff posed was whether the increase in the size of the pipe will have an impact on Beaver Brook. The reason that will not be the case is because the size of the wetlands is not changing. The size of the pipe is being doubled but this does not mean that the amount of water is doubling.

In conclusion, Ms. Purinton went over what is being proposed with this project. This project calls for a new driveway that will be close to the headwall. There is no driveway permit or curb cut associated with the plan. Any additional development will require additional review because this property is located in the low density zone and will require a public hearing and abutter notice. This project will also provide a drainage easement to the City to access the catch basin. This concluded staff's comments.

Mayor Lane referred to page 17 where it is indicated that the wetland boundary is not shown on either the National Wetlands Map or the New Hampshire Wetlands Map and asked about the quality of this wetland. Ms. Purinton stated that when a wetland consists of trees it tends to be more of a vernal pool but still provides valuable services for water quality. She added that the City does not have a map that shows the wetlands that are located in the City but this is something they are working on. Mr. Lamb added that the reason this wetland does not show up on the National Wetland Inventory is because this is a high altitude survey that only picks up very large wetlands and the smaller ones usually do not show up on the state or federal maps.

Mr. Barrett asked if the applicant was to install a driveway made up of some type of impervious surface whether it would require a permit. Ms. Purinton stated that because the application says gravel, that is what the Board would be approving today. If the applicant was to use grass instead, this would not require a permit but it would be different if he was to use pavement instead. Mr. Stout asked whether grass would not be a better solution for this driveway as far as impermeability was concerned. Ms. Purinton agreed. Mr. Stout asked whether the Board had purview to request grass and whether this is something the Conservation Commission could have considered. Ms. Purinton stated that they could have chosen one over the other.

Chair Spykman asked whether the culvert would have some sort of reinforcement so traffic could travel over it. Ms. Purinton stated that the City Engineer felt this was an adequate design.

Chair Spykman asked for public comment next.

Maxine Phelps of 472 Washington Street addressed the Board first. Ms. Phelps felt that issues associated with a property should probably be addressed before someone purchases a piece of property. She went on to say that when Mr. Donison brought to her attention the work the City was going to be doing, she was pleased that the City were the ones who were going to finance same but now the applicant has a proposal to change everything. She felt the main reason for the applicant's proposal is so that he can construct an access road to the rear of the property but this access road is going to be only 20 feet from her back porch. Ms. Phelps questioned why this issue did not come up two years ago but is coming up now when the City had a project that was already finalized.

Ms. Phelps questioned how many vehicles will use this access road. She noted that her property has already been on the market for three years and she has been made aware that an access road 20 feet from her porch would make it difficult to sell. Ms. Phelps in conclusion stated that if this proposal was to go through whether the access road could be moved farther away from her property or some sort of buffer be installed. She added that she would have liked to have attended the site visit the Conservation Commission convened.

Mayor Lane explained that the City has been planning for this reconstruction for a while and during the planning process the City realized that the culvert was actually located on Mr. Tousley's property not on Ms. Phelps property which is what required the redesign and new proposal. However, according to Ms. Phelps this new design came from Mr. Tousley not from the City. Ms. Phelps stated that her question is why Mr. Tousley did not address this issue years ago. Mr. Lamb stated that when the culvert was realized to be on Mr. Tousley's property the City at that point did not have land rights to access that portion of the property and had to negotiate with Mr. Tousley who in turn exercised his rights and is looking to make certain improvements which he is willing to pay for. This solution meets Mr. Tousley's needs and the City's needs.

Chair Spykman clarified from Ms. Phelps that her concern is not the moving of the culvert but the amount of traffic that will access this road. Ms. Phelps agreed. The Chair went on to say that there is no way for the City to determine how much traffic will access this driveway and would have to rely on Mr. Tousley's word. Mr. Lamb stated that what can be certain is that the traffic using this road will be associated with a single-family home. Developing on the adjoining lot would require Planning Board approval and the development potential is fairly low.

Bonnie Chamberlain of 11 Fox Avenue stated that her concern is that by granting the access road the wetlands and the buffer are going to be affected. She indicated that she would like not to have a wetland area on her property and felt that a slight change could affect abutting properties which properties are already wet. Ms. Chamberlain asked whether there could be another way to access this area without having to fill in a portion of this property. She also felt that another access from Washington Street could be very hazardous.

Ms. Chamberlain went on to say that this proposal also changes the characteristics of this site; the buffer zone won't be in its natural state as per the criteria for granting a Conditional Use Permit.

With no further comment, the Chair closed the public hearing.

Mr. Stout asked whether this Board has the ability to limit the type of vehicles that access this driveway. Mr. Lamb stated that he was not aware of any such authority. With a commercial driveway there could be such a possibility but not with a private driveway for residential use.

Mr. Bohannon felt the culvert design was appropriate and will help the neighborhood and stated that his only concern was the road and questioned whether this was the only option available to access this site. He also questioned why this access road was so close to the house. Mr. Lamb stated that he wasn't sure whether there might be access from the other side but that was not what Mr. Tousley is requesting.

Mayor Lane asked about a buffer to screen the access road from the house.

Chair Spykman asked how access is gained from Washington Street to this access road especially because there is no request for a curb cut. Ms. Purinton referred to the aerial photo included in the Board's packet on page 50, there is a grass area on the southeast corner, this is the location that connects the access road to Washington Street; there is an existing curb cut and marker at this location, but it is not directly abutting this property. Mr. Lamb clarified this crossing would stand alone, there is no road leading up to it, and there is no road on the other side. Mr. Lamb continued for lack of a better term it is an access road on private property.

Mr. Hansel stated that according to the applicant their intention of gaining access to this back lot is to do some landscaping and asked whether the Board has authority to change the applicant's request which is a gravel access to a grassed area as grassed area is not likely to be used as a well-travelled route which might reduce the need to plant trees, provide for permeability and provide for a better view from the abutting property. Ms. Purinton referred to the following language from page 19:

*(d) The buffer zone shall be maintained in a natural state to the maximum extent possible. In granting a Conditional Use Permit, the Planning Board may establish conditions of approval regarding the preservation of the buffer including the extent to which trees, saplings and ground cover shall be preserved.*

Ms. Purinton stated that as a quasi-judicial body the Board has the authority to interpret this language and apply it in any way they see fit. Chair Spykman felt that this is a condition that could then be added in if the Board felt was necessary. Mr. Stout stated that he was in favor of it but wasn't sure of its longevity should Mr. Tousley decides to sell the property. He further stated that Mr. Hansel suggested that the grassed area could be a substitute for the screening but Mr. Stout did not see it that way.

The Chair reopened the public hearing to hear from the applicant. Mr. Tousley stated that he won't be agreeable to spending money on a buffer and as a result would not continue with the project. He indicated that that there is no curb cut at this location, there are not going to be trucks

using the path and all he wants to do is to access the rear of his property. He added that he cannot access the rear portion of the site the other way because of the wetlands in this area. Mr. Tousley pointed out that there was permission granted to change the lots on Fox Avenue which have only been around for about fifty years but not his property which has existed for at least a hundred years. He also added that the area was filled in to construct the Phelps property and expressed concern that he is not being granted permission to install this path. He further stated that that if he is not granted permission, he can still access this area which cause damage to the wetland. Mr. Stout asked if Mr. Tousley was opposed to having grass. Mr. Tousley answered in the negative and added that gravel was suggested by the City Engineer. He noted that according city standards, construction of a driveway does not come with any setback requirements, it can be constructed right up to the abutting property and added that he did not construct 472 Washington Street on his property line someone else did that and if he was to go through the proper permits he could construct a driveway at this location, but that is not what he is referring to, all he is asking is to be able to locate a walkway or path. Mr. Stout stated that when he asked for a buffer he was not envisioning a large hedge but perhaps a few small saplings. Mr. Tousley noted that landscaping exists at this location now.

Chair Spykman explained that the reason people have concern and envision that this is going to be some sort of road is because of the amount of money that is being spent by Mr. Tousley and felt it was fair for people to question the intent. Mr. Tousley agreed and added that he does have the right to use the property he is being taxed for and regardless of what he wants to spend his money on he should be able to use his property.

The Chairman closed the public hearing again.

Mr. Barrett clarified that even if this was conditioned to be a grassed path, the applicant can still locate a gravel path to the back of the property. Mayor Lane noted that driving over the grass enough times will stop the grass from growing and wasn't sure how this can be enforced. Mr. Lamb stated that when the Board requires conditions such as this, the question is the premise behind it. When a buffer of a wetland or surface water is altered you are altering the character of same. Determining the impact could justify the requiring of planting of trees or addressing the requirement of ground cover surface. In this case there is also the concern raised by the abutter about the visual element which is a legitimate concern. Planting of trees to replicate the loss of vegetation because of the fill in of the buffer is reasonable.

Chair Spykman stated that if the Board was going to approve disturbing a natural state, it is not unreasonable to ask for plantings in that disturbed area and if these plants also serve as a visual buffer for the neighbor that would be a good solution as well.

Mr. Stout stated that he agrees but felt the Board should be careful about what they are requesting as screening and didn't want to be ambiguous about what they are requesting. Mayor Lane stated that he too would like some screening but isn't expecting anything too expensive and was agreeable to staff working with the applicant on this issue.

Mr. Hansel stated that he was sensitive to the applicant expressing the fact that this is his private property and wants to use this as perhaps a backyard and asked that staff limit what they are requiring the applicant to do. He also pointed out that the applicant is working with the city on this drainage issue which will benefit the entire neighborhood.

A motion was made by Mayor Kendall Lane that the Planning Board approve CUP-2014-01 as shown on the plan entitled “Wetland Crossing, 490 Washington Street, Keene, NH, prepared by SVE Associates and dated September 9, 2014 at a scale of 1” = 20’; with the following conditions:

1. Prior to signature by Planning Board Chair, submittal of revised plan showing
  - a. Owner’s signature on plan.
  - b. A vegetated buffer seen between the project site and the residence at 472 Washington Street, to be approved by the Planning Director.
  - c. The access drive remain in a vegetated state after headwall relocation.
2. Prior to commencing site work
  - a. Demonstrated receipt of a NHDES Wetland Permit is submitted to the Planning Department.

The motion was seconded by James Duffy.

Mr. Lamb explained that the purpose of the second condition is to comply with the surface water ordinance which indicates that if there was a wetland crossing a DES permit is required.

Mr. Stout asked what happens if the applicant and staff don’t agree on a condition that is requested to be handled administratively. Chair Spykman stated that the item will come back before the Board.

The motion made by the Mayor was unanimously approved.

#### **V. Driveway Permit**

1. **0 Summit Road** – Owner C&S Wholesale Grocers, Inc. proposes two new curb cuts that will service a new bus stop and provide a one-way bus turn around. The site is 21.1 acres and located in the Corporate Park and Low Density Zoning Districts (TMP# 918-10-013.02).

Ms. Purinton stated that there is a zoning hurdle that needs to be addressed and asked that this application be tabled.

A motion was made by Mayor Kendall Lane that the Planning Board table this item to the May meeting. The motion was seconded by Andrew Bohannon.

Councilor Duffy asked what the zoning issue is. Ms. Purinton stated that the site the applicant is pursuing is an undeveloped site and to introduce a use on this site it has to be compatible with other uses (Corporate Park). The bus stop is not an allowed use and the applicant has to go before the Zoning Board for a variance.

Mr. Stout stated that if the matter came before the Board he would need to be recused because it concerns the YMCA property. Mr. Lamb stated that this was a separate lot and does not concern the YMCA.

The motion made by the Mayor carried on a unanimous vote.

**VI. Extension of Compliance Deadline**

1. **SPR-14-14 – 888 Marlborough Road** – Applicant Brickstone Land Use Consultants, LLC, on behalf of owner Penny Bell, request a six month extension to the condition compliance time for SPR-14-14, which expires March 23, 2015. This is the first extension request.

Mr. John Hillock of 511 Marlboro Street asked whether the Board had any questions for him.

Ms. Purinton stated that this is a request for a six-month extension and explained that this is common when issues arise for development of the site. For the first extension the applicant has to explain any changes in legislation and in this case they are working with DES on a Shoreland Water Quality Protection permit and a six-month extension is typical.

Mayor Lane recalled that there is a history with this property and the Board has approved several extensions and the the applicant ran out of extensions and came back with a new application and there is yet another extension being requested. Ms. Purinton reminded the Mayor that the plan that came before the Board last fall was a slightly modified plan and this needs to be considered as a new application.

A motion was made by James Duffy that the Planning Board approve the request for a six-month extension for conditional compliance time for SPR-14-14 – 888 Marlborough Road. The motion was seconded by Andrew Bohannon and was unanimously approved.

**VII. Advice and Comment**

1. **Keene Public Library** – Architect Jeff Hoover from Tappé Associates, on behalf of Sally Miller, Chair of the Keene Public Library Annex Advisory Committee, requests advice and comment for a project related to renovations of the Library Annex at 60 -72 Winter Street.

Mr. Stout was recused from this application because he was a member of the Library Board of Trustees.

A motion was made by James Duffy that Nathaniel Stout be recused from this item. The motion was seconded by Mayor Kendall Lane and was unanimously approved.

Mr. Paul Hienkle, President of the Board of Trustees for the Public Library addressed the Board and introduced Jeff Hoover, architect from Tappé Associates. Mr. Hoover was the architect of record for the last library project which was completed in 1999 and has experience with the City of Keene and library construction.

Mr. Jeff Hoover was the next speaker. Mr. Hoover with reference to a rendering explained that this project is to link the main building and the annex. He indicated that this would be a comprehensive renovation from basement to the top floor. He indicated that the piece that is shown in orange is the piece that needs to be added to the building. The portion of the building being referred to was the annex.

Mr. Hoover then went on to say that code compliant vertical circulation is going to be added which would require egress stairs and an elevator will be added to service all floors. He referred to where the stairway is going to be located. There is also going to be pattern brick incorporated



into this design. Mr. Hoover stated that he is trying to keep in mind the historic component of this building and make sure that comes out in the design. The fire escape will be removed once the new stair tower is constructed.

Mayor Lane suggested landscaping between the addition and West Street.

Mr. Hoover stated that the next challenge is to try and link the two buildings. He noted to the rendering and stated the proposed addition is located between the two buildings (darker brown), the terracotta colored components shown on the rendering are exterior spaces that will be paved and landscaped. This would be something like a library courtyard and would be accessed via the driveway on Winter Street. It is understood that this courtyard addition is going to take away some parking spaces.

With a new entrance at the center of this new addition, the grassy area gets activated in front of the two buildings and creates a new public space. Handicap access to this area is also being thought about and plan is for a 1 to 20 grade, which will create a very easy passage and not disturb the historic nature of the building.

Mr. Hoover referred to the bottom right hand corner of the building where an area is being considered for public transit vehicles (West Street), Winter Street is too narrow for this use. He went on to say that some thought was given to a green roof but they are not sure if this would be the best choice and are hence considering a white roof which might be a better solution.

Mr. Hoover referred to the impervious area on the site and stated that the plan for the two front areas is to establish a landscape area for viewing but not to be occupied which can also then be turned into a rain garden. He noted that the two trees located at the front of the building are not going to be disturbed. He also talked about a buffer in front of the courtyard to accentuate this public space. Vehicular access will be on the north side. This concluded Mr. Hoover's presentation.

Mayor Lane stated that he was impressed with the integration of the two buildings. The Mayor referred to the turnoff on to West Street for bus travel and the location being proposed is only one lane and felt the turn off should be quite deep so that buses can be out of the way of the travel lane. The Mayor also talked about the additional parking and hoped that this parking won't intrude onto the visual aspect of the building. The Mayor felt this project is going to be a true asset to the community.

Councilor Duffy echoed what the Mayor said. He talked about the bio retention area at the front of the site and felt grass is not great for water retention and asked whether the rain gardens being proposed is sufficient to address the drainage issue that exists at the site and asked whether more bio retention could be added while still maintaining the park like setting. He asked whether the west side of this property where parking is going to be extended could be an area to add bio retention. Mr. Hoover stated the plan before the Board today is conceptual and the issue dealing with the water needs to be looked at.

He noted that the West Street sidewalk was a problem this winter for runoff and this is something that needs to be looked at as well. The Councilor encouraged the use of brick for the site.

Mr. Bohannon complimented the design and stated that his concern also is the West Street pull off and having it wide enough so that traffic can move easily. He added that he also likes the courtyard setting. Mr. Hoover felt that the library is very unique with its annex and the opportunities it provides.

Ms. Purinton asked whether this design might impact Cheshire TV. Mr. Hoover stated that the plan is to find room for Cheshire TV upstairs, directly above where they are located now. He indicated that they have met with Cheshire TV and discussed this change.

Mr. Hansel asked for the phases of construction. Mr. Hoover stated that “link and renovate” is one phase. The changes that are planned for the different sections could happen separately. He felt if there are funds available to take on as much as possible, that would be the best option.

Chair Spykman stated that he too was impressed with the design. He felt the applicant was on the right track.

#### VIII. Planning Director Reports

None

Chair Spykman stated that he had received a letter from Steve Thornton, Finance Director, after last month’s meeting and stated that he would like to read it into the record:

*From Steve Thornton  
Through John MacLean, City Manager  
Re: Motor vehicle registration surcharge discussion correction*

#### *Recommendation:*

*That the Planning Board Minutes for the February 23, 2015 meeting be amended to note that use of the proposed motor vehicle registration surcharge and capital reserve revenue stream is included in one capital project in the propose FY 2016-2021 CIP (page 50). That project is the Cheshire Rail Trail Phase 3 and the proposed capital reserve is listed as the funding source for the City share of the project in fiscal year 2016.*

#### *Background:*

*In response to a Planning Board inquiry, I stated that the proposed capital reserve would be used to fund transportation improvements advanced through the capital improvements program process. I further stated that used of the capital reserve was not included in the FY 2016-2021 CIP.*

*Following a review of the CIP document, it had been determined that the latter statement is not accurate, as noted above. The use of the reserve was mistakenly included as a funding source for that project, as the vehicle registration surcharge has not been approved by Council. Before publication, the intention was for that funding source to have been changed to current revenue.*

*Should the motor vehicle registration surcharge not be authorized by the City Council, further adjustments will be made during the operating budget process to fund the City share of the project.*

Chair Spykman stated that Mr. Thornton's recommendation to amend the meeting minutes unfortunately cannot be done, the minutes reflect what has been said and that cannot be changed. This Memorandum indicates that Mr. Thornton referred to something incorrectly and he is now correcting same.

**IX. Upcoming dates of interest – April 2015**

Planning Board Meeting – Monday, April 27, 6:30 PM

Planning Board Steering Committee – Wednesday, April 15, 4:30 PM

Joint PB/PLD – Monday, April 13, 6:30 PM

Planning Board Site Visits – TBD

Ms. Purinton stated the City/College Commission is holding a public forum on April 14 at Heberton Hall at 6:30 pm. More information on this event will be forthcoming;

The meeting adjourned at 9:55 pm.

Respectfully submitted,

Krishni Pahl  
Minute Taker

Reviewed by: Rhett Lamb, Planning Director