

**CITY OF KEENE
NEW HAMPSHIRE**

**PLANNING BOARD
MEETING MINUTES**

Monday, July 23, 2018

6:30 PM

Council Chambers

Members Present

Gary Spykman, Chairman
Douglas Barrett, Vice-Chair
Mayor Kendall Lane
Councilor George Hansel
Chris Cusack
Nathaniel Stout

Staff:

Rhett Lamb, Asst. City
Manager/Community Development
Director
Planner, Michele Chalice
Planning Technician, Mari Brunner

Members Not Present:

Pamela Russell Slack
Martha Landry
Michael Burke

I. Call to order – Roll Call

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

II. Minutes of previous meeting – June 25, 2018 Meeting

A motion was made by Mayor Kendall Lane to accept the June 25, 2018 minutes. The motion was seconded by Councilor George Hansel and was unanimously approved.

III. Boundary Line Adjustment

1. S-08-08, Mod. #1 – 421/431 Court Street – Boundary Line Adjustment –

Applicant/Owner Richard Hastings proposes to adjust the boundary between Lot #115-02-006-0100 and Lot #115-02-006-0200 making Lot # 115-02-006-0100 twelve feet wider. The voluntary merger will reduce the total number of lots from 6 lots as originally approved to 3 lots as shown on the plan.

A. Board Determination of Completeness.

Planning Technician Mari Brunner indicated that staff recommends the Board grant requested exemptions from grading, landscaping, and the lighting conditions plan and accept Application S-08-08 as complete. A motion was made by Councilor George Hansel that the Board accept this application as complete. The motion was seconded by Nathaniel Stout and was unanimously approved.

B. Public Hearing

Chair Spykman stated the Board is not obligated to open an application for a boundary line adjustment for public comment, but it has been the practice of the Board to do so.

Mr. David Mann, Surveyor addressed the Board first. Mr. Mann stated this subdivision was approved in 2008 for six lots. The owner would like to reduce the number of lots and modify a line to move it over by 12 feet. The driveway will be shortened but the same hammerhead

turnaround will remain. Upon approval of this plan, the applicant will merge four lots into one lot as represented on the plan, for a total of three lots.

Chair Spykman asked for the timing for completion of this project. Mr. Mann referred this question to the applicant. Mr. Richard Hastings stated the first two lots have been sold, the third lot should be completed by September and the entire project completed by the end of December.

Staff comments were next. Ms. Brunner stated this subdivision was approved in 2008 for six lots. The boundary adjustment being requested is between lots 2 and 3, to move the line 12 feet to the north. After the adjustment, both lots will still be conforming to minimum lot size requirements. All of these lots will be for single family homes. Ms. Brunner noted that because this is a boundary line adjustment and not a site plan review, not all of the Board's development standards are applicable. The applicant was required to go through the Board's development standards when the subdivision plan was approved in 2008.

Ms. Brunner addressed the standards which apply to this application. She stated that site runoff and drainage were addressed previously; however, the driveway modification would result in less impervious area overall and is expected to have a decreased impact on site runoff. No changes to sedimentation and erosion control measures are being proposed. With regards to hillside protection, Ms. Brunner noted that with the voluntary merger and reduction in the total number of lots there will be less impact on steep slopes.

With regards to snow storage, Ms. Brunner stated that in the original application the applicant proposed to store snow on each lot and at the end of the driveway. There are no wetlands present on the site, and the site is not located in a floodplain.

The applicant is not proposing any changes to lighting and landscaping. The site will be serviced by city water and sewer, and with the voluntary merger and reduction in the total number of lots that will be developed, it is expected that there will be a decreased impact on traffic.

Ms. Brunner noted that Standard #19 does not apply to this application because there is no site development proposed this time.

Mayor Lane asked whether there was restriction of future subdivision of the lots being merged. Ms. Brunner stated that once the lots are merged, they could not be un-merged without getting approval from the Planning Board first.

Chair Spykman asked how the shared driveway was laid out. Ms. Brunner stated it is a common driveway for all the lots and that it was approved through City Council for a single curb cut. The applicant also got approval to make the driveway 20 feet wide with a single turn around area at the end; it is a driveway easement across the three lots.

Mayor Lane noted this has been a controversial subdivision and there has been concern expressed by the neighborhood particularly because of the cliff which has been created behind these houses. Mr. Lamb noted this was a 2:1 slope and it was approved by the Planning Board. It was built with the option of either a retaining wall constructed with concrete units or with native stone on the site. The engineer has signed off on what has been constructed and is satisfied it meets engineering requirements. Mr. Lamb added staff has been looking at this area during construction and there has not been much erosion because of the type of soil. From an enforcement standpoint, staff is satisfied it met what the Board intended. Mr. Lamb agreed this is

a substantial change to the lot but it is holding together pretty well. He felt what is being proposed was a good compromise. He noted that the remainder of the lot is much more difficult to develop. Reducing the total number of lots to three instead of six and shortening the driveway is a reasonable solution for a difficult spot.

The Chairman opened the application for public comment.

Mr. Wendell Pollock asked whether the third house being built will be located in the third lot and what kind of a house this was going to be. The Chairman stated this is what the applicant has alluded to. Mr. Lamb stated it would be a single-family home. Mr. Pollock asked whether any further development was being proposed. The Chairman stated the applicant is proposing to merge the lots into one large lot and plans to finish the proposed construction by the end of the year.

With no further comments, the Chairman closed the public hearing.

C. Board Discussion and Action

A motion was made by Mayor Kendall Lane that the Planning Board approve S-08-08 Modification #1 as shown on the plan identified as “Boundary Line Adjustment and Voluntary Merger Plan Prepared for Richard E. Hastings Jr. & Charlene M. Hastings, Court Street, City of Keene, County of Cheshire, State of New Hampshire”, prepared by David A. Mann Survey at a scale of 1 inch = 40 feet and dated May 21, 2018 with the following conditions:

1. Prior to signature by Planning Board Chair:
 - a. Voluntary merger as shown on the above referenced plan is approved and recorded at the Registry of Deeds.
 - b. Property owners’ signatures appear on the plan.

The motion was seconded by Councilor Hansel and was unanimously approved.

2. **S-04-18 – 465 West Street – Boundary Line Adjustment** – Applicant/Owner Cheshire Oil Company LLC (dba T-Bird Mini Marts) owns property located at 465 West St which is adjacent to property owned by Ellis Robertson Corp & Realities Inc. (dba Hannaford's Shopping Center.) The Cheshire parcel consists of the T-Bird Mini Mart store, gasoline pumps, travel lanes and approximately 37 parking spaces currently leased by the shopping center. Both properties are fully developed and therefore a Waiver is requested from the Development Standard #19. The sites are located in the Commerce Zoning District (TMP#s 099-01-014 & 099-01-013).

The Chair recused himself as his business is a tenant of one of the applicants and turned the item over to the Vice-Chairman.

A. Board Determination of Completeness.

Planner Michele Chalice recommended to the Board that the Application S-04-18 was complete. A motion was made by Mayor Kendall Lane that the Board accept this application as complete. The motion was seconded by Councilor George Hansel and was unanimously approved.

B. Public Hearing

Vice-Chair Barrett indicated as this is a boundary line adjustment public comment is not required but it is the Board’s practice to take comment, should the public like to comment on this item.

Mr. David Mann addressed the Board again – he noted one of the entities had a name change which he had discussed with staff and noted to a new plan with this name change. There was also an issue with the boundary line due to the lease line which has also been noted on the new plan.

Mr. Mann stated this boundary line adjustment would place the gas station and car wash on the same lot with the associated parking with those lots. The leased spaces would not exist and this would reflect in the ownership agreement. He referred to the two leased areas on the plan. There is an easement for movement of traffic through the gas station to exist via the main entrance and this would continue as well as the two light standards that exist.

Staff comments were next. Ms. Chalice referred to page 18 of the staff report and noted the parcel is currently operated in three different ways and this proposal is to manage operations as one entity and to provide a more cohesive management option. She went on to say both of these sites are fully developed. Ms. Chalice stated this application is not subject to any of the Board's development standards and staff has no other concerns.

Vice-Chair Barrett asked for public comment, with no comments, the Chairman closed the public hearing.

C. Board Discussion and Action

A motion was made by Mayor Kendall Lane that the Planning Board approve S-04-18, as shown on the plans identified as "BOUNDARY LINE ADJUSTMENT for Realities Inc. Ellis Robertson Corp. and Syfeld Keene Associates, LLC, (465) West St, City of Keene, County of Cheshire, State of New Hampshire", at a scale of 1" = 50', parcel # 565017000000000, stamped by David A Mann Survey, a Division of DuBois & King Inc., dated June 27, 2018, and received by the Community Development Department on July 23, 2018 with the following condition:

1. Owners' signatures on plan before final approval.

The motion was seconded by Councilor Hansel and was unanimously approved.
Chair Spykman rejoined the Board.

IV. Public Hearing

1. S-03-18 – 139 Forest Street– 2-Lot Subdivision – Applicant Cardinal Surveying & Land Planning, on behalf of owner William Shepard, proposes a 2-lot subdivision. This proposal would subdivide the existing 0.53 acre lot (TMP# 536-074-000-000-000) into one 0.26 acre lot and one 0.27 acre lot. The site is located in the Medium Density Zone.

A. Board Determination of Completeness.

Ms. Brunner recommended to the Board that Application S-03-18 be accepted as complete. A motion was made by Mayor Lane that the Board accept this application as complete. The motion was seconded by Councilor Hansel and was unanimously approved.

B. Public Hearing

Wendy Pelletier of Cardinal Surveying addressed the Board and stated this is a simple two lot subdivision. The existing lot is a half-acre lot surrounded by Forest, Prospect and Armory Streets. It is an existing non-conforming lot as it does not meet the setback requirements. She explained that the subdivision would result in a change in frontage, and by switching the frontage it becomes more conforming. There is a bank that separates the two properties. There is a small retaining wall shown on the plan, but she noted it is more of a pile of rubble and hence she did

not move the property line to avoid the wall. There is no drainage from the existing house onto the proposed lot, which was a question from engineering.

Mr. Stout asked for more explanation as to how the frontage works. Ms. Pelletier stated because it is a corner lot, the shorter side is considered the front of the lot. With this subdivision, the shortest side changes and therefore the frontage changes and the old frontage becomes the side of the lot. Mr. Stout asked whether this would change the address. Ms. Pelletier answered in the negative, staff agreed - Mr. Lamb noted this is a city engineer decision. Mayor Lane asked whether this lot has any wet areas. Ms. Pelletier stated it does not, and Mr. Stout who often walks by this property agreed. Chair Spykman noted that the plan shows a shed near the proposed boundary line between the two properties and asked whether the shed met the zoning setback requirements. Ms. Pelletier stated because it is less than 120 square feet, it does not need to meet setback requirements and staff concurred.

Staff comments were next. Ms. Brunner stated this is a simple two-lot subdivision. The frontage is currently on Forest Street. Once the subdivision is complete, both parcels will have frontage on Prospect Street. The front setback for lots in this zone is 15 feet and side setback is ten feet, however for corner lots the side setback is increased by 10 feet. In this case, the side setback is therefore 20 feet. After this change, the lot will be more conforming because the square footage of the existing building within the setbacks is decreasing.

Ms. Brunner referred to engineering comments, listed on page 28 of the packet, which note that if a driveway permit is required, it would have to be shown on the plan. She stated that the applicant has decided a driveway permit would be applied for separately when the site is developed. Because there is no development being proposed, not all of the Board's development standards apply to this application.

With regards to hillside protection, the applicant has indicated that no work is being performed in the precautionary and prohibitive slope area and the site will conform to the hillside protection ordinance. Lot 2 has a usable area of .25 acres and is hence could be developed. The site is serviced by city sewer and water. There are no wetlands or surface water on site, and the parcel is not located within the floodplain.

The Chairman opened the application for public comment. With no comments, the Chairman closed the public hearing.

C. Board Discussion and Action

A motion was made by Mayor Kendall Lane that the Planning Board approve S-03-18, as shown on the plan set identified as "Lot 536-074-000 139 Forest Street Keene, NH 03431" Prepared by Cardinal Surveying & Land Planning for Dazwa Properties, LLC at a scale of 1" = 20', dated June 14, 2018 with the following conditions:

1. Submittal of a revised Subdivision Plan with the following changes:
 - a. The boundary line between Lots #1 and #2 is adjusted to show that the existing retaining wall on Lot #1 does not encroach onto Lot #2.
 - b. Note 13 be corrected to state that a driveway permit and subsequent inspection happen through the City Engineering Department.
2. Owner's signature appears on plan prior to approval.

The motion was seconded by Councilor George Hansel.

Ms. Brunner noted 1. a. no longer applies. The motion and second were withdrawn.

A motion was made by Mayor Kendall Lane that the Planning Board approve S-03-18, as shown on the plan set identified as “Lot 536-074-000 139 Forest Street Keene, NH 03431” Prepared by Cardinal Surveying & Land Planning for Dazwa Properties, LLC at a scale of 1” = 20’, dated June 14, 2018 with the following conditions:

1. Submittal of a revised Subdivision Plan with the following change:
 - a. Note 13 be corrected to state that a driveway permit and subsequent inspection happen through the City Engineering Department.
2. Owner’s signature appears on plan prior to approval.

The motion was seconded by Councilor George Hansel and was unanimously approved.

2. **SPR-11-16, Mod. #5 – 99 Wyman Road – Hillside Village Continuing Care Retirement Community** – Applicant Prospect-Woodward Home is requesting changes to their lighting and landscape plans. To accomplish the lighting changes, they have also requested a Waiver from Development Standard #10.C.1 – Lighting. Shielding. The Hillside Village Continuing Care Community is located at 99 Wyman Road. The site is now 36.26 acres in both the Rural and the Corporate Park Zoning Districts (TMP# 919-09-024).

Mayor Kendall Lane recused himself from the application.

A. Board Determination of Completeness.

Planner Michele Chalice recommended to the Board that Application SPR-11-16 was complete. A motion was made by Councilor George Hansel that the Board accept this application as complete. The motion was seconded by Chris Cusack and was unanimously approved.

B. Public Hearing

Mr. Jim Phippard of Brickstone Masons addressed the Board and noted to a correction to the tax map numbers due to the recent changes in the Assessing database. The correct number should read as 221-018-000 and 221-019-000. He indicated this is modification #5; Hillside Village construction is well underway. However, as residents start entering this site, they are providing feedback to the applicant, especially to landscaping and landscaping.

Landscaping – The proposed changes to landscaping affected the courtyard area, community area, main community building, area adjacent to Woodside apartments, west side of the community building, and both court yard areas to the health center and assisted living area. The residents are asking that they be able to retain the view from their living areas.

Previously the court yard area had six flowering crab trees; the residents are concerned their view is going to be obstructed. As a result, these trees are going to be relocated and replacing them with single trees in the courtyard and then locate shrub plantings in the rest of the area. The walkway is also being moved giving residents an area to locate a chair or table. Similar changes were done to the south courtyard area as well. The flowering crabs were relocated to the outdoor walkway area leading from Woodside Apartments back to the community building.

At the front of the community building, for building code reasons for fire separation it could not be an open parking – it required three walls. The arborvitae which was in front of the parking

area is being moved, so they won't face a wall. The same was true with the other covered parking area as well.

As they progressed with the plans for the health center, the area here is referred to as a sensory garden to help dementia patients. The landscaping is being changed to include two trees (birch cluster and flowering crab). On the east side of the health center, the area will be more open with a single tree. A trash compactor has been added to serve the health center. This unit would be screened on all sides with eight foot high solid vinyl with the top 18 inches would in in lattice and arbor vitae.

Councilor Hansel clarified the arborvitae on the northwest side will be below the wall level. Mr. Phippard agreed.

Mr. Stout asked about the walls being proposed for the parking on three sides. Mr. Phippard stated it would be constructed with solid wood and would match the architecture at the parking at Woodside.

Lighting – There was a single pole light at the entry to the underground parking (S3) fixture 15 feet high. A resident near this area realized this light would be very close to their window and objected to it. This fixture has been removed and the fixture above the overhead door would be sufficient. The light at the port cochere is a fixture the architect objected to because of the view of same, the lighting engineer has assured the applicant the fixtures below the port cochere would be sufficient.

The next change is at the court yards next to the assisted living – there will be two up lights. The other location for up lights would be in the trees in the sensory garden in a specific color as recommended by the consultant. Mr. Phippard referred to a letter from Reno Engineering regarding this lighting which indicates this would be a 50 watts fixture, low intensity.

Mr. Phippard stated the applicant did apply for a waiver - A waiver from Standard 10. Lighting is requested due to the recommendation of up lights in the trees sensory gardens. Additional bollards which meet the Planning Board Lighting standard have also been added in these courtyards. With regard to the proposed up lighting, the applicant has addressed all four of the waiver criteria in the attached memo. Mr. Phippard noted this site is going to be 100 feet from Wyman Road and did not feel it would be distracting to drivers.

Mr. Stout stated he has never seen the Board address up lighting in the past. Mr. Phippard stated this is the first time he has brought such an issue before the Board. Mr. Stout felt the sensory garden was a good idea and liked the idea of up lighting.

Vice-Chair Barrett asked about the lighting being eliminated at the port cochere, what kind of lighting would be available on the west side. Mr. Phippard referred to the lighting plan the Board approved which addresses this lighting for that walkway.

Chair Spykman referred to the waiver criteria 1 where it says *That granting the waiver will not be contrary to the spirit and intent of these Regulations*”

and noted the reason the Board does not permit up lighting is to prevent the dark sky and this issue was not addressed by Mr. Phippard. Mr. Phippard stated because this area is surround on three sides by a four story building, being the type of facility this is, it won't go dark completely

and unless someone is in the sensory garden the lights won't be noticed - On the other side there is fencing and this is how the applicant tried to stay compliant. Chair Spykman stated he was afraid of setting precedence with up lighting and hoped this was small low wattage lights.

Staff comments were next. Ms. Chalice stated the standards the Board would be looking at with this application are landscaping, screening and lighting. The number of plants is one issue the Board should be looking at and this number is not decreasing. Ms. Chalice noted the changes being proposed still meet the Board's standards. She agreed the Board does not want to set precedence with up lighting but noted 40 watts is very low and there is screening for this lighting with the enclosure and the arbor vitae. As a result, staff feels this is diminimus lighting which won't set precedence.

Mr. Stout asked whether it makes sense to place a height limitation for the growth of trees to make sure they are maintained. Ms. Chalice stated unless there is sight line issues, this would not be a concern.

The Chairman opened the application for public comment, with no comments; the Chairman closed the public hearing.

Mr. Stout felt up lighting was an interesting proposal and was in favor and did not feel precedence was being set here. He felt also bringing in residents at this point and making changes they are requesting was commendable.

C. Board Discussion and Action

A motion was made by Councilor George Hansel that the Planning Board approve SPR-11-16, modification 5 with a waiver from Development Standard #10, Site Lighting as shown on the plan set entitled "Hillside Village, Wyman Road, Keene, New Hampshire" prepared by SVE Associates, at various scales, on August 19, 2016 and last revised on June 14, 2018, with the following conditions:

1. Owner's representative's signature on the elevation.
2. Signature by Planning Board Chair.

The motion was seconded by Chris Cusack and was unanimously approved.

Mayor Lane rejoined the Board.

V. Advice & Comment

26 Water Street – Applicant Suzanne Boisvert is requesting that the Planning Board determine that the application for a site plan review for a change of use at 26 Water Street be approved administratively. The proposed use is a "group home".

Mr. Lamb stated the applicants came before staff to request administrative approval of their application for a change of use from a 2-family residence to a group home. The applicants have already gone through the zoning process with the Zoning Administrator. The proposal for a group home, which is a change of use, triggered the need for planning review. The applicant requested that this be approved administratively, but it was Mr. Lamb's recommendation the matter come before the Board so they could decide whether the application could be approved administratively or whether it should be approved by the Planning Board. Mr. Lamb stated that

the discussion today is not a public hearing as it has not been advertised as such. The question of the use has already been approved administratively.

Mr. Stout asked why this matter would not go before the Zoning Board. Mr. Lamb stated that the Zoning Administrator has determined that this use is allowed in the district and therefore the applicants did not need to seek a variance from the Zoning Board. This is a permitted use in the high density district. Mr. Lamb noted Page 4 of the Board's regulations address this request, in section 3 (jurisdiction) 3b (site plan review). He added change of use does call for review either by the Board or administratively. The prior use was two-family. Dr. Cusack asked whether public interest is one of the driving forces for this to be addressed before the Board when other changes of use have been approved administratively. Mr. Lamb agreed. The Mayor clarified unless a site plan comes before the Board for this matter there would be no public notice.

Suzanne Boisvert addressed the Board and stated they have been working tirelessly to bring a recovery residence to the City of Keene. Ms. Boisvert stated she was advised this was a group home and that the property was recognized as such for many years. She was initially told she needed building and fire code upgrades. After she purchased the home, she was told by the City they were incorrect and that this was in fact a rooming house, but because the property was in high density zone a group home is permitted. Building plans for the property were submitted on June 25th. No site changes were being sought except for a ramp. However, once the building permit application was submitted they were told they would need to go through planning review as staff was incorrect and that it was in fact a two-family home, even though the applicant had information to the contrary that this was not the case.

Ms. Boisvert stated she would like to request from the Board that they permit staff to do an administrative approval of this site plan and that she not be asked to seek approval during a public hearing. Mr. Lamb stated what should be discussed from the Planning Board's standpoint are the Planning Board standards and the potential impacts of the change of use on issues such as parking and traffic. He indicated it is very easy to talk about the zoning issue; however this is not the purview of the Planning and Board and they should base their determination on the site impacts.

The Mayor agreed with Mr. Lamb and asked the applicant whether she had a site plan. Ms. Boisvert stated she had submitted a parking plan and a garbage plan as requested by staff. She stated there are no changes being made to the exterior of the building; all changes being proposed are for the interior to bring the property up to code and ADA standards. Councilor Hansel asked whether the applicant anticipates any changes in impact to traffic. Ms. Boisvert answered in the negative – she stated the number of people who will live at the home will be similar to the number that live there now. She further stated that the parking plan calls for only two of the residents to have cars; people at this stage often can't afford a vehicle. There are arrangements being made for spaces to be rented off site. The contract would also indicate that on-street parking cannot be used for guests.

The property consists of one living room, one kitchen, eight bedrooms and five bathrooms and the proposal is for two people per bedroom. There will not be more than 16 residents.

Mr. Stout stated he could not see a compelling reason why the Board would need to weigh in on this issue. He asked for clarification on the terminology used by the applicant where it refers to people living in the home being unrelated and asked whether a couple would be considered. Ms.

Boisvert stated at the present time all the residents are men but she does not want to shut the door to other possibilities.

Mayor Lane stated that the question is whether the Board would like to conduct a public hearing or not. Councilor Hansel stated the only question the public would want to discuss would be the use of the property, and this is something the Board would not be able to do anything about. He stated he was comfortable with staff handling this administratively. Vice-Chair Barrett felt the only two items the Board could address are re-striping the parking lot and the ADA spaces. Mayor Lane asked for the location of the garage. Ms. Boisvert stated it is at the end of the driveway. Mr. Lamb noted one of the parking spaces would be in the garage and the other bays in the garage would be used for storage and trash.

Chair Spykman stated when there is a project that is “on the line” between a minor and a major project and staff is not comfortable signing off on it administratively, they approach the Chairman to get his opinion. He noted that this item is very low on the scale compared to those that usually come before him. The Chairman stated he was comfortable the Director handling this administratively. Mr. Stout agreed. Councilor Hansel felt a majority of the Board agrees with the Chairman. Dr. Cusack agreed with the Chairman. Mr. Lamb noted because this is advice and comment, it is not set up for a full evaluation and a vote but understands the Board’s consensus and will move ahead accordingly.

VI. Community Development Director Report

Mr. Lamb reminded the Board about the land use code update, “Building Better Together,” and called the Board’s attention to that website and reminded them of the July 26 presentation at Stone Arch Village at 6:30 pm and then again Wednesday August 1 at Antioch University.

VII. New Business

VIII. Upcoming Dates of Interest – August 2018

Planning Board Meeting – August 27, 6:30 PM

Planning Board Steering Committee – August 14, 12:00 PM

Joint PB/PLD Committee – August 13, 6:30 PM

Planning Board Site Visits – August 22, 8:00 AM – To Be Confirmed

The meeting adjourned at 9:55 PM.

Respectfully submitted,

Krishni Pahl, Minute Taker

Reviewed by: Rhett Lamb, Planning Director and Mari Brunner, Planning Technician