

City of Keene
New Hampshire

PLANNING BOARD
MEETING MINUTES

Monday, January 27, 2020

6:30 PM

Council Chambers

Members Present:

Douglas Barrett, Chairman
Pamela Russell-Slack
Michael Burke
Mayor George Hansel
Andrew Weglinski
Tammy Adams, Alternate

Staff Present:

Rhett Lamb, ACM/Community Development Dir.
Tara Kessler, Senior Planner
Mari Brunner, Planner

Members Not Present:

Chris Cusack, Vice-Chair

I. Call to order – Roll Call

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

II. Minutes of Previous Meeting – November 25, 2019 Planning Board Meeting

A motion was made by Mayor George Hansel to accept the November 25, 2019 minutes. The motion was seconded by Pamela Russell-Slack and was unanimously approved.

III. Election of Chair

Chair Barrett stated that the election of Chairman and the third member to the Steering Committee will happen today; however, since the current Vice-Chairman Chris Cusack is away, he asked that the Board hold off on the election of Vice Chairman until the next meeting.

A motion was made by Mayor George Hansel to nominate Douglas Barrett as Chairman of the Board. The motion was seconded Pamela Russell-Slack.

A motion was made by Douglas Barrett to nominate Pamela Russell-Slack as the third member of the Steering Committee. The motion was seconded by Mayor George Hansel.

Both motions were unanimously approved.

IV. Adoption of 2020 Meeting Calendar

A motion was made by Mayor George Hansel to adopt the 2020 meeting calendar. The motion was seconded Pamela Russell-Slack and was unanimously approved.

V. Public Hearings

1. S-07-19 – Old Walpole Road – 9-Lot Subdivision – Applicant Brickstone Land Use Consultants, LLC, on behalf of owners Charles and Kathryn Kingsbury, proposes to subdivide the 13-acre parcel located at the intersection of Old Walpole Road and West Surry Road (TMP 220-012-009) into 9 lots. Eight of the proposed lots would vary in size from 0.26 to 0.41 acres. The remaining lot would be 10.33 acres with frontage on both Old Walpole Rd and NH Route 12A. The site is in the Low Density District.

Board Determination of Completeness

Planner Mari Brunner addressed the Board and stated the applicant has requested exemptions from providing a drainage report, a traffic report, and lighting plans as no development is proposed at this time. Staff recommends granting these exemptions and accepting the application as “complete.” A motion was made by Mayor George Hansel that the Board accept this application as complete. The motion was seconded by Pamela Russell-Slack and was unanimously approved.

Public Hearing

Mr. Jim Phippard of Brickstone Land Use Consultants addressed the Board. He referred to the existing conditions plan and the proposed property, which fronts on Old Walpole Road and West Surry Road (12A) and is 13.1 acres in size. He indicated the wetland area outlined in blue on the plan that is 4.55 acres in size, and noted that the remainder of the site is upland area. The majority of the site is wooded with an open field to the south.

Mr. Phippard went on to say this property is owned by the Kingsbury family. He stated that wetlands on the property have been delineated by a wetlands scientist. The lots surrounding the site are all small, single-family lots consistent with the Low Density district; the proposal is to continue that pattern on this lot. The proposal is to divide this parcel into nine lots; eight of the lots will be single-family lots that front along Old Walpole Road. City water and sewer exist at this location including a 12-inch water line and an 8-inch sewer line that leads into a 12-inch sewer line.

The south of the site will remain as an open field; the applicants will become owners of this 10.3-acre lot. They have indicated that they would like to erect a barn and move their farming operations from Alstead to Keene. The remaining eight lots will vary in size from .2 acres to .8 acres, and are consistent in size to other single-family lots in the area.

Mr. Phippard went on to say that there will be no wetland impact and the mandatory 30-foot wetland buffer will be maintained. This area cannot be disturbed without a Conditional Use Permit from the Planning Board. He noted there has been recent activity on the property because the applicant is clearing diseased trees and creating brush piles. He noted the applicant has no plan to clear-cut the area to the north; it will be used for farming purposes only.

Staff comments were next. Planner Mari Brunner stated, as the applicant has indicated, there is no plan to develop this parcel of land at this time – the proposal is to subdivide the parcel into eight smaller lots for sale to construct single-family homes and to retain the larger lot with the wetland area for the applicant’s use. She then went over the Planning Board standards that apply to this property.

Hillside Protection: Sec. III.C.6 of the Planning Board Site Plan and Subdivision Regulations states that, for all proposed subdivisions of parcels greater than fifteen acres in size, steep slopes are subtracted from the minimum lot size. The lot proposed to be subdivided is less than 15 acres in size. Hence, this standard does not pertain to this application.

Flooding: No part of this site is located in the floodway or floodplain, therefore this standard is not applicable.

Sewer and Water: This site has access to City sewer and water from Old Walpole Road. The applicant notes that there is adequate capacity in both the water and sewer system to provide service to eight additional single-family residences. Ms. Brunner noted this standard appears to be met.

Traffic: The applicant submitted a traffic generation report for the eight lots; however, the applicant later revised the application to subdivide into nine developable lots. Staff determined that the additional traffic generation from Lot 9 would not significantly increase the traffic generation estimates submitted by the applicant. In the project narrative, the Applicant states “the low volume of traffic generated by this proposal can be safely accommodated without reducing the safety or capacity at Old Walpole Road or at the roundabout at Maple Avenue and Rt. 12A.”

Comprehensive Access Management: There is an existing sidewalk on one side of Old Walpole Road (across from where the house lots are located) that connects to the sidewalk network on Court Street and Maple Avenue. In addition, this property is currently located along the bus route for the City Express Bus. No driveways are proposed at this time; however, City Engineering staff have determined that each of the proposed residential lots with frontage on Old Walpole Road could accommodate a future driveway. Engineering staff had a concern regarding driveway access to the larger lot, but this has been addressed with a note that has been added to the plan that states that the driveway has to be at least 200 feet from the roundabout.

Wetlands & Surface Waters: There is a 4.55-acre forested wetland present on Lot 9. However, the wetland buffer would not need to be crossed or otherwise disturbed in order to develop on the portion of the lot that is not within the Surface Water Protection Overlay District. This standard appears to be met.

Ms. Adams asked about zoning in Low Density regarding the number of lots as well as raising animals in this zone. Ms. Brunner stated all the lots meet the minimum lot size for this district. With reference to raising livestock and animals, she indicated this would be an issue raised when someone came forward with a specific request. Ms. Kessler added in the Low Density district noncommercial raising of farm animals is permitted.

Mr. Lamb stated staff worked with the applicant on the wetland buffer issue because there is a Surface Water Protection Overlay district that establishes a 30-foot buffer around the wetland, which in this case extends onto the rear of the eight lots because the edge of the wetland is the property boundary. As a result, the applicant agreed to put a note on the plan so future owners will understand there could be certain limitations as to how they use the rear of the lot.

The Chairman asked for public comments next. With no comments from the public, the Chairman closed the public hearing.

Board Discussion and Action

Mayor Hansel felt this was a thoughtful plan and provides opportunity for single-family homes. He also felt the plan respects the character of the area and keeping the field open maintains the rural nature of the area.

A motion was made by Mayor George Hansel that the Planning Board approve S-07-19 for a 9-lot subdivision of the parcel located at 0 Old Walpole Road (TMP #220-012-009) as shown on the plan identified as “Plan Showing Subdivision of Property of Charles O. Kingsbury, Kathryn L. Kingsbury” dated February 4, 2019, revised through December 18, 2019, and prepared by DiBernardo Associates, LLC at a scale of 1 inch = 60 feet with the following conditions prior to signature by Planning Board Chair:

1. Owner’s signature appears on plan.

The motion was seconded by Pamela Russell-Slack.

Ms. Brunner mentioned a letter submitted by Robert Nichols who is a direct abutter to Lot #1.

The motion made by Mayor Hansel was unanimously approved.

2. SWP-CUP-01-20 – Surface Water Protection Conditional Use Permit – Eversource Transmission Line Replacement, Various Locations – Applicant GZA GeoEnvironmental Inc., on behalf of Eversource Energy, proposes to replace 25 utility structures along a 4-mile section of the existing L163 Transmission Line from the North Keene Substation to the Sullivan, NH Town Line. The proposed project would affect 184,364 sf of the Surface Water Protection Buffer for temporary equipment access and work pad placement. The affected area is located in various zoning districts.

Board Determination of Completeness

Planner Mari Brunner recommended to the Board that the Application SPR-01-18 was complete. A motion was made by Mayor George Hansel that the Board accept this application as complete. The motion was seconded by Pamela Russell-Slack and was unanimously approved.

Public Hearing

Mr. Anthony Damiano of GZA Environmental, Jeremy Fennell and Leah Morton from Eversource Energy addressed the Board. Mr. Damiano stated this item is for an application for a structure replacement project with Eversource; GZA plays the role of consultant as well as oversight and permitting agent.

Mr. Damiano stated Eversource has 25 structures to replace in this calendar year, three of which are located in wetlands. He stated the proposed project is scheduled to start at Route 12, travel along Court Street and terminate at Ferry Brook Road, close to the Sullivan Town line.

Mr. Damiano explained the construction sequence for this project. The first step is the installation of erosion control measures, which will be in place for the duration of the project. They will install timber mats on all affected wetland areas. These mats create a 16-foot diameter

to enable equipment to travel over the wetland for structure replacement. Similar strategies are also in place in the upland areas. Mr. Damiano went on to say for the upland areas, access road enhancements are required to maintain safe equipment access. He indicated they are before the Board because they are requesting access roads within the Surface Water Overlay District and are seeking a Conditional Use Permit (CUP) to that end. He went on to say other Best Management Practices that will be put in place for this project installation are straw wattles that will be eight to ten inches in diameter. Silt fences will also be used in areas with steeper slopes. Once structure replacement is complete, the contractor initiates immediate removal of the timber mats.

As far as permitting, in addition to the CUP there are also temporary access driveway permits that are required. The applicant will be applying for those permits as well as any encumbrance permits that might be required. As far as State Wetland Permits, the applicant is also seeking a new permit for temporary wetland impacts.

Mr. Damiano stated they have already met with the Ashuelot River Advisory Commission. He noted this project is scheduled to begin construction in late spring, and will run from early May through the end of August. This concluded Mr. Damiano's presentation.

Mr. Weglinski clarified the mats will be in place from May through August. Mr. Damiano stated August would be the longest period of time the mats would be in place – in some areas when the work is done, the contractors would take them out. Mr. Weglinski asked whether DES looks over the areas once the mats are removed. Mr. Damiano stated DES is involved in the process prior to installation to discuss the project and they establish constraints that need to be followed. He added DES also reserves the right to check the work as it is happening.

Chair Barrett asked whether the wetland area will be disturbed all at one time or are portions restored before more areas are disturbed. Mr. Fennell stated most likely it will be done in stages and it will depend on how the contractors move forward. He further stated they are under constraints with reference to line outages and getting the lines up and running is important. He stated bad weather shortens their duration even further; their goal is to get the mats out as soon as possible as there is a monetary cost and environmental costs attached to leaving these mats down for long periods.

Mayor Hansel felt the access roads seem to be rather curvy and asked how the applicant makes sure the mats are laid down appropriately. Mr. Fennell stated there are landmarks the contractors will have that they work with.

Ms. Adams asked whether these new steel structures will need new footings and asked how tall they would be. Mr. Fennell stated they would be about five to ten feet taller than the current structures and the new structures are hollow in the middle and added they use gravel and not a concrete foundation.

Staff comments were next. Ms. Brunner noted the applicant is looking to replace 25 utility structures that are either damaged or structurally insufficient.

Ms. Brunner referred to Engineering comments received on this application, which have been addressed through notes on the plan or through conditions of approval.

She further stated that because this application crosses the wetland buffer area, per Section 102-1490 (b) of the City's Zoning Chapter, this project requires a Conditional Use Permit (CUP) issued by the Planning Board. Ms. Brunner then went over the CUP criteria listed in this section.

(a) The proposed use and/or activity cannot be located in a manner to avoid encroachment into the overlay district.

The applicant noted that many of the structures proposed cannot be easily accessed from the nearest access point. In order to access these areas, some travel through the Surface Water Protection Overlay District is required. The applicant also noted span requirements, which are required to meet electrical safety standards and restrict where structures can be placed. Wherever possible, the structures are being placed outside of wetlands and the Surface Water Protection Overlay District.

(b) Encroachment into the buffer zone has been minimized to the maximum extent possible, including reasonable modification of the scale or design of the proposed use.

The applicant states in the project narrative that alternative structure replacement locations and access routes were analyzed in order to minimize buffer impacts to the extent practicable; however, wetland impacts could not be completely avoided. Where possible, existing access roads and trails are utilized, and Best Management Practices will be implemented along work areas in the ROW to reduce potential effects to wetland areas.

(c) The nature, design, siting, and scale of the proposed use and the characteristics of the site including but not limited to topography, soils, vegetation, and habitat are such that when taken as a whole, will avoid the potential for adverse impacts to the surface water resource.

The applicant notes that existing access routes will be utilized, where possible, to minimize impacts to wetlands. Where temporary wetland impacts are proposed in order to provide access, the contractor will use wetland matting to minimize impacts. All disturbed wetland and upland areas will be re-graded to original contours following construction and seeded with an appropriate seed mix, as necessary.

(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.

The applicant proposes to restore access roads installed within the Surface Water Protection Overlay District by re-grading existing topsoil over the gravel roads and mulching/re-seeding to promote vegetation growth. Potential sedimentation and siltation impacts will be mitigated through the use of perimeter controls, including straw wattles/silt fencing, stabilized construction entrances, check dams, water bars, sediment traps, and restoration and mulching and re-seeding of disturbed soil within the project area. The applicant notes that the majority of the proposed impacts are temporary in nature; permanent impacts will be limited to small areas associated with the installation of utility structures themselves.

(e) With the exception of state permitted wetlands crossings, and in zoning districts listed in section 102-1493, a non-disturbance buffer zone shall be maintained to at least 30 feet from the delineated edge of the surface water.

The proposed project requires approval from the N.H. Department of Environmental Services for wetland crossings. Ms. Brunner noted this standard is not applicable.

- (f) In determining whether or not a conditional use permit should be granted, the planning board shall consider the following to determine whether allowing the proposed encroachment will result in an adverse impact on the surface water resource:*
- (1) The size, character, and quality of the surface water and the buffer being encroached upon.*
 - (2) The location and connectivity of the surface water in relation to other surface waters in the surrounding watershed.*
 - (3) The nature of the ecological and hydrological functions served by the surface water.*
 - (4) The nature of the topography, slopes, soils, and vegetation in the buffer that encompasses the surface water.*
 - (5) The role of the buffer in mitigating soil erosion, sediment and nutrient transport, groundwater recharge, flood storage, and flow dispersion.*
 - (6) The extent to which the buffer serves as wildlife habitat or travel corridor.*
 - (7) The rate, timing and volume of stormwater runoff and its potential to influence water quality associated with the affected surface water or any associated downstream surface waters.*
 - (8) The sensitivity of the surface water and the buffer to disruption from changes in the grade or plant and animal habitat (biotic structure) in the buffer zone.*

Ms. Brunner referred to page 19 of the Board's packet, which includes the applicant's narrative description of how they meet these criteria. She further stated the Conservation Commission did review this application at their January 21st meeting and made the following motion:

"Mr. Haynes moved to make the following recommendations to the Planning Board, which Mr. Bergman seconded and the Conservation Commission carried unanimously:

- (1) The Conservation Commission recommends postponing the work until the driest part of the year to minimize wetland impacts.*
- (2) The Conservation Commission recommends minimizing impacts to the existing road surface and vegetation conditions at the Old Gilsum Road access point.*
- (3) The Conservation Commission recommends requesting a preliminary depiction of where surface and vegetation modifications are anticipated on Old Gilsum Road, with an annotated map."*

Mr. Lamb noted two of the items under the Conservation Commission's motion has to do with access points. He stated the applicant did not describe how they were going to get to these right-of-ways – there is a point off Old Gilsum Road (Class VI road/trail). A mile of this road will be used and some clearing will need to be done. This is the best access for the applicant to access the structures, as the other end is steep. At the Conservation Commission, the importance of the character of this road and the importance of maintaining the same was discussed at length and this is the reason the Commission took the position they did.

Mr. Weglinski pointed out the drawings are not stamped by an engineer. Mr. Lamb stated this is a question for the applicant but added there is no permanent alteration to the wetlands or buffer. There are no structures being built hence an engineering stamp is not necessary. Ms. Brunner stated the plan does indicate the wetlands were delineated by an engineer.

Mr. Weglinski asked who will be reviewing this area after the applicant completes the work and who is going to be the City's representation? Mr. Lamb stated in this case, there is no format for

review and this is something the City will need to schedule to be completed. He added state agencies would be doing follow-up review of this work.

Chair Barrett noted a large area is going to be disturbed and wondered whether the State agency will return after a period of time to make sure the area remains stabilized. Mr. Lamb stated this was a good question and felt a condition that outlines a report of how well the erosion control systems are performing will be prudent.

Chair Barrett referred to the Commission's request for wanting to wait until driest part of the year. Mr. Lamb referred this question to the applicant and added the applicant had indicated they would like to complete the project within a certain time period because of their obligation to be able to shut down the lines for their customers for only a certain period of time.

Mr. Fennell stated they are required to stay within a certain schedule, as multiple lines cannot be taken down at the same time. The Chairman asked about the Conservation Commission's comments regarding access. Mr. Fennell stated they had looked at Old Gilsum Road and it looks to be in good shape but agreed some trimmings would need to be done at certain locations. He added that no widening of the roadway would be required. Even though this is a Class VI road, he felt it has been maintained and does have a solid foundation to it; the work that is required is minor. Mr. Damiano added electricity is maintained throughout the project.

Mr. Weglinski asked whether there is going to be a warranty required for this project for contractors to revisit the project area to make sure the work is established and the road does not further erode. Mr. Fennell stated their contracts are lengthy and contractors are required to return to the site to fix whatever needs to be addressed after project completion.

Ms. Adams asked how the applicant maintains plantings and ensures they remain low-growing. Mr. Fennell stated they have a mowing schedule to maintain low growth and added herbicides are not used on state or City routes.

The Chairman asked for public comments. With no comments from the public, the Chairman closed the public hearing.

Board Discussion and Action

Mr. Weglinski stated he understands this works needs to be done, but his concern is that the City implements some sort of language that someone observes whatever work is done after the mats are removed and vegetation gets re-established.

Mayor Hansel stated it was important to keep in mind that DES has strict regulations and stated he always saw this CUP process as means for the Planning Board and Conservation Commission to relay concerns to the applicant. He felt it is up to DES to place those conditions. He agreed those conditions would be for the wetlands, what is being discussed right now is the wetland buffer, and added Keene does not have the apparatus to visit every site and make sure the CUP conditions are being followed; he stated he has not seen this happen in the past. Mr. Weglinski stated what he was looking for was for someone from the City to make sure DES follows up on the work.

A motion was made by Mayor George Hansel that the Planning Board grant a waiver from Section 102-1490 (e) to allow disturbance within the 30-foot buffer zone and approve Conditional Use Permit SWP-CUP-2020-01 as shown on the plan set identified as “L163 Transmission Line 2020 Structure Replacement Project” prepared by GZA GeoEnvironmental Inc. at a scale of 1 inch = 200 feet and dated December 19, 2019, with the following conditions:

- a. Applicant obtains all necessary permits from the Department of Public Works, including Temporary Driveway permits for each access point from a public Right-of-Way (ROW), excavation permits for any ground disturbance within the public ROW or on City-owned property, and encumbrance permits for any vehicles, equipment, or materials to be staged or stored within the public ROW.
- b. Applicant submits to the Community Development Department documentation of all necessary permits and approvals from state and federal agencies, including but not limited to an approved Alteration of Terrain Permit, a Standard Dredge and Fill Permit, and Shoreland Permits by Notification from the N.H. Department of Environmental Services and a temporary driveway permit from the N.H. Department of Transportation.
- c. Comply with the recommendations of the Conservation Commission to minimize impacts to the existing road surface and vegetation conditions at the Old Gilsum Road access point and to submit to the Community Development Department a preliminary depiction of where surface and vegetation modifications are anticipated on Old Gilsum Road, with an annotated map.

The motion was seconded by Pamela Russell-Slack and was unanimously approved.

VI. Community Development Director Report

Overview of Administrative Approvals issued in 2019

Mr. Lamb stated there are about 30 items staff approved administratively in 2019 and staff brings these items to the Board’s attention so the Board is aware of what is being approved. He noted this is an attempt to respond to the development community more quickly; turnaround time is about a week. Mr. Lamb stated staff feels this is working and would like to see what the Board feels.

Ms. Russell-Slack felt this was a comprehensive list and noted how busy staff has been.

Mayor Hansel commended the projects related to solar panels and energy efficiency that made this list and staff’s attempt to expedite such projects. Mr. Lamb noted the City’s standard as it relates to solar are not clear and staff is trying to use its authority to approve these projects. However, as the installations get bigger staff will start to back off.

Capital Improvement Program (CIP)

Mr. Lamb stated the yearly review of the CIP is coming up and books will be available next week. Saturday, February 8th at 8:30 am is the date for this review and Planning Board members will be receiving an invitation to attend this presentation. At the next Planning Board meeting, there will be a presentation of the CIP by the Finance Director. The City Council public hearing on the CIP is during the first week of March. The tour of CIP projects will be scheduled to happen late February or early March.

VII. New Business

Discuss option of receiving Outlook meeting invitations

Ms. Kessler stated there was a request from the PLD Committee for members to receive invitations to the Joint Committee meeting dates on their Outlook calendar. Staff would like to extend that same invitation to Planning Board members. If there is interest, these invitations will be sent by email to Planning Board members' City email addresses. This would mean that Planning Board members would need to have a City email address. Members do not have to have an Outlook account to receive these invitations; however, if members have an Outlook email it will go directly into their calendars.

Mayor Hansel asked whether a calendar could be created just for the Planning Board and for Joint Meetings, and this can be connected to anyone's email. Staff will get back to the Board on this item.

VIII. Upcoming Dates of Interest – February 2020

CIP Presentation for Planning Board & City Council, February 8, 2020; 8:30–11:30 AM
Planning Board Steering Committee – February 11; 11:00 AM
Site Visits – February 19; 8:00 AM – To Be Confirmed
Planning Board Meeting – February 24; 6:30 PM
Joint PB/PLD Committee – March 9; 6:30 PM

The meeting adjourned at 7:55 pm.

Respectfully submitted,
Krishni Pahl, Minute Taker

Reviewed and edited by Mari Brunner, Planner