

**City of Keene  
New Hampshire**

**PLANNING BOARD  
MEETING MINUTES**

**Monday September 28, 2020**

**6:30 PM**

**Remote Meeting via Zoom**

**Members Present:**

Douglas Barrett, Chairman  
Christopher Cusack, Vice Chair  
Mayor George Hansel  
Councilor Michael Remy  
Michael Burke  
David Orgaz  
Pamela Russell Slack  
Andrew Weglinski  
Tammy Adams, Alternate

**Staff Present:**

Rhett Lamb, Asst. City  
Manager/Community Development  
Director  
Tara Kessler, Senior Planner  
Mari Brunner, Planner

**Members Not Present:**

Emily Lavigne Bernier, Alternate  
Gail Sommers

Chair Barrett began the meeting by reading the following statement with respect to holding remote meetings: *“In Emergency Order #12, issued by the Governor of the State of New Hampshire pursuant to Executive Order #2020-04, certain provisions of RSA 91-A regulating the operation of public body meetings have been waived during the declared COVID-19 State of Emergency.*

*Specifically:*

- *The requirement that a quorum of a public body be physically present except in an 18 emergency requiring immediate action under RSA 91-A:2, III(b);*
- *The requirement that each part of a meeting of a public body be audible or otherwise 20 discernible to the public at the location specified in the meeting notice as the location of the 21 meeting under RSA 91-A:2, III(c).*
- *Provided, however that the public body must:*
  - *Provide access to the meeting by telephone, with additional access possibilities by 24 video or other electronic means;*
  - *Provide public notice of the necessary information for accessing the meeting;*
  - *Provide a mechanism for the public to alert the public body during the meeting if 27 there are problems with access; and*
  - *Adjourn the meeting if the public is unable to access the meeting.*
- *All votes are to be taken by roll call.*

• *All board participants shall identify the location from where they are participating and who is present in the room with them.*”

Chair Barrett said the public may access the meeting online by visiting the Zoom website, [www.zoom.us/join](http://www.zoom.us/join), and entering the Meeting ID, which he stated. The Meeting ID also appeared on the Agenda for the meeting. The public can, listen, but not view, the meeting by calling the toll-free phone number (888) 475-4499 and entering the Meeting ID. He noted that if someone is unable to access the meeting, they should call 603-757-0622.

### **I. Call to order – Roll Call**

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

### **II. Minutes of Previous Meeting – August 24, 2020 Meeting**

David Orgaz offered the following correction:

Page 1, Line 12 – delete “1” from the word “public”

Page 4, Lines 82 and 83 – should read as ...“Wheelock Park access started in the late 60’s or early 70’s”

Page 11 – Lines 418 and 421 – correct spelling of “leech” to read as “leach”

Chair Barrett offered the following correction: Page 9 Chair Barrett’s comment should state “...*southern drive should be a restaurant...*”

A motion was made by Mayor George Hansel to accept the August 24, 2020 meeting minutes as amended. The motion was seconded by Councilor Michael Remy and was unanimously approved.

### **III. Waiver Request: Boundary Line Adjustment – Waiver Request – Old Walpole**

**Road – Applicant David Bergeron, on behalf of owners Warren & Arlie MacKenzie and Robert Casna, requests a waiver from Section III.C.5.b of the Planning Board Site Plan and Subdivision Regulations with respect to the requirement that an updated survey showing all metes and bounds shall be prepared as part of a boundary line adjustment. The properties are located at 0 Old Walpole Rd (TMP# 207-004-000) and 429 Old Walpole Rd (TMP# 210-023-000) in the Rural District.**

#### **A. Public Hearing**

Mr. David Bergeron addressed the Board and stated it is the requirement of the Planning Board that a boundary line adjustment have a metes and bounds survey completed. He noted the item before the Board is to request a waiver from metes and bounds survey for the 429 Old Walpole Road lot; 0 Old Walpole Road does have a survey which includes a metes and bounds. He explained the reason for the waiver is because of the configuration of the boundary line adjustment as well as the size of the lot (429 Old Walpole Road). Both lots are on the Keene/Surry town line. 0 Old Walpole Road does not have any frontage in Keene, and the 429 Old Walpole Road lot does have frontage in Keene at a few different locations and is a lot that has a home located on it.

Mr. Bergeron explained the driveway for 429 Old Walpole Road crosses 0 Old Walpole Road and then accesses Old Walpole Road. The proposed boundary line adjustment will take land from 0 Old Walpole Road and add it to 429 Old Walpole Road so that this driveway would be on its own lot. Both property owners are in favor of this adjustment.

Mr. Bergeron then went over the waiver criteria as follows:

a) *That granting the waiver will not be contrary to the spirit and intent of these Regulations;*

Mr. Bergeron stated after a boundary line adjustment, the intent would be to make sure each lot would meet the requirements for zoning. 429 Old Walpole Road is currently 43 acres in size and land is being added to it and it would hence meet the requirements for zoning. A metes and bounds survey was done on 0 Old Walpole Road, and that lot will also meet the requirements for zoning. Mr. Bergeron noted neither lot will become non-conforming and hence felt the spirit and intent of the regulations have been met.

b) *That granting the waiver will not increase the potential for creating adverse impacts to abutters, the community or the environment; and*

Mr. Bergeron felt this criteria is being met because this is what both abutters are wanting to do. The closest abutter has been notified and he is in favor of this boundary line adjustment. As a result, Mr. Bergeron did not feel there is any adverse impacts to abutters.

c) *That granting the waiver has not been shown to diminish the property values of abutting properties.*

Mr. Bergeron stated they do not see any property values being diminished, and thinks that it is more likely that Mr. Casna's property values will improve following the adjustment as his driveway would then be entirely on his property; whereas, his driveway is currently on the adjacent property.

d) *Consideration will also be given to whether strict conformity with the regulations or Development Standards would pose an unnecessary hardship to the applicant.*

Mr. Bergeron felt that not granting this waiver will cause a hardship because of the size of Mr. Casna's lot, and the cost survey it would be very expensive and in this case, unnecessary. The property owners feel it is a positive change for their properties.

The Chairman asked for staff comment. Ms. Brunner stated she does not have any additional comments but was open to questions from the Board.

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

### C. Board Discussion and Action

A motion was made by Mayor George Hansel that the Planning Board approve the request for a waiver from Section III.C.5.b of the Planning Board Site Plan and Subdivision Regulations with respect to the requirement that an updated survey showing

all metes and bounds be submitted as part of a boundary line adjustment application for the properties located at 0 Old Walpole Rd (TMP# 207-004-000) and 429 Old Walpole Rd (TMP# 210-023-000). The motion was seconded by Councilor Remy and was unanimously approved by roll call vote. Andrew Weglinski did not vote on this item due to technical issues.

**IV. Extension Request: SPR-05-19 – Colonial Theatre – 89 Main St – Site Plan –**

**Applicant Weller & Michal Architects, on behalf of owner Colonial Theatre Group Inc., requests a second extension of the 180-day conditional site plan approval timeframe. This conditional approval is for modifications to the main entrance and the construction of a 2,800 sf addition to the existing building. The site is 0.36-acres and is located in the Central Business District (TMP# 575-008-000).**

Mr. Tad Schrantz representing the Colonial Theater stated they are requesting one more extension for this application. He stated they are working very closely with the city to get some of the outstanding issues resolved. Due to what has been going on in the recent past, things have slowed down but work has begun again.

The Chairman asked for comments from staff on this item. Ms. Brunner referred to language in the Planning Board's regulations regarding granting of second extensions.

Chair Barrett stated he will vote in favor of this application

A motion was made by Mayor George Hansel that the Planning Board approve the request for a second 6-month extension to the timeframe to meet the conditions of approval for SPR-05-19, Colonial Theatre addition. The motion was seconded by Councilor Remy and was unanimously approved by roll call vote.

**V. Public Hearings:**

- 1. S-04-20, Subdivision – 366 Park Avenue – Applicant Cardinal Surveying & Land Planning, on behalf of owner Thomas Perreault, proposes to subdivide the 0.46-acre parcel located at 366 Park Ave (TMP# 539-049-000) into two 0.23-acre lots. The site is in the Low Density District.**

**A. Board Determination of Completeness.**

Planner Mari Brunner stated the applicant requests exemptions from providing a separate existing conditions plan, a grading plan, a lighting plan, and a landscaping plan as no development is proposed at this time. 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 Mayor George Hansel that the Board accept this application as complete. The motion was seconded by Councilor Michael Remy and was unanimously approved by roll call vote.

B. Public Hearing

Ms. Wendy Pelletier of Cardinal Survey & Land Planning addressed the Board and stated this is a 20,115 square foot lot on the corner of Park Avenue and Pinehurst Avenue. She noted the applicant, Thomas Perreault, also owns the abutting lot on Pinehurst Avenue. The property is in the Low Density zoning district, serviced by city water and sewer. The request is to subdivide the lot into two residential lots. The proposed lot has 86.46 feet of building frontage on Park Avenue and 199.9 feet of building frontage on Pinehurst Avenue, the remainder lot will have 108.6 feet of frontage.

Ms. Pelletier went on to say that no driveway has been identified yet, this would happen when someone purchases the property and is ready to build. This concluded Ms. Pelletier's comments.

Staff comments were next. Ms. Brunner stated this lot is a 10 minute walking distance from Keene High School and 12 minutes from Symonds School. It is located in the Low Density zoning district. There is a single-family home on the northern portion of the lot. This application is to subdivide the lot into 2 lots.

Ms. Brunner noted engineering staff did comment on this application. The City Engineer did indicate that a future driveway for Lot 2 may be required to be located off of Pinehurst Avenue in order to avoid conflicts with existing curb cuts on Park Avenue

Ms. Brunner then went over the Planning Board standards that are relevant to this application. There are no steep slopes present on this site and this property is not located in the 100-year floodplain.

As noted by the applicant, this site does have access to City sewer and water. Engineering staff did review the proposed subdivision plan, and did not identify any concerns with the capacity of the existing sewer and water lines in this location.

With reference to traffic, the increase in traffic volume from the addition of one single family home would not have a significant impact on the capacity or safety of existing city streets, bridges, and/or intersections.

With respect to Comprehensive Access Management, this site is located in an area where there are many options to get around. It is located across the street from a sidewalk on Park Avenue and along a City Express Bus Route. In addition, upgrades to the existing pedestrian infrastructure and the construction of new bicycle facilities are planned as part of a larger project to enhance bicycle and pedestrian safety along Park Avenue.

Engineering staff reviewed this application and noted that a future driveway for Lot 2 may be required to be located off of Pinehurst Avenue.

There are no wetlands or surface waters present on this site. This concluded staff comments.

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

C. Board Discussion and Action

A motion was made by Mayor George Hansel that the Planning Board approve S-04-20 for a 2-lot subdivision of the parcel located at 366 Park Avenue, as shown on the plan identified as “2 Lot Subdivision, Lot 539-049-00, 366 Park Avenue, Keene, NH 03431” prepared by Cardinal Surveying & Land Planning at a scale of 1 inch = 20 feet, dated August 20, 2020 and last revised on September 12, 2020 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 and was unanimously approved by roll call vote.

**2. S-05-20, Subdivision – 173 Wyman Road – Applicant David Borden, on behalf of owner, Bruce L. & Phyllis R. Borden Revocable Trust, proposes to subdivide the 26.5-acre parcel located at 173 Wyman Road (TMP #210- 048-000) into a 3-acre lot and a 23.5-acre lot. A waiver is requested from Section III.C.6.b of the Planning Board Site Plan and Subdivision Regulations regarding Hillside Protection. The site is located in the Rural District.**

A. Board Determination of Completeness.

Planner Mari Brunner stated the applicant requests exemptions from providing a grading plan, landscaping plan, lighting plan, visual and architectural details, and technical reports as no development is proposed at this time. Staff has determined that the requested exemptions would have no bearing on the merits of this application and recommend accepting this application as complete.

A motion was made by Mayor George Hansel that the Board accept this application as complete. The motion was seconded by Councilor Michael Remy and was unanimously approved by roll call vote, with Andrew Weglinski not participating in the vote.

B. Public Hearing

Mr. Thomas Borden of People’s Linen addressed the Board. Mr. Borden with reference to a plan noted to Abbot Road and Wyman Road. He also referred to an existing conditions plan and proposed conditions plan. The proposal is to leave the existing house on the north end by Abbot Road on a  $\frac{3}{4}$  acre lot and leave the remainder of the lot as a building lot. Mr. Borden referred to a topographical map. He noted a map prepared by the City Engineer and noted the area shown in green which the engineer identified as a probable location for a house after considering steep slopes, wetlands, and setbacks.

Mr. Borden then reviewed the waiver criteria as follows – he noted the waiver exemption they are looking for is from the requirement in Section III.C.6.b of the Planning Board Regulations that prohibitive slopes and 50% of precautionary slopes be excluded from the calculation of minimum lot size.

*a) That granting the waiver will not be contrary to the spirit and intent of these Regulations;*

Mr. Borden stated the spirit and intent of the Hillside Protection Ordinance is to protect the ecological and scenic resources from adverse impacts of development. Developing a single family home on a 23.5 acre lot would have very little impact. He added because most of this lot is forested, wetland and unbuildable the future owners would likely hold it in current use to lower their taxes and for it to be a supportive corridor for wildlife. He also added that constructing a home in the upland area would not impact the scenic view of Wyman Road

*b) That granting the waiver will not increase the potential for creating adverse impacts to abutters, the community or the environment;*

The construction of the home will not create adverse impact because the size of the driveway will be relatively short and any runoff would travel southward into the wetland and not to any abutter lots. Silt fencing will be located to prevent any sediment from entering the wetland during construction.

*c) That granting the waiver has not been shown to diminish the property values of abutting properties.*

The reason property values will not be diminished is because this will allow for a building lot with many attractive features which could increase abutting property values.

*d) Consideration will also be given to whether strict conformity with the regulations or Development Standards would pose an unnecessary hardship to the applicant.*

Without this waiver this large lot will become unbuildable. The six plus acres would be able to hold one home with very little impact. The runoff caused from a driveway would not impact any of the abutters. Mr. Borden referred to the septic design created by Carl Hagstrom which notes that the site visit and soil survey confirms this lot is a building lot per NH Department of Environmental Services Regulations.

Mr. Borden then went on to refer to a 100-year flood map which shows if there is any impact it would be in the hayfield area. He noted to another slide and noted to two flat areas (upper portion and lower right) but noted whoever develops the site will have to apply for a driveway permit and satisfy conditions that it would not impact abutters. This concluded Mr. Borden's presentation.

Staff presentation was next. Ms. Brunner addressed the Board and stated this is a property historically known as the Borden Farm property, 26.5-acres in size and is bordered by Hillside Village to the south, Wyman Road to the west, Abbott Road to the north, and residential properties to the east. There is a separate, 5.2-acre parcel of land associated with this property, referred to as the "Meadow Lot". The Meadow Lot was historically

considered part of the Borden Farm property; however, when this land was surveyed in 2019 it was discovered that the Meadow Lot is separate. Starting in 2021, the 5.2-acre meadow lot will have a separate tax map parcel number. This 5.2-acre lot would not be impacted by this proposed subdivision.

Ms. Brunner went on to say the proposed lot has an existing single family home on the north section property, has driveway access on both Wyman Road and Abbott Road. The applicant is proposing to subdivide this lot into a 3 acre lot and a 23.5 acre lot. This property is in the Rural District where a minimum lot size of five acres is required. The applicant received a variance from the Zoning Board of Adjustment to permit a three acre lot with 2.85 acres of upland and 0.15 acres of delineated wetlands, where five acres are required per Section 102-791 of the Zoning Ordinance.

The applicant is requesting a waiver from Section III.C.6.b of the Planning Board Site Plan and Subdivision Regulations which states “Except for Conservation Residential Development Subdivisions, for all proposed subdivisions of parcels greater than fifteen (15) acres in size, land areas meeting the definition of a prohibitive slope (25% or greater) shall be excluded in the calculation of minimum lot size for each new lot.” It further states 50% percent of land areas meeting the definition of a precautionary slope (between 15% and 25%) shall be excluded in the calculation of minimum lot size.”

The applicant submitted a written waiver request, which is attached to the staff report. The City Engineer did perform a slope analysis which was referred to previously, and the Engineer has indicated it would be possible to construct a home and driveway while complying with the city’s driveway standards and the spirit of the hillside protection ordinance. He did indicate the 23.5 acre lot would require its own driveway permit and this application shall include a detailed grading plan based on a topographic survey done by a licensed surveyor or civil engineer and will also include proper management of storm water, including but not limited to drainage swales, cross culvert, stone check dams.

Ms. Brunner went on to say that this property is not located in the 100-year floodplain.

There are no existing city water or sewer services available for this site. However, no development is proposed at this time; but future development on the 23.5-acre lot may require the installation of a septic system and/or well.

With respect to traffic, the increase in traffic from the addition of one single family home would not have a significant impact on the capacity or safety of existing city streets, bridges, and/or intersections.

This parcel is located in a rural area of the City. There are no changes being proposed to the location of the existing driveway on the proposed 3-acre lot, and the applicant does not propose to install a driveway on the proposed 23.5-acre lot at this time. There is a note included in the plan that the 23.5 acre lot would require its own driveway permit in the future.



With respect to wetlands, there are wetlands present on both the proposed 3-acre lot with the existing house which has 0.15- acres of wetland and the proposed 23.5-acre lot has less than 17.4 acres of wetland. The applicant had a wetlands scientist delineate some of the wetlands to show that there was at least five acres of uplands. There is at least 6.1 acres of land outside the wetland area. The proposed subdivision plan shows that future work within the 75-foot wetland buffer would need to comply with the city's surface water protection ordinance.

The Chairman asked for public comment next.

Mr. Walter Mess of 95 Wyman Road (Hillside Village) addressed the Board first. Mr. Mess noted residents of Hillside Village look out their windows at this property and have enjoyed the view. He referred to the Meadow Lot which he indicated borders their lot. He referred to the Descriptive Narrative which talks about 173 Wyman Road including 31.7 acres, of which 5.2 acres is a haying field. Mr. Mess asked whether the sale would also include the 5.2 acre haying field which is not contiguous. He noted this field is of great value to Hillside Village because of the wildlife it attracts.

Mr. Borden responded by saying the sale includes the Meadow Lot and felt because the 5.2 is a wetland area, it is not something that could be built upon. He suggested perhaps Hillside Village might want to purchase this field and stated the applicant would entertain such a proposal. He added until recently when a survey was done this field was considered to be part of the property. The Chairman clarified with staff what was just stated. Ms. Brunner agreed and added the assessing maps are updated every April 1 and this is when this change will be made regarding the hay field being a separate property. Chair Barrett noted the Board's decision regarding the subdivision does not affect the hay field. Ms. Brunner stated this is a separate parcel and has been assigned its own tax map number.

Mr. Mess clarified the 5.2 acre parcel is not part of today's discussion and will not be part of the subdivision. The Chairman agreed and added it seems like the 5.2 acre parcel may be sold as a separate parcel but it is not part of this application. With no further comments, the Chairman closed the public hearing. The Chairman felt the applicant went over the waiver criteria well. The Mayor agreed and added it helps when the applicant reviews the criteria one at a time.

#### C. Board Discussion and Action

A motion was made by Mayor George Hansel that the Board approve S-05-20, including granting a waiver from Section III.C.6.b of the Planning Board Site Plan and Subdivision Regulations, for a 2-lot subdivision of the property located at 173 Wyman Road (TMP# 210-048-000) as shown on the plan identified as "Subdivision Proposal Plan of the Bruce L. Borden and Phyllis R. Borden Revocable Trust" prepared by Edward C. Goodrich, Jr. at a scale of 1 inch = 100 feet, dated November 18, 2019 and last revised on September 10, 2020, with the following conditions prior to signature by Planning Board chair:

1. Addition of a note to the subdivision plan which states “Any future work shall comply with the City’s Hillside Protection Ordinance and may require a conditional use permit from the Planning Board.”
2. Addition of a note to the subdivision plan which states “A driveway permit will need to be obtained from the City of Keene Department of Public Works for the 23.5 acre lot. Application for such a driveway shall include a detailed grading plan based on a topographic survey performed by a licensed surveyor or civil engineer, and shall include appropriate measures for the management of storm water.”
3. Owner’s signature appears on plan.

The motion was seconded by Pamela Russell Slack and was unanimously approved by roll call vote.

The motion was seconded by Councilor Michael Remy and was unanimously approved by roll call vote.

## **VI. Community Development Director Report**

Ms. Kessler stated the draft development code will be submitted to City Council on October 15 to begin the adoption process. She noted that staff have been working to organize some form of in person listening session during the public workshop phase and that they anticipate these sessions would be held on December 14 and February 8<sup>th</sup>. The first public workshop on the land development code ordinance will be scheduled for November 9, with the second taking place on November 16. There would be public workshops on January 11, January 19, and March 8 meetings.

She went on to say the need to accelerate this schedule as was requested earlier by Hundred Nights is no longer required as they have been able to obtain a variance to locate a shelter on property on Water Street.

Ms. Brunner addressed the Board next. In January 2019 the Council adopted renewable goals for the city. The first goal is to obtain 100% of the city’s electricity from renewable energy by 2030. The second goal is to source all of the energy used for transportation, heating and cooling by 2050 – this is not just for municipal operation. Staff has been working with the City’s climate committee and an energy plan for the past year and a half. The draft plan is going to be unveiled by October 20 and a community forum being planned to be conducted via zoom from 6 pm to 8 pm.

## **VII. New Business**

### **VII. Upcoming Dates of Interest** –

- Planning Board Steering Committee – October 13, 11:00 AM
- Planning Board Site Visits – October 21, 8:00 AM – To Be Confirmed
- Planning Board Meeting – October 26, 6:30 PM

The meeting adjourned at 7:50 PM.

PB Meeting Minutes  
September 28, 2020

ADOPTED

Respectfully submitted,  
Krishni Pahl, Minute Taker

Reviewed and edited by: Tara Kessler, Senior Planner