

City of Keene
New Hampshire

PLANNING BOARD
MEETING MINUTES

Monday January 25, 2021

6:30 PM

Remote Meeting via Zoom

Members Present:

Pamela Russell Slack, Chair
David Orgaz, Vice Chair
Mayor George Hansel
Councilor Michael Remy
Gail Somers
Roberta Mastrogiovanni

Staff Present:

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

Members Not Present:

Tammy Adams, Alternate
Andrew Weglinski
Emily Lavigne-Bernier

I. Call to Order – Roll Call

Mayor Hansel 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.*

A roll call was taken next.

II. Election of Planning Board Chair and Vice Chair

A motion was made by Councilor Michael Remy to nominate Pamela Russell Slack as Chair of the Planning Board.

The motion was seconded by David Orgaz.

A motion was made by Councilor Michael Remy to nominate David Orgaz as Vice-Chair of the Planning Board.

The motion was seconded by Pamela Russell Slack.

Both positions were unanimously approved by roll call vote.

III. Minutes of previous meeting – December 21, 2020

A motion was made by Mayor George Hansel to accept the December 21, 2020 meeting minutes. The motion was seconded by Councilor Remy and was unanimously approved by roll call vote.

IV. Public Hearings:

SPR-04-20 – Site Plan – Group Home, 169 Church Street – Applicant Timothy Sampson, on behalf of owner Boisvert Construction of Winchester LLC, proposes to construct a 5,690-sf two-story, duplex-style group home with a habitable attic and a maximum occupancy of 24 people on the vacant lot located at 169 Church Street (TMP# 574-027-000). The site is 0.58 acres in size and is located in the High Density District.

A. Board Determination of Completeness

Planner Mari Brunner stated the applicant has requested exemptions from providing a grading plan, a separate landscaping plan, a lighting plan, a drainage report, a soils report, and a traffic report. Staff recommends that the board grant these exemptions and 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

Tim Sampson of Sampson Architects addressed the Board on behalf of the applicant. Mr. Sampson stated this application meets all setback requirements and that the proposed use is allowed. He noted the applicant is trying to not exceed what was previously on this site with respect to impervious surface and setbacks. The footprint of this building is going to be more compact and the overall amount of impervious surface will be less than what was on this site previously, which is the reason for the request for exemptions from having to provide a drainage plan or a grading plan.

Mr. Sampson referred to an image of the site plan and explained the proposal is to maintain the existing curb cut and construct the building in the same location as the previous building, which will keep the development as far away from the brook as possible.

Mr. Sampson referred to the existing driveway and parking spaces and also referred to the ADA ramp which provides access to the two entrances on the east side of the building. Five parallel parking spots are being proposed. At the end of the parking area there will be the dumpster with an enclosure.

There will be planting areas around the building. Mr. Sampson stated nothing specific has been chosen yet and added the applicant's plan is to be as consistent as possible with the adjacent properties.

Mr. Sampson referred to a plan that shows the building-mounted light fixtures which will be full cut off fixtures.

With respect to the building materials, Mr. Sampson said that two different types of grey vinyl siding are proposed for the siding, dark asphalt shingles will be used for the roofing material, and the windows will be trimmed in white with black shutters.

Next, Mr. Sampson referred to the Floor Plans for the building, which is proposed to be a two unit group home. For each unit, there will be an ADA compatible bedroom on the first floor of this building, open living space, a handicap accessible bathroom, and laundry area. There is also a small storage area on the south end of the building which can only be accessed from the outside. There is no basement, except for space under the stairway for mechanical equipment. On the second floor, there will be three bedrooms and two bathrooms on each side, and in the habitable attic there will be two bedrooms with some storage space. Overall, there will be six bedrooms in each unit, or 12 bedrooms total.

This concluded Mr. Sampson's presentation.

Staff comments were next. Ms. Brunner stated this site was the location of a multi-family home which burned down in 2017. The damaged building was removed but the foundation remains. This site is within the floodway for Beaver Brook. The proposal is to construct a 5,690 square foot group home with a habitable attic for 24 person occupancy.

The applicant proposes to use the existing curb cut and pavement and will be providing five parking spaces. Per Sec. 102-977, the zoning administrator has determined the proposed number of parking spaces is adequate for this use.

With reference to departmental comments, code enforcement staff noted that a floodplain development permit will be required as part of the building permit for the new building and an elevation certificate will be required prior to issuance of a certificate of occupancy for the building. In addition, the engineering office wanted to make sure the applicant was aware a separate water connection will be required for the sprinkler system and an excavation permit will be required for any utility connections in the public right-of-way.

With respect to drainage, the area of the building is slightly smaller (230 square feet smaller) than the previous structure, and hence the impervious area is decreasing and the applicant has indicated there will be no increase to volume or velocity of runoff.

The applicant is proposing to install silt fencing along the rear of the site adjacent to Beaver Brook to prevent sediment or silt from entering the water body. There are no steep slopes present on the site. Snow will be stored at the end of the driveway on either side of the proposed dumpster.

With respect to flooding, the applicant states that the building will be constructed one foot above the flood elevation mark in accordance with FEMA regulations. In addition, a Floodplain Development Permit and an elevation certificate will be required prior to the issuance of a certificate of occupancy for the building.

As indicated by the applicant, there are three landscape beds proposed, including a 4-ft wide landscape buffer that wraps around the north end of the building, a 2-ft landscape buffer along a portion of the west side of the building, and a planting area along the south end of the east building façade. Staff recommend that the Board include a condition of approval to require that the number and type of plantings proposed for these planting beds be specified on the site plan.

The dumpster is proposed to be screened from view with a wood fence that is a minimum of six feet tall. In addition, an HVAC unit is proposed on the west side of the building on a 4-ft by 4-ft concrete pad. This unit is located toward the rear of the building and is screened from view from the street by a section of the building.

The applicant proposes to install nine wall-mounted lights, including four on the east façade facing the driveway and parking area, two on the rear of the building, and three on the west side of the building. In addition, the applicant proposes to install two lights affixed to a pole at the rear of the building to illuminate the parking area. All proposed light fixtures are full cut-off LED fixtures that will be placed on timers. All lights will be mounted at a height of 10-ft or less, and will be located a minimum of 25-ft from the property line. Staff feels this standard has been met since it is unlikely the light levels will cross the property line.

The applicant proposes to utilize existing sewer and water connections that were used for the previous structure on the site.

With respect to Traffic, the applicant states in the project narrative that traffic generation will not increase relative to the previous use, which was a multi-family residential building with six units. According the parking narrative submitted by the owner, only two residents will be allowed to have a personal motor vehicle while residing at this location; no other residents will be allowed to park on the site or on the street. Residents without a car will use public transportation, carpooling, bicycling, and walking to meet their transportation needs. After reviewing the parking narrative, staff have determined that the proposed use is not expected to result in an increase in traffic generation to the site relative to the previous use. Staff recommends that the Planning Board consider including a condition of approval which states that any future change in the use or operation of the site will require review by the Community Development Department to ensure the proposed changes are in compliance with City's minimum parking requirements for off-street parking.

The applicant is proposing to provide five parallel parking spaces: two for residents, two for guests, and one van-accessible space to meet ADA requirements. These parking spaces are proposed to be located along the left side of the driveway. Staff did question how vehicles will safely navigate into these parallel spaces. According to the owner, the

plan is to have people pull in and then turn around to park facing the street. Ms. Brunner noted staff does have a concern with how vehicles will safely navigate into these parallel spaces given their placement on the lot, lack of turnaround area and the close spacing between spaces. In addition, in order to prevent residents from parking on the grass at the end of the driveway, staff recommends that a fence or other barrier be installed at the end of the driveway as a condition of approval. The owner is in agreement with this suggestion.

With respect to bicycle parking, a bicycle rack is proposed near the main entrance. This standard appears to be met.

Regarding Comprehensive Access Management, the applicant is proposing to use the existing curb cut. However, they are proposing to install a concrete walkway that will connect the main entrance of the building to the City sidewalk and a bicycle rack to accommodate foot and bike traffic.

With respect to Filling and Excavation, the applicant has noted that the proposed structure will utilize the existing foundation for the previous structure to the extent possible. Any fill on the site would be subject to the City's compensatory storage requirements through the floodplain Development Permit process. In order to ensure that any stockpiled materials are appropriately handled, staff recommend that a note be added to the plan that states "All erosion and sediment control measures shall comply with the standards and practices contained in the most recent version of the New Hampshire Department of Environmental Services NH Stormwater Manual." This is a requirement in the Board's development standards.

There are no wetlands present on or near the site; however, the south end of this property abuts Beaver Brook. The applicant has included the 30-ft. surface water protection buffer on the proposed site plan. No work is proposed within the buffer; this standard appears to be met.

This concluded the staff presentation.

Chair Russell Slack asked whether there is any impact from the lighting onto adjacent properties. Ms. Brunner stated the lights being proposed are full cut off fixtures and will be located on the sides and rear of the building. The one that is closest to the property line is about 25 feet away from the parcel boundary. She noted the applicant did request an exemption from having to provide a lighting plan but because of the location of the lights, staff felt it will be unlikely that any of the light will reach the property line. With respect to parking, the Chair asked where staff parking will be located. Ms. Brunner stated the owner is present tonight and this might be a question that should probably be referred to Ms. Boisvert, but indicated staff's understanding is there is going to be one or more live-in peer managers who are residents who are further along in their recovery. In addition, the owner will be checking in from time to time.

Mayor Hansel asked how the policy with only permitting two residents to have vehicles will be memorialized. Ms. Brunner stated the applicant had to submit a parking narrative as part of their requirements to meet zoning. Section 102-977 in zoning code gives the zoning administrator flexibility to determine what the adequate parking would be for this use. In this instance, the zoning administrator asked for a signed parking narrative and made a determination based on that narrative. This is a reason for the condition of approval, in case the operation of this site should change in the future or there should be a change in ownership. The Mayor suggested adding this item into the motion so it will be clear in the future, should there ever be any issue.

Vice-Chair Orgaz said that, with respect to parking, whether there was adequate turnaround space for vehicles to face parking the street and asked and how this is going to be enforced. Ms. Brunner agreed the space is rather tight for turning around and asked that this question be referred to the owner. Suzanne Boisvert responded by saying she wanted to keep the existing parking format and when residents come in, parking will be on a first come first serve basis; no one will be allowed to bring a car on to the property unless they got permission first. Residents will be required to car pool, travel by bicycles or walk to places. She added the mechanism to turnaround, those instructions will be outlined when someone obtains permission to use the premises.

Chair Russell Slack asked for public comment next. Ms. Kessler noted the department received a letter from a resident this evening.

Jane Taylor of 24 Birch Street, Keene addressed the Board. She indicated she was opposed to this application and said the Site Plan and Subdivision Regulations aim to protect natural systems, including ground water, surface water etc. She felt approving this site plan application will negatively impact these natural systems and be contrary to orderly development.

Ms. Taylor indicated her comments are not related to whether this location is appropriate for a group home, but rather they are about building a structure that is 100% in the Beaver Brook Floodway. She noted that even though construction in the floodway is allowed under City ordinances, the water still has to go somewhere. She referred to a 2004 Beaver Brook Restoration Study which recommends that, if property along Beaver Brook was to become vacant, it should be acquired and retained by the City. The City Hazard Mitigation Plan refers to numerous problems and considers this to be a high hazard area and all the remediation efforts have been deferred. The Pat Russell Park design includes numerous references to the Beaver Brook flooding issues. The City's Capital Improvement Plan refers to the more intense rain events and the need to develop a flood management plan for Beaver Brook, which won't be funded until 2024. Ms. Taylor felt the problems that have been identified have been either ignored, postponed or shelved.

With reference to this application, Ms. Taylor stated in the narrative the applicant notes there will be no changes to storm water, drainage or erosion plans for the property. But neither the application nor the staff report indicates the dates of these plans, whether they

have been updated, or whether they take into consideration these storm patterns or increase to storm water flow.

Ms. Taylor noted the applicant refers to ten parking spaces in the application, the staff report refers to six and the discussion tonight refers to five. She hoped the Board could address these discrepancies and added that visitor parking has not been addressed.

With reference to snow storage, even though the area is at a considerable distance from the brook, Ms. Taylor felt debris and salt will end up in the brook when the snow melts. Because of the documented flooding in this area, she noted the proposed building seems to be offset from the existing slab and wasn't sure if the old slab was going to be removed and if it is not, there is likely going to be an increase to impervious surface. She did not feel the calculation for impervious surface was correct.

Ms. Taylor questioned where compensatory storage was going to be provided. She also noted the existing parking area is deteriorated. She also questioned the number of parking spaces.

In conclusion, Ms. Taylor felt the redevelopment of this property contradicts the City's studies and policies regarding the Beaver Brook Corridor. Ms. Taylor felt, with this application there seems to be quite a number of answered questions.

Chair Russell Slack asked Mr. Sampson to respond to Ms. Taylor's comments. Mr. Sampson stated the calculation for impervious surface was correct. As far as the foundation, he stated it is doubtful that what exists is usable. The slab that exists on site from a previous garage will be removed.

He went on to say the applicant is doing all they can to limit the amount of development and reduce the amount of impervious surface. He added there might be opportunity to use porous surface versus concrete for the walkway area but stated he did not want to speak for the applicant. Mr. Sampson pointed out this development is no closer to the brook compared to what existed and they are making no change to the drainage pattern as compared to what existed prior. He indicated his office is close to this site and has seen the brook get full, but in 12 years has only seen it reach the top of the wall on one occasion.

Mr. Lamb also added to the concerns raised by saying after this property burned, it was abandoned by the prior owner and was acquired by the bank. He recalled when his department was contacted because a portion of the roof had blown off. The city at that time paid to demolish the structure and ultimately sought repayment from the bank. Even though the city might have had some interest in purchasing the property, it has now been purchased by someone else.

With reference to flooding, Mr. Lamb stated the new building is going to sit pretty much on the same footprint as the existing building. He indicated even though there might have

been some floodplain impact because of the existing building, there is not going to be any increase to floodplain impact from the proposed building.

Mayor Hansel noted the scope of what the Board can look at with respect to standards during a site plan review is pretty limited. The Mayor asked staff or the applicant to review the snow storage plan to make sure there is enough space for snow storage. The Mayor also asked for confirmation that the impermeable surface meets the Board standards.

Ms. Brunner responded by first addressing the number of parking spaces that was raised earlier – during the first iteration of the project, the applicant was proposing 10 spaces as stated in the initial project narrative, but later on decided to reduced it five spaces. This is reflected in the parking narrative that was attached to the project narrative in the agenda packet.

With respect to snow storage, the applicant is proposing to store snow at the end of the driveway, which she indicated does drain toward Beaver Brook but the driveway is set pretty far back from the brook. With respect to impervious surface, staff relied on the calculations provided by the applicant, which appear to be correct. She noted the applicant is removing some existing impervious surface from the site but is adding some as well in other areas (surface under the HVAC units, surface under the dumpster). She further stated the prior structure extended further toward the road, but this structure is smaller and felt in the end the impervious surface is less.

Chair Russell read the following email for the record:

Several environmental studies were done about the land within the impact area of the Beaver Brook. This Brook is noted for its flooding on the East side 169 Church Street is nearly ground Zero for the over flow.

Building here within this impact zone would involve ignoring at least the following studies: The 2004 Beaver Street Restoration Plan and the 2009 Beaver Brook Corridor Study. Additionally construction here as proposed without much lot enhancement by way of added fill to bring the area high enough so the house will not flood, is against the city of Keene building codes.

The addition of fill to the needed level would require mitigation studies for all adjacent properties where the water would then go. I expect those have not been done. I expect neighbors would be severely monetarily impacted by the resulting floods. Building policy that allows the property of neighbors to have adverse impact is not good policy.

The entire prospect of building upon this environmentally sensitive area and not respecting the many studies and in place zoning, makes the studies a waste of money and time, and the zoning regulations is not logically explainable.

It is up to the City Council to uphold zoning regulations and insist that the zoning be based upon sound scientific studies. My hope is that the environmental studies will not be

ignored, and that sound zoning policy is followed. That is the job of our elected councilors, no matter what good attributes the proposed structure may have.

Thank you for your time, and for evaluating this most carefully.

*Mary Arnott
44 East Surry Rd,
Keene NH 03431*

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

C. Board Discussion and Action

A motion was made by Mayor George Hansel that the Planning Board approve SPR-04-20 for the construction of a 5,690-sf two-story group home with a habitable attic on the property located at 169 Church Street (TMP# 574-027-000), as depicted on the plan set identified as “Proposed Building, 169 Church Street, Keene, NH 03431” prepared by Sampson Architects at a scale of 1 inch = 16 feet and dated December 17, 2020 and last revised on January 11, 2021 with the following conditions:

1. Prior to signature by Planning Board chair:
 - A. Submittal of a revised site plan that includes the following:
 - i. A note which states “All erosion and sediment control measures shall comply with the standards and practices contained in the most recent version of the New Hampshire Department of Environmental Services NH Storm water Manual.”
 - ii. A fence or other barrier at the southern-most end of the parking area to prevent parking on the grass.
 - iii. A table noting the number and type of plantings proposed for the three landscape beds surrounding the proposed building.
 - B. Owner’s signature appears on plan.
2. Any change in use or operation of the property will require review by the Community Development Director and Zoning Administrator to ensure the proposed changes are in compliance with City’s minimum off-street parking requirements.

The motion was seconded by Councilor Michael Remy.

Mayor Hansel stated the proposed motion does address the concern he had raised about parking. He further stated he did not want to be dismissive of the concerns raised, some did apply to the standards, but some were outside of the scope of what the Board could

review; he wanted to acknowledge these comments were important even though those comments are not under the purview of Planning Board.

The motion was unanimously approved by roll call vote.

V. Community Development Director Report

Overview of Administrative Approvals Issued in 2020

Mr. Lamb stated the Community Development Department receives a significant amount of requests for administrative approvals, which is an authority granted to the Community Development Director under the Planning Board standards. These are projects that received site plan approval from the Board but now are looking at a modification. These are modifications which could be because of changes made on the field during construction. These approvals could also be for smaller projects that don't rise to the level of Planning Board approval; mostly for commercial settings for exterior modifications, changes to landscaping, etc. There are many times when staff will contact the Chair to make sure an item does not have to come before the Board for review.

Mr. Lamb stated today there are 18 projects from the start of 2020. Mr. Lamb went on to say staff tries to use this authority to serve the community because in many cases these projects don't require the extensive review and public hearing process.

Mayor Hansel noted that once the Land Use Code update gets adopted there might be different items that could qualify for administrative approval and asked whether staff will be updating the Board once the adoption goes through. Mr. Lamb agreed this process is changing and noted there is a Site Review Committee that is proposed to take over a portion of the existing administrative approvals as well as some portion of the Planning Board's tasks with reference to site plan reviews because the thresholds are going up. However, there would still be an administrative review process primarily focused around amendments to Board-reviewed site plans that require minor changes.

Mr. Lamb went on to say the New England Chapter of the American Planning Association has an online webinar which is open to professional planners, Planning Board members and citizens. There are two sessions, including on February 11 from 1 – 2:30 pm on Architectural Review and Regulations. The second session is on March 11 at the same time with a topic of "Main Street After Covid-19." Professionals from New England will be presenting.

Ms. Somers asked whether administrative approvals were different in volume or type of requests this year compared to prior years. Mr. Lamb felt the number was lower this year but the type of request has been consistent. He noted requests for HVAC installation is something the department is seeing more and more of. Mr. Lamb acknowledged the work of Megan Fortson in the department who has taken on more of this work.

VI. New Business

The Chair explained this item is in reference to anything a Board member might want to see at the next meeting.

VII. Upcoming Dates of Interest – February 2021

- Joint PB/PLD Committee – Monday, February 8, 6:30 PM
- Planning Board Steering Committee – February 9, 11:00 AM
- Planning Board Site Visit – February 17, 8:00 AM – To Be Confirmed
- Planning Board Meeting – February 22, 6:30 PM

Meeting adjourned at 8:15 PM.

Respectfully submitted by,
Krishni Pahl, Minute Taker

Reviewed and edited by Mari Brunner, Planner