

City of Keene
New Hampshire

PLANNING BOARD
MEETING MINUTES

Monday, March 22, 2021

6:30 PM

Remote Meeting via Zoom

Members Present:

Pamela Russell Slack, Chairman
David Orgaz, Vice-Chair
Councilor Michael Remy
Andrew Weglinski
Mayor George Hansel
Emily Lavigne-Bernier
Roberta Mastrogiovanni
Harold Farrington, Alternate

Staff Present:

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

Members Not Present:

Gail Sommers
Tammy Adams, Alternate

I. Call to order – Roll Call

Chair Russell Slack 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.*

The Chair called the meeting to order at 6:30 PM and roll call was taken. Harold Farrington was brought in as a voting member for the meeting.

The Chair noted that due to the number of public hearings on the agenda, she would check in with the Board at 9:45 PM to assess whether this meeting should continue or whether it would need to be continued to the next month.

II. Minutes of Previous Meeting – February 22, 2021 Meeting

A motion was made by Mayor George Hansel to accept the February 22, 2021 minutes. The motion was seconded by Councilor Michael Remy and was unanimously approved.

III. Public Hearing

S-01-21 – Subdivision – 166 West Street – Applicant and owner Flyboy Realty LLC proposes to subdivide the 1.03-acre parcel located at 166 West St. (TMP 576-002-000) into a 0.407-acre parcel and a 0.626-acre parcel. A waiver is requested from Development Standard 10, Lighting. This parcel is located in the Central Business Limited, Gilbo Avenue Design Overlay, and Downtown Historic Overlay districts.

A. Board Determination of Completeness

Planner Mari Brunner stated the applicant is requesting exemptions from providing a grading plan, a lighting plan, and a landscaping plan. Staff has determined the requested exemptions would have no bearing on the merits of the application, and recommend the Board accept the application as complete.

A motion was made by Mayor George Hansel that the Planning 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

Mr. Jim Phippard addressed the Board on behalf of Flyboy Realty and noted this applicant is requesting a 2-lot subdivision for property located at 166 West Street.

Mr. Phippard called the Board's attention to an existing conditions plan for this property and referred to a site plan the Planning Board approved last fall to locate a second building on this property (close to Gilbo Avenue). The ground floor of this building will consist of a single office user and the second floor will consist of eight one-bedroom apartments.

Mr. Phippard stated since the Board's approval there have been some changes to the plan; it was realized the site was short three parking spaces. After the proposed subdivision, the future office building fronting on West Street will stand alone with 20 parking spaces. This lot would comply with zone dimensional requirements and parking requirements. The mixed-use building fronting on Gilbo Avenue requires 43 parking spaces; however, they can only provide 40. The applicant went before the Zoning Board of Adjustment for a variance to allow 39 spaces where 43 are required (one of the 40 parking spaces will be used for a dumpster).

Mr. Phippard referred to a table and explained that both lots exceed the minimum 10,000 square foot land area, and they both meet the minimum frontage requirements and maximum impermeable coverage.

Mr. Phippard referred to a rendering and explained that the parking lot is a shared space and noted the city parking and lighting requirements don't contemplate shared parking arrangements. He noted that even though the Board approved the lighting plan, which meets the requirements for brightness and reduced lighting after-hours, it does not meet the requirement for light trespass over the property line. Mr. Phippard indicated the

applicant is requesting a waiver from the lighting standards and went over the waiver criteria.

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

Mr. Phippard stated the spirit and intent of the lighting ordinance is to provide for minimum lighting for safety reasons, but not lighting that will cause light pollution. He added because this property is located in the Gilbo Avenue Overlay District there is no pavement setback which will result in light trespass.

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

The lighting plan as approved by the Board has not changed.

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

This is an existing parking lot, the lighting is being upgraded to be full cutoff fixtures with less glare onto adjacent properties or abutting properties. Mr. Phippard did not feel this waiver will diminish 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.*

Mr. Phippard reiterated what he had stated previously: the only other alternative would be to lower the light fixtures and try to re-direct the lighting. But this would create a situation where a dark spot will be created in this shared parking area, greatly decreasing safety in the parking area. The proposed solution is safer and meets the intent of the City's lighting standards.

Staff comments were next. Ms. Brunner stated the recommended motion includes a request for documentation of the following easements:

- Drainage easement to allow runoff from Lot 1 to drain into the drainage system on Lot 2.
- Sewer easement to allow the sewer line for Lot 2 to cross Lot 1.
- Easement to allow underground electric and telephonic wires for Lot 2 to cross Lot 1.
- Cross easement to allow the right to pass and repass on each lot.
- Cross easement to allow shared parking on each lot.

She noted the applicant has done a thorough job of reviewing the development standards as they relate to this application. She does not have anything to add, but noted she is available to answer questions.

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

Mayor Hansel thanked the applicant for reusing a building in this manner and for investing in the community. Chair Russell Slack agreed with the Mayor and commended the presentation.

C. Board Discussion and Action

A motion was made by Mayor George Hansel that the Planning Board approve S-01-21 for a 2-lot subdivision of the parcel located at 166 West Street (TMP #576-002-000), including granting a waiver from Development Standard 10.C.2, as shown on the plan identified as “Two Lot Subdivision, Land of Flyboy Realty, LLC” prepared by Huntley Survey & Design, PLLC at a scale of 1 inch = 20 feet, dated January 11, 2021 with the following conditions prior to signature by Planning Board Chair:

1. Submittal of documentation for all required easements, including:
 - a. Drainage easement to allow runoff from Lot 1 to drain into the drainage system on Lot 2.
 - b. Sewer easement to allow the sewer line for Lot 2 to cross Lot 1.
 - c. Easement to allow underground electric and telephonic wires for Lot 2 to cross Lot 1.
 - d. Cross easement to allow the right to pass and repass on each lot.
 - e. Cross easement to allow shared parking on each lot.

The motion was seconded by David Orgaz and was unanimously approved by roll call vote.

SWP-CUP-01-21 – Surface Water CUP – Eversource D108 Transmission Line – Applicant GZA GeoEnvironmental Inc., on behalf of Eversource Energy, proposes to remove 2 utility poles, replace 17 utility poles, and replace existing static wire with optical ground wire along the 1.3-mile D108 Transmission Line that runs from the North Keene Substation to the Emerald Street Substation. The proposed project would impact 126,244 sf of the Surface Water Protection Buffer for temporary access and work pad placement. The transmission line is located in various zoning districts.

SWP-CUP-02-21 – Surface Water CUP – Eversource L163 Transmission Line – Applicant GZA GeoEnvironmental Inc., on behalf of Eversource Energy, proposes to replace 14 utility structures and replace existing optical ground wire with copperweld fiber wire along the L163 Transmission Line in Keene. This transmission line runs 13 miles from the North Keene Substation to Antrim, NH. The proposed project would impact 97,789 sf of the Surface Water Protection Buffer for temporary equipment access and work pad placement. The transmission line is located in various zoning districts.

Chair Russell Slack noted that since these two applications for a Surface Water Protection Ordinance Conditional Use Permit (CUP) were very similar and involved the same property owner, they would be heard at the same time.

A. Board Determination of Completeness

Senior Planner Tara Kessler recommended to the Board that both applications were complete.

A motion was made by Mayor George Hansel that the Planning Board accept both CUP applications as complete. The motion was seconded by Councilor Michael Remy and was unanimously approved by roll call vote.

B. Public Hearing

Lindsey White from GZA Geo Environmental was the first speaker. Ms. White began by introducing the other members present with her Jennifer Codispotti, Jeremy Fennell and Lydia Morton from Eversource, and Conor Madison from GZA Geo Environmental.

Ms. White stated both projects consist of two parts: replacement of wooden utility poles with steel poles and the replacement of static wire with optical ground wire. Both projects require access to pole and work pads and this access requires temporary wetland impact.

Ms. White explained that timber matting is used to avoid compaction to wetlands. Once work is complete, timber matting is removed and any impacted areas are restored. As requested by the Conservation Commission, a pollinator friendly seed mix will be used.

Ms. White stated the D108 Transmission Line work will begin south of Route 12 and continue on a southerly direction for 1.3 miles and end at the Emerald Street substation. This line crosses Route 9 and 12, West and Island Street, Appel Way Trail and Cheshire Rail Trail. She explained this project is essentially a rebuild where 17 poles of the 22 are being replaced and three are being removed, two of the 22 poles are steel poles don't need to be replaced.

Mr. Conor Madison from GZA Geo Environmental was the next speaker. He addressed the L163 Transmission Line Work. With reference to a plan, he explained this work starts where the D108 Line ends at the North Keene Substation and continues east to a substation in Antrim. The same construction details as D108 will also be used for this project. There will be five different access roads used for this project: off Route 12, the north side of Court Street, Old Gilsum Road, Ferry Brook Road, the south side of Court Street and off Route 10. This project is looking to replace 14 structures, two separate LPGW replacements and at the conclusion of the project the impacted wetlands will be fully restored. This concluded the applicant's presentation.

Vice Chair Orgaz asked whether the access to the Rail Trail will be hindered in anyway by any of this work. Ms. White stated they do not have access coming off the Rail Trail,

however, wire stringing activity will happen over the Trail. Jennifer Codispotti of Eversource added they do not anticipate closing the Trail during the overhead wire stringing. However, there will be signage and a spotter at this location and there could be some stopping of traffic during critical points of work sequence. There will be spotters to get people across safely.

Mr. Farrington noted for the D108 project static wire is being replaced with optical ground wire and for the L163 project the optical ground wire is being replaced by copperweld fiber. He asked what the requirements are for the D108 project to go with optical ground wire rather than fiber. Jeremy Fennell of Eversource stated on both lines they have static wire that has lightning capacity and by replacing the optical ground wire on both projects it will have the same lightning protection as well as much better communication between substations. Mr. Farrington noted for the L163 it is noted in the application that they will be replacing the OPWG and asked for clarification. Ms. Codispotti stated they can follow up on this clarification, and felt this could be a typographic error.

Mayor George Hansel asked whether the general public would notice much of a difference after the completion of this project. Ms. White stated it has been her experience in doing construction monitoring that the wetlands grow back within a growing season. Lydia Morton from Eversource stated the new poles they are constructing are weathered steel and would be much darker and depending on the area there could be a height change. She indicated her experience has been the weathered steel poles tend to blend into the landscape much better. She did not feel visually people are likely to see a difference.

Staff comments were next. Ms. Kessler began by noting that these two applications are conditional use permit applications for impact to the city's surface water protection buffer. She indicated staff has been in communication with GZA and Eversource and have requested the city be informed of any impact to the trail or city sidewalk network. It is anticipated that for any driveway permit or excavation permit that is issued through the city's engineering division, there will be a condition that there be a communication plan so that the public can be notified of any closures. Ms. Kessler stated that staff are not proposing this as a condition of site plan approval.

Ms. Kessler went on to say these applications were reviewed by the Conservation Commission who have requested a pollinator friendly seed mix be used in revegetation because of a recent initiative of the City to become a Bee City USA.

Ms. Kessler referred to staff comments regarding the repeat encroachment into the wetland and surface water buffer areas along the L163 transmission line. Last year the Planning Board did approve a conditional use permit for the replacement of 25 utility poles along this same line and with this application there will be 14 more poles replaced, and there are 7 more that need to be replaced. Staff question why Eversource would not replace all of the poles needed to be replaced when they are working in the wetland areas and along this transmission line. Staff noted that the Board may question whether the

applicant is doing all they can to minimize encroachment into the surface water buffer areas. This concluded staff comments.

Jeremy Fennell addressed the Board regarding a prior comment raised by Mr. Farrington. He indicated what he learned doing some research is that the L163 line has copper welder shield wire and it currently does not have the communication capacity and Eversource does not have good replacement material. In New Hampshire, Massachusetts, and Connecticut they are trying to transition out of this to enhance reliability. They will be transitioning to the optical ground fiber wire – it will look the same but might be slightly thinner.

The Chair asked for public comment. With no comments from the public the Chair closed the public hearing.

A. Board Discussion and Action

A motion was made by Mayor George Hansel that the Planning Board approve Conditional Use Permit SWP-CUP-01-21 as shown on the plan set identified as “D108 Transmission Line Structure Replacement Project, Keene New Hampshire” prepared by GZA GeoEnvironmental Inc. at a scale of 1 inch = 1,865 feet and dated February 4, 2021, with the following conditions:

- A. Applicant submits to the Community Development Department documentation of all necessary permits and approvals from local, state and federal agencies, including but not limited to:
 - i. An approved Wetlands Permit and Shoreland Permit from the NH Department of Environmental Services;
 - ii. A temporary driveway permit from the NH Department of Transportation;
 - iii. Temporary driveway permits for each access point from a public right-of-way from the City Public Works Department;
 - iv. Excavation permits for any ground disturbance within the public right-of-way or on City-owned property; and,
 - v. Encumbrance permits for any vehicles, equipment, or materials to be staged or stored within the public right-of-way.
- B. Applicant shall remediate all disturbed areas with vegetation that includes pollinator friendly plant species. A list of plant species used for remediation shall be submitted to the Community Development Department in advance of planting.”

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

A motion was made by Mayor George Hansel that the Planning Board approve Conditional Use Permit SWP-CUP-02-21 as shown on the plan set identified as “L163 Transmission Line Copperweld Retirement Project, Keene New Hampshire” prepared by

GZA GeoEnvironmental Inc. at a scale of 1 inch = 2,083 feet and dated February 8, 2021, with the following conditions:

- A. Applicant submits to the Community Development Department documentation of all necessary permits and approvals from local, state and federal agencies, including but not limited to:
 - i. An approved Wetlands Permit and Shoreland Permit from the NH Department of Environmental Services;
 - ii. A temporary driveway permit from the NH Department of Transportation;
 - iii. Temporary driveway permits for each access point from a public right-of-way from the City Public Works Department;
 - iv. Excavation permits for any ground disturbance within the public right-of-way or on City-owned property; and,
 - v. Encumbrance permits for any vehicles, equipment or materials to be staged or stored within the public right-of-way.
- B. Applicant shall remediate all disturbed areas with vegetation that includes pollinator friendly plant species. A list of plant species used for remediation shall be submitted to the Community Development Department in advance of planting.”

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

SPR-02-21 Site Plan Review – 163 Washington St

Applicant, Fieldstone Land Use Consultants, on behalf of owner, Kontor Properties LLC, is proposing to change the use of the existing 3,795-sf building at 163 Washington St (TMP#553-011-000) from a single family residence to a 7-unit office building, and to make various site improvements including the creation of additional parking areas. The parcel is 0.31-acres and is located in the Office District.

A. Board Determination of Completeness

Senior Planner Tara Planner stated the applicant has requested exemptions from providing a soils report, traffic report, and architectural elevations. Staff has determined that exempting the applicant from submitting this information would have no bearing on the merits of the application and recommends the Planning Board grant these exemptions and accept the application as complete.

A motion was made by Mayor George Hansel that the Planning Board accept application SPR-02-12 as complete. The motion was seconded by Councilor Michael Remy and was unanimously approved by roll call vote.

B. Public Hearing

Mr. Chad Branon from Fieldstone Land Use Consultants addressed the Board on behalf of Kontor Properties LLC and Nathan and Karen Manlove to change the use of their property on 163 Washington Street. Mr. Branon noted that this is a 3,975 square foot Victorian style building. The applicant is not proposing to make any changes to the exterior of the building.

Mr. Branon stated the property was used as a residence since 2002, prior to that it was used as a funeral home and in the recent past as a boarding house. He noted a change from a single-family home to office use requires some site improvements, primarily to parking. Eight new spaces are being proposed. Two parallel spaces are being proposed to the south side of the building, two along the front of the garage, a parking area is proposed north of the garage to allow for four more spaces, including an accessible parking space.

Mr. Branon noted there are additional site improvements such as an ADA accessible walkway which will be constructed on the north side of the building.

Mr. Branon stated the applicant has had review meetings for this site plan with staff and one of the requests from staff was the addition of a bike rack, which will be shown on the east side at the back of the building.

Two snow storage areas are also being proposed for this site as well as an area on the east. Mr. Branon noted the proposed grading and explained that they will be installing a stormwater management area on the east side of the site and added there will be no adverse impact to adjacent properties because of these improvements.

One of the design standards has to do with erosion and sedimentation control; erosion control standards has been incorporated into this plan and referred to where silt fencing is going to be located.

Mr. Branon then referred to a proposed landscaping plan. The existing landscaping is going to be maintained. One of the changes being made based on comments from staff is to move the two parallel parking spaces further to the interior of the site about ten feet. This will prevent parking from dominating the architectural components of the site. Two evergreen shrubs are being added along the Washington Street side of the parallel parking spaces. Some minor cutting of tree limbs will happen along the rear of the site but still maintain the buffer along the north and east sides of the site.

Mr. Branon noted the proposed lighting improvements. The light on the garage will replace a spotlight with a compliant downcast light. The two lights on the north side of the building are essentially walkway lights. The lighting will be in compliance with city standards.

Mr. Branon went on to say zoning variance for parking was obtained for this project. 13 parking spaces are required and the applicant asked for a variance to allow for 10 spaces; eight are exterior and two are inside the garage for tenant use.

Mr. Weglinski with reference to drainage stated he was under the impression drainage was going to be pitched more towards Washington Street. He noted the property to the rear and the property to the left are several feet lower and felt a significant amount of water is now going to be dumped towards the neighboring properties. Mr. Branon explained there is a drainage basin being proposed to the rear of the property and this basin is graded to have a depression of about three feet. There is also an infiltration catch basin installed at the bottom of that catch basin which has been reviewed by engineering staff. This basin will capture all of the runoff from the rear of the site. The parking area has been graded to grade centrally. Mr. Branon added two test pits were done on site and because of the good soil features that exist on this site, there will be no runoff onto north or east properties. Mr. Lamb asked whether there was an overflow on the infiltration catch basin. Mr. Branon in response stated engineering staff had requested a riprap and this is on the southeast corner of the basin. He added based on the calculations that were done there was no flow going towards that side but in the event there is a storm the City Engineer wanted to make the sure water left the basin in a controlled fashion.

Staff comments were next. Ms. Kessler stated one of the concerns initially addressed by staff was the location of parking spaces near the front of the building. However, the applicant has submitted a revised plan that moves these spaces back from the front line of the building and proposes a vegetative screen.

The Chair asked for public comment next. Kathleen Birch asked whether the applicant could change the barn space to office space. Mr. Branon stated the applicant has no plans to do so; that is not part of this site plan application. With no further public comment, the Chair closed the public hearing.

Mayor George Hansel felt this was a good reuse of an existing building.

C. Board Discussion and Action

A motion was made by Mayor George Hansel that the Planning Board approve to approve SPR-02-21 for the change of use from single family residential to office units, the installation of parking areas, and other site improvements as shown on the site plan identified as “Site Plan Set, Change of Use – Residential to Office, Tax Map Parcel 553-11 – 163 Washington Street, Keene, New Hampshire” prepared by Fieldstone Land Consultants PLLC at a scale of 1 inch= 20 feet, dated February 11, 2021 and last revised March 16, 2021 with the following condition: prior to signature by Planning Board Chair the owner's signature shall appear on the plan.

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

SPR-01-21 – Site Plan – Methadone Clinic, 152 Davis Street – Applicant Civil & Environmental Consultants, Inc., on behalf of owner Metro Treatment of New Hampshire LP, proposes to renovate the existing 4,510 sf

building located at 152 Davis St. (TMP# 583-023-000) for use as a methadone clinic and modify the existing parking lot and traffic circulation, landscaping, and exterior lighting. A waiver is requested from Development Standard 10, Lighting. The site is 0.45 acres and is located in the Commerce District.

A. Board Determination of Completeness

Planner Mari Brunner stated that the applicant requests exemptions from providing a drainage report, traffic report and soils report. Staff recommends that the Board accept this application as complete and open the public hearing. However, since the staff report was submitted, a number of public comments were received, most of which address traffic impact. During the staff presentation on this application, the Board will hear from staff regarding the need for a traffic study. She asked the Board to open the public hearing to hear from the applicant and the public.

A motion was made by Mayor George Hansel that the Planning 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

Mr. Bill Fisher, Regional Director for the Colonial Management Group, addressed the Board and began by introducing himself. Mr. Fisher stated that he is a licensed clinical mental health counselor and has worked for the last 30 years in this field. He indicated that Colonial Management Group operates nearly 80 clinics in 20 different states and treats over 32,000 patients, 300 of which are in Keene. They are highly regulated, licensed by the state, Board of Pharmacy, registered and licensed by Drug Enforcement Administration (DEA), and accredited by CARTH. Any of these agencies can visit and survey the programs at any given time. Keene was surveyed recently and was accredited for three years; the Board of Pharmacies was in Keene with no recommendation, and the DEA was on site last week with no citations.

Mr. Fisher stated all of their patients go through a physical with the medical director. They also have to undergo urine and blood work and have to undergo a TB test. All patients have regular counseling and case management and an after care plan.

Mr. Fisher indicated even though they treat addiction as a disease, only three medications are given out to patients: Methadone, Buprenorphine Mono, and Buprenorphine Duo. He indicated that Buprenorphine can be usually prescribed by any doctor but stated their clinic goes through rigorous screening before it is administered.

All patients are evaluated every day before medication is administered and if a patient is impaired, they are not medicated. He noted any patient who has stopped treatment before his/her treatment is complete is because of lack of transportation.

Brad Hazelwood of Civil and Environmental Consultants addressed the Board next. He noted that the existing building is about 4,500 square feet, partially brick and partially metal siding. There are five entrances to this building when it was used for other uses in the past. More than eighty percent of this site is currently paved. The existing site is not well lit, which was a concern shared by staff. On the west side of the property there is a metal fence that will be replaced based on recent comments. The shed in this area will be removed. On the south side there is a wooden fence that will be retained.

Mr. Hazelwood referred to the site layout as it exists at the present time. Ralston Street traffic comes in from the east and can go straight through or could take a left onto the site. This access could also be used to exit the site. The way the parking is painted currently, it is a one-way alignment but based on the easement it is a multi-directional easement.

Mr. Hazelwood then went over the demolition plan. The plan is to remove the existing asphalt on site and turn some of the area into landscaping. The south portion of Davis Street will have a new sidewalk from the site all the way to Ralston Street. The internal circulation has been modified slightly by removing the access into the building on the east side. On the east side of the property there is a five-foot pavement setback; the majority of the parking will be concentrated on the west side of the site where the main entrance is. For security purposes patients getting in and out will be through just two doors.

The dumpster will be located on the north side of the building in a fully enclosed area and screened.

On the east side there will be parallel parking spaces with a sidewalk to help get to the front entrance. The south side will be a one way only entrance. At the present time, the southeast location has a number of HVAC units on a concrete pad; these large units are going to be removed and replaced with much smaller units and they will be screened.

He referred to the new pedestrian circulation pattern and felt this was much better than what exists at the present time.

There are minor changes being made to the grading, including the addition of a few curbs. The impervious surface area is being reduced to 80% and better landscaping is being provided.

Mr. Hazelwood referred to a landscape plan. According to the standard, the applicant was required to provide three trees based on the number of spaces which are being provided on the south and east side of the site. There will be evergreen trees/shrubs going in front of the HVAC units. There will a hedge row provided along the east as well as some plantings along the west.

With respect to the Lighting Plan, they are proposing two pole mounted lights on the west side of the parking lot; they are full cutoff lights and back shielding will be provided to

prevent light trespass. On the north side of the site additional lighting is provided close to the entrance, they will be close to two-foot candles. He noted there was a comment regarding this lighting at the site visit and noted the applicant can look at changing this but are trying to stay within the standard of 2-foot candles. On the east side of the site (there is an easement at this location) there are low level lights being provided here.

Attorney Courtney Herz of Sheehan Phinney Bass & Green addressed the Board next. She began by addressing the lighting waiver. She indicated they have minor light trespass on the western side of the site (onto the rail trail and onto the former B&M parcel), on the eastern side (over the center of the 20-foot easement into the parking area to the fabric store), and on the southern side (on the northern most section of the parking for the Mills property), which is the subject of the waiver request.

Attorney Herz stated as an overall matter they submit a waiver from section 10-C-2 which they feel is appropriate as the lighting plan was designed with safety in mind. Any light that crosses the property is on commercial parking lots and public rail trails, all areas where extra lighting would be welcome. Attorney Herz addressed the waiver criteria next.

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

The attorney stated one of the key purposes of lighting is to provide public safety and welfare and this is exactly what is proposed here based on the feedback received from the Police Department. Any light trespass is in areas where extra light will be beneficial.

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

The attorney noted this criteria is also met as the light crossing is in areas where extra light will be beneficial and not a detriment.

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

She noted no suggestion has been made that granting this waiver to allow light to cross the boundary will have any diminishing impact on property values. In fact, if there is to have any effect it would be in the positive, by providing lighting in parking areas and rail trail.

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

Attorney Herz stated this lighting plan is designed to maximize safety for clinic staff, patients, or anyone else near the property. By requiring the applicant to reduce the light, so that no light crosses the boundary line would cause for less than optimal lighting on

site which in turn would cause unnecessary hardship in the form dark areas in the parking lot.

Attorney Herz then referred to the proposed parking area in the northwest corner (former B&M parcel) and the 20-foot access easement between this building and the fabric store to the east. With respect to the easement – this comes from a Declaration of Easement document from 1982 (page 124 of the packet). The properties in their current condition – Mills of Keene (lot 2), Fabric store (lot 3), and the applicant’s property (lot 4) – were all one property but were subdivided by the owner, Perkins Realty Company in 1982. The attorney referred to paragraph 6 of the Declaration of Easement which indicates Lot 4 has the right to use the 20-foot easement for ingress and egress and for use as a fire lane.

The attorney then addressed the former B&M parcel. This site plan proposes to use that portion as ingress to and egress from the lot on the west side of the building. She noted there is a strong likelihood the owner of 152 Davis Street acquired full ownership of this parcel by adverse possession and there is no need to reach a conclusion on that question to know that the applicant has the right to utilize the former B&M parcel as proposed.

Attorney Herz went over some history: In the early 1900s, 152 Davis Street and the parcel in the northwest corner were owned by B&M Railroad. In 1926, these two parcels were conveyed to Wilcox Comb Company and these two parcels were transferred from owner to owner several times, as well as to the Golden Keene Company. In 1947, Golden Keene conveyed 152 Davis Street to Perkins Realty Company. It is unclear if the B&M parcel was included in this conveyance. Even if it was not, there is language in the deed that indicates *together with all rights if any, in and to the land occupied to the Boston and Main Railroad right of way.*

In subsequent conveyances, 152 Davis Street was continued to be defined with reference to the Perkins Realty site plan up to the deed to the applicant. And this deed indicates *it is subject to any and all matters as shown on this site plan.* She noted the applicant might in the future do some research to see if it owns the B&M property and if it does, might look to merging the properties. For this application, the applicant is only looking to use the property for access, which they have done.

Attorney Herz then addressed traffic and pedestrian flow on this site as it relates to abutters. The parking for NE Fabrics is located south of the subject premises and this lot is accessed to and from Ralston Street. NE Fabrics has some private parking on the northern end of their lot (between the shared 20-foot easement and their building). Access to and from the Mills property is off Ralston Street – she referred to a rendering. Pedestrian access is off Ralston Street as well as off the new sidewalk the applicant is proposing on Davis Street. There is also pedestrian access to the west from the rail trail to the Mills of Keene. She felt if anything, with the city’s request from the applicant for a sidewalk on Davis Street should help with pedestrian access to the Mills of Keene. The attorney noted there is a submission to staff to formalize the agreement for the sidewalk once it is built to standard.

Jim Horwitz addressed the Board next with reference to parking. Mr. Horwitz stated they are very interested in being a good neighbor and would like to discuss how parking is going to be handled. He began by referring to a chart which showed the average time patients spend at the center. He noted counselors are not available on site on the weekend so there is much more parking available on site. He noted patients are on site an average of 15 minutes but they are using 20 minutes for calculation purposes. He also had a chart that showed how many people arrive at a given hour. Mr. Horwitz noted Monday and Friday at 6 am are busy times and also added the numbers don't necessarily mean car trips, as 50% of their clients are given a ride to the site. He added they also expect less than 50% driving in cars to the Keene site as arriving to Keene versus Swanzey via public transit will increase. He noted the numbers he is referring to are based on the site in Swanzey.

Mr. Horwitz stated based on video calculations, on a Friday morning the 19 number lingered for a while which increased that number to 22. He added he saw a comment which stated the site came just under by one, to not require a traffic study but noted it was important to note that there is an even flow of cars, for instance between 5 am and 11 am and they are all gone by noon. Mr. Horwitz went on to say they understand the concern and stigma their patients carry and pay a lot of attention to be a good neighbor.

Miki Vargo of Colonial Management Group addressed the Board next with reference to architecture for this site. Ms. Vargo stated they are aware that this is not the most visually pleasing exterior but added that this is a site that has been vacant for a while and needs some enhancing. The proposal is to remove the entry point from the east side and the entry points are going to be isolated to the west side. The unused entry points will be covered over with matching brick.

The planting bed will be removed and replaced with new landscaping and the new sidewalk. Ms. Vargo referred to the north and south elevations of the masonry building. The north elevation will be left as is except for the removal of the landscape bed. On the south elevation the door will be removed and filled in. All masonry will be cleaned up and the graffiti removed.

The west elevation will be the main entrance. There are two existing doors on this elevation; one of those doors will be replaced with aluminum store front and will be the main entry way to the facility. The second door will be the exit only and will also be aluminum store front.

Ms. Vargo then referred to a rendering for the metal building. She noted there was concern raised by the Police Department that this site had been subject to vandalism. It was recommended the building be hardened. She noted the metal building is in fact reinforced with CMU block, studs and plywood and is about 12 inches thick, and there should be no fear of break in. The masonry building is also about 17 inches thick and is a rather sturdy structure. As for the metal building, the plan is to remove old unused mechanical louvers on the southeast elevation as well as the garage door and infill those

openings with metal panel and construction to match. This is the elevation where the mechanical equipment will be located but there will be shrubbery to shield this equipment.

Ms. Vargo stated she understands the concerns of the community but felt this is a need in the community. She noted the clinic is a proposed use by right per the zoning regulations and this site is permitted to be in this location. She noted their application meets all the necessary standards except for light trespass for which the applicant has requested a waiver. Ms. Vargo felt the abutters who object to this proposal have objection to this use being located in their backyard. She indicated it is not the purview of the Planning Board as this is a permitted use and the objections being raised are not tied to any requirements of the regulations which is what the Board is bound by. This concluded the applicant's presentation.

Chair Russell Slack referred to the northwest where the B&M parcel is located and questioned the lighting for this corner. Mr. Hazelwood responded by saying 1.9-foot candles ties in with the requirements; at the property line they are at 1.2-foot candles, where the trail comes in it is at .4 and at the crosswalk ties into the ramp it is 2.0 candles.

Mayor Hansel stated his concern is parking and traffic. He asked how the applicant plans on handling those patients who are going to be driven to the clinic; where will these vehicles be parked while the individuals are in the clinic and is there anything that can be done during peak times when there are 20 cars scattered around this intersection? Mr. Fisher responded to this question and stated a majority of their patients (upward of 80%) receive state aid and as part of this process they are able to access transportation and many use cab companies or other transportation services, such as a van which might bring in about four to ten people at a time which will mean only one spot. Mayor Hansel stated this addresses some of his concern but this does not mean traffic is not going to be an issue.

Mr. Weglinski asked whether there is lighting along the bike path. Mr. Lamb stated the southern end of the bike path where it meets Winchester Street is lit – this was a Planning Board requirement for the Mills Project. Mr. Weglinski stated he has a hard time deciphering traffic that is transient versus what is going to be there. He felt most of the traffic issues are caused by the adjacent properties rather than this current site. Mr. Lamb stated this is the reason staff is requesting a traffic study. He stated the slides presented tonight are being viewed by staff for the first time tonight and staff has questions as to what the traffic count is versus the ITE estimate and staff is not in the position to make any determination on traffic and how it fits into the development standards. Attorney Herz stated initially staff had indicated no traffic study was needed but as new questions came in, the applicant addressed those questions by providing them tonight. She referred to what Mr. Weglinski had indicated that the traffic could be coming from adjacent properties rather than this current site and certainly to the extent that the abutting property to the south has its main driveway on Ralston Street and don't need to use that easement, even though it is available to them. Mr. Lamb stated the answers provided tonight are

being seen by staff tonight for the first time and as a result are not able to provide answers as to whether they meet the Board's standards or not.

Councilor Remy said that, because the threshold for the traffic study is so small, he is curious whether the Swanzey clinic is a good proxy for estimating demand. He asked the applicant how confident they were that the number is 173 and not 175 and felt the right thing to do was to complete a traffic study. Mr. Horowitz in response stated he could not be confident with such a small margin but can be confident whatever mitigation comes from the traffic study, that nothing will be recommended. Mr. Lamb noted that Board has the prerogative to request a traffic study even though it does not reach the automatic threshold of 100 vehicle trips in a unique circumstance where the Board feels one is necessary. Councilor Remy asked whether a trip in and a trip out are considered to be one trip or two trips. Ms. Kessler stated this would be considered as two trips.

Chair Russell Slack asked what type of increase in clients the applicants expect by moving to Keene. Mr. Fisher stated they can treat about 500 patients, they treat about 330 at the present time. Ms. Vargo stated not all patients are seen at the clinic, some have take-home capabilities.

Staff comments were next. Ms. Brunner stated her comments were going to focus mainly on traffic. Prior to this meeting the applicant had submitted traffic generation estimates to compare the previous use to the proposed use. This was based on the ITE Manual, it was estimated that the previous use was a 4,510 square foot office building and the proposed use will be a clinic of the same size. The estimated traffic generation for the prior use was 73 vehicle trips per day and the proposed use 172 per day which is an increase of 99 vehicle trips and is very close to the automatic trigger of 100 vehicle trips per day. Since the staff report was made available to the public, staff has received numerous comments from abutters who have questions about the ITE trip generation estimate for the prior use. The prior use was a small office for a heating company and a martial arts studio. Even though the proposed use fits closely to the definition of a clinic within the ITE Manual, it appears to be a unique type of clinic and the ITE Manual's characterization for clinic might not adequately describe the traffic pattern for this use.

Ms. Brunner stated based on the fact that a revised site plan was submitted and new information was brought forward tonight such as the new sidewalk on Davis Street that connects all the way to Ralston Street, as well as additional information regarding the traffic pattern for the Swanzey clinic, staff will be recommending that this application be continued and a traffic study be prepared by a qualified traffic engineer licensed in the State of New Hampshire.

Chair Russell Slack asked for public comment next. She stated there have been number of public comments received on this item and all those comments will be placed in the public record for this item.

Scott Parody of 171 South Lincoln Street representing NE Fabrics was the first to address the Board. Mr. Parody shared he is happy with the landscaping plan and other plans

presented for this application. He referred to the easement between the two buildings where trash gets dumped, and noted that their customers pick up their items at this location. He went on to say when you leave his property to access Davis Street, crossing Ralston Street there was an incident where someone got into an accident and their car was totaled; this was during Covid when college students were not around. He felt things will get very dangerous once college comes back to normal activity.

Al Braden, who lives at 2810 West Frescoe Drive, Austin, Texas but is the owner of 19-23 Ralston Street (More Than a Thrift Store and Student Rentals), spoke next. He stated he is also concerned about traffic as was mentioned by Mr. Parody. He felt this is going to be a very busy clinic for Davis Street which already services many other businesses. He said the 148 clients with peak traffic higher than that number is a concern; he is also concerned about surges of 30 people an hour coming in and going out. He referred to the patients who are dropped off at the clinic and noted these vehicles have to go somewhere.

Mr. Braden stated the concerns raised have nothing to do with ‘not in my backyard’ – he felt methadone treatment is a critical service but this clinic is packed into a very small space. He noted a traffic study was important keeping in mind the potential growth the clinic could see. He added parking is also an important component. The clinic is providing 22 spaces, with 12 employees leaving ten spaces for all these patients who will be using the clinic. Mr. Braden asked the applicant’s request be denied today and a traffic study be required.

Mr. Pelech referred to a letter he sent in – he represents the Mills of Keene on Ralston Street. Mr. Pelech stated their concern is the same as has been raised. With reference to access, the traffic that will be coming off the shared easement will also exit and go through the Mills parking lot. Parking is also an issue – the 12 employees will take half of the parking spaces, he asked the same question as to where the drop off person would go. Mr. Pelech noted what was also not covered are visits with counselors who work at the clinic, those visits can last longer than ten minutes and did not feel this was included in the calculation. He felt there could be too much going on a small lot which could have an impact on abutters. In closing, Mr. Pelech referred to the importance of the traffic and parking study.

Chair Russell Slack asked the Board if they wish to continue with the meeting based on the time of 9:45 pm. There was no objection from the Board to continue with the hearing.

Beth Caldwell of 27 Langley Road was the next speaker. Ms. Caldwell stated she and her husband own property across the bike path on the western side across from the proposed development. She noted their LLC is RGBC and they are concerned about traffic on Davis Street; to that end they would like to assert and preserve their rights to access 60 Foundry Street and 180 and 181 Davis Street via Davis Street. She referred to her communication to City Council dated July 8, 2005 and the subsequent report from the PLD Committee on July 27, 2005. She also referred to a letter from DOT dated October 7, 2005 where the State granted a crossing agreement from Davis Street to their property.

She also referred to her communication on May 23, 2014 when she wrote in support to the Council of the Mills Development and confirmed that they wished to preserve their right to access their property via Davis Street from the 60 Foundry Street parking lot and noted their position has not changed. She indicated they have not had the resources to connect the parking lot behind their building to Davis Street, but would like to preserve their right to do so in the future.

She indicated she reinforces the comments made about traffic and parking by her neighbors. Ms. Caldwell noted they rent parking on 60 Foundry Street, the parking demand has increased in this area and they have a long-term contractual agreement with Mills of Keene and Montshire Pediatric Dentistry to provide a little over 50 spaces on a long term basis. Ms. Caldwell stated they have had to turn many away who have been looking for parking, including Keene State students, residents from Mills of Keene and other businesses in the vicinity.

Ms. Caldwell stated when you look at the site in Swanzey, there are not many places one can visit while someone is being treated at the clinic. This is not the case with 152 Davis Street which has many restaurants or other shopping places in the area and they have a parking spot close to any of these locations, they are not likely to leave soon. She asked that the 20-minute calculation be changed to accommodate such a scenario.

Ms. Caldwell stated she was glad to hear about the take home options and is interested to know why more people could not do the same. She added she was not sure why this treatment is not available in pharmacies or in doctors' offices. She felt a methadone clinic next to her business could have a negative impact on her business. Ms. Caldwell also asked if there is always a medical doctor available on site. She questioned how patients will be treated should the clinic need to close due to weather issues. Chair Russell Slack indicated to Ms. Caldwell that these type of questions need to be forwarded to staff. In closing she referred to the long-term negative effects of methadone use.

Greg Gogolen of 27 Langley Road was the next speaker. He referred to a comment made by one of the applicant's representatives regarding the "not in my backyard" syndrome and added he does not prescribe to nimby as a guiding principle. He indicated treatment was important and is glad it is available but it is legitimate for abutters to have questions and their motives should not be questioned if the applicant wants to be a good neighbor.

Mr. Gogolen asked why an alternate location was not considered, perhaps at the Center of Keene where the Keene Clinic just vacated. Mr. Gogolen also referred to the crosswalk which travels at an angle to Davis Street; he indicated he would like this to be a straight line extension to the sidewalk being proposed to get on to the bike path. With respect to the lighting, he is in support of the lighting waiver but would like the city to add more lighting on the bike path for safety reasons. Mr. Gogolen encouraged a traffic study.

Cory Sarsfield, owner of More Than a Thrift Store, stated parking is definitely an issue and felt the numbers provided by the clinic are in isolation and a traffic study would take all activity in the area into consideration. She referred to what the applicant had stated

about patients arriving in vans and asked where these patients would go at that time as she was concerned about loitering. She asked the application be rejected and the applicant be requested to submit a traffic study.

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

C. Board Discussion and Action

A motion was made by Mayor George Hansel that the Planning Board continue the public hearing for SPR-01-21 to the April 26, 2021 meeting and direct the applicant to submit a traffic study by a traffic engineer licensed by the State of New Hampshire.

The motion was seconded by Councilor Remy. The Councilor stated he wanted to make sure the traffic study included a parking study. Mr. Lamb responded to that comment by saying what the Board will see with the traffic study is a much better number of vehicles trips for this use and at that point the Board can evaluate if the parking was adequate. The Councilor asked whether the study would be based on current demand or future projections. Mr. Lamb stated it can be done in different ways; opening day volume and then a projection for future use.

Mr. Weglinski asked whether the motion needs to specify the traffic study be completed by a third party. Mr. Lamb stated this would be ultimately up to the Board but staff requires that it be a traffic engineer licensed by the State of New Hampshire. He further stated the applicant would work with an engineer of their choice but if the Board had concerns then the Board could ask for an independent study.

The motion made by Mayor George Hansel was unanimously approved by roll call vote.

IV. Change to Planning Board Application Fee Schedule: The City of Keene Community Development Department proposes to amend the Planning Board Legal Notice Fee, which was last revised in May of 2017, from \$25 to \$62 to account for 1) additional costs related to noticing of remote meetings due to the COVID-19 state of Emergency and 2) to reflect increases in the per-line cost of legal advertisements.

A motion was made by Mayor George Hansel to continue this item to the next April 26, 2021 meeting. The motion was seconded by Councilor Michael Remy and was unanimously approved by roll call vote.

V. Community Development Director Report

This item was tabled to the next meeting.

VI. New Business

None.

VII. Upcoming Dates of Interest – February 2021

- Joint PB/PLD Committee – Monday, April 12, 6:30 PM
- Planning Board Steering Committee – April 13, 11:00 AM
- Planning Board Site Visit – April 21, 8:00 AM – To Be Confirmed
- Planning Board Meeting – April 26, 6:30 PM

The meeting adjourned at 10:15 PM.

Respectfully submitted by,
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and
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