



## **City of Keene Planning Board**

### **AGENDA**

**Monday, July 26, 2021**

**6:30 PM**

**City Hall, 2<sup>nd</sup> Floor Council Chambers**

**NOTE:** The public may join the meeting online or at City Hall in the 2<sup>nd</sup> Floor Council Chambers. To access the meeting online, visit [www.zoom.us/join](http://www.zoom.us/join) or call (888) 475-4499 and enter the **Meeting ID: 857 8338 6440**. If you encounter any issues accessing this meeting, please call 603-209-4697 during the meeting.

- I. **Call to Order** – Roll Call
- II. **Minutes of Previous Meeting** – May 24, 2021
- III. **Overview of the Minor Project Review Committee**
- IV. **Planning Board Training Session**
  - a. Overview of Planning Board Roles/Responsibilities
  - b. Site Plan Review Exercise
  - c. Discussion on interpreting / applying the Board's regulations
- V. **Community Development Director Report**
- VI. **New Business**
- VII. **Upcoming Dates of Interest**
  - Planning Board Steering Committee – August 10, 11:00 AM
  - Planning Board Site Visit – August 18, 8:00 AM – To Be Confirmed
  - Planning Board Meeting – August 23, 6:30 PM

**City of Keene**  
**New Hampshire**

**PLANNING BOARD**  
**MEETING MINUTES**

**Monday, May 24, 2021**

**6:30 PM**

**Council Chambers**

**Members Present:**

Pamela Russell Slack, Chair  
George S. Hansel, Mayor  
Michael J. Remy, Councilor  
Emily Lavigne-Bernier  
Roberta Mastrogiovanni  
Gail Somers

**Staff Present:**

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

**Members Not Present:**

David Orgaz, Vice Chair  
Andrew Weglinski  
Harold Farrington, Alternate  
Tammy Adams, Alternate

**I) Call to Order – Roll Call**

Chair Russell-Slack called the meeting to order at 6:30 pm and a roll call was taken.

**II) Minutes of Previous Meeting – April 26, 2021**

A motion was made by Mayor George Hansel to approve the April 26, 2021 meeting minutes.  
The motion was seconded by Gail Somers and was unanimously approved by roll call vote.

**III) Extension Request:**

SPR-01-18, Modification #1 – Site Plan – 809 Court St – Owner and Applicant, Hillsborough Capital LLC, is requesting a one-year extension of the timeframe for achieving active and substantial development of the site plan for 809 Court Street for the demolition of the existing 19,943 sf building and the construction of a 28,800 square foot (sf) indoor athletic facility in its place. This is the second extension request for this site plan. The applicant is also requesting to continue to occupy the existing building as an athletic facility until the new building is constructed. The parcel is TMP# 219-005-000-000-000 and is located in the Commerce District

31 Mr. Steven Holland, applicant addressed the Board and stated they had been using this site at 809  
32 Court Street in a temporary manner since November 2019 through February 2020 and were  
33 required to shut down due to the pandemic. He indicated the pandemic has set their business  
34 back, but they are still operating the athletic facility on a temporary basis. They are working on a  
35 detailed plan per the original site plan and need more time to complete it.

36  
37 Chair Russell-Slack asked what kind of programs are being conducted at this time. Mr. Holland  
38 stated they are running a sports performance program, an obstacle course, ninja warrior training,  
39 they have a 45-yard turf field that runs down the center of the building, two batting cages (youth  
40 and adult), they have also been growing their adult fitness program significantly and have  
41 incorporated personalized fitness into their center.

42  
43 Staff comments were next. Senior Planner Tara Kessler noted this is a second extension request  
44 and the applicant has noted their reasons for their request. She noted the extension request also  
45 has a request from the applicant to continue their operation through the timeframe it takes them  
46 to achieve active and substantial development of their site. Ms. Kessler went on to say that the  
47 current timeframe expires in June 2021 and the extension if granted today, gives them another  
48 year. She noted there is a possibility for the applicant to request a third extension but the  
49 regulations don't allow for more than three extensions and the criteria for granting a third can be  
50 difficult to meet. Ms. Kessler added if the applicant has exhausted all of their extension requests,  
51 the site plan granted in 2018 would no longer be valid and if they wish to move forward in the  
52 future they would have to re-apply for a site plan.

53  
54 The Chair asked for public comment. With no comment from the public, the Chair closed the  
55 public hearing.

56  
57 The Mayor stated even though these types of requests usually receive scrutiny, however, due to  
58 the pandemic it is causing delays and had no issue granting the applicant's request.

59  
60 A motion was made by Mayor George Hansel that that Planning Board to extend the deadline for  
61 achieving active and substantial development of the site plan SPR 01-2018 for 809 Court Street  
62 (TMP# 219-005-000) for the demolition of the existing 19,943 sf building and the construction  
63 of a 28,800 square foot (sf) indoor athletic facility to June 17, 2022, and to permit the applicant  
64 to continue to occupy the existing building as an athletic facility until the new building is  
65 constructed.

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

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76 **IV) Boundary Line Adjustment**  
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78 S-03-21 – Boundary Line Adjustment – 510 Washington St & 0 Fox Ave – Applicant and  
79 owner Toby Tousley of 510 Washington St (TMP# 532-003-000), on behalf of owner  
80 Fox Trail Farm LLC of 0 Fox Ave (TMP# 519-037-000), proposes a boundary line  
81 adjustment between their two properties. The adjustment would result in a transfer of 2.4  
82 ac from the 3.2 ac parcel located at 510 Washington St to the 15.8 ac parcel located at 0  
83 Fox Ave. A waiver is requested from Sec. III.C.5.b of the Planning Board Regulations  
84 regarding the requirement to submit a survey showing all metes and bounds of the revised  
85 parcels. The 510 Washington St property is located in the Commerce and Low Density  
86 Districts and the 0 Fox Ave property is located in the Rural District  
87

88 **A. Board Determination of Completeness**

89 Planner Mari Brunner stated the applicant has requested exemptions from submitting grading,  
90 landscaping, lighting plans and technical reports as no new development is proposed at this time.  
91 She indicated staff recommends granting the exemptions and accepting the application as  
92 complete. She further stated the applicant is also requesting a waiver from completing a full  
93 metes and bounds survey for the 50.8 acre parcel at Fox Avenue, which is require under the  
94 Board Regulations. Ms. Brunner stated the portion of the parcel at 0 Fox Avenue impacted by the  
95 proposed adjustment has been surveyed and is displayed on the submitted plans along with the  
96 complete metes and bounds for 510 Washington Street. She indicated that since this is a waiver  
97 request, the Board will need to open the public hearing first prior to a vote on the request.

98 A motion was made by Mayor George Hansel that the Planning Board accept this application as  
99 complete. The motion was seconded by Councilor Michael Remy and was unanimously  
100 approved by roll call vote.

101 **B. Public Hearing**

102 The Chair noted the Board will need to address the Waiver Request from Standard III. C.5.b. of  
103 the Site Plan and Subdivision Regulations to provide a metes and bounds survey for property  
104 located at 0 Fox Avenue TMP# 519-037-000. The Chair asked the applicant to address the  
105 waiver request.

106 Mr. Toby Tousley of 500 Washington Street addressed the Board and went over the waiver  
107 criteria for requesting a waiver.

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

109 Mr. Tousley stated an updated survey of the properties will be required if the lots involved were  
110 small and there was danger of one of the lots becoming non-conforming due to lot size or  
111 setbacks. In this case 0 Fox Avenue is 16 acres in size and there is no development being  
112 proposed at this time. Because of the large cost involved in surveying the parcel granting the  
113 waiver will not be contrary to the spirit and intent of these regulations. Mr. Tousley recalled a  
114 similar request on Wyman Road and for the Colonial Theater.

115

116

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

119 Mr. Tousley stated the area of the proposed boundary line adjustment will severely limit the  
120 ability of further development. Access from Washington Street will be limited to the existing  
121 retail area and there will be no further changes and thus granting the waiver will not increase the  
122 potential for creating adverse impacts to abutters, the community or the environment. He noted  
123 the portion being added onto Fox Avenue will have no direct access from Washington Street.

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

126 Mr. Tousley stated the area of the proposed boundary line adjustment will severely limit the  
127 ability of further development. Access from Washington Street will be limited to the existing  
128 retail area and there will be no further changes and thus granting the waiver will not diminish the  
129 property values of abutting properties.

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

132 Mr. Tousley stated given the large cost of surveying the 16 acre parcel for this boundary line  
133 adjustment and such survey is not required for the Board's review - strict conformity with the  
134 regulations or Development Standards would pose an unnecessary hardship to the applicant.

135 A motion was made by Mayor George Hansel to grant the requested waiver from Standard III.  
136 C.5.b. of the Site Plan and Subdivision Regulations that all metes and bounds be surveyed for  
137 parcel at 0 Fox Avenue TMP# 519-037-000 for Boundary Line Adjustment S-03-21.

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

140 Mr. Tousley addressed the Board again with reference to a map and noted the locations of  
141 Washington Street, June Street and Fox Avenue. He indicated the portion of the lot along  
142 Washington St that he is looking to attach to the larger parcel at 0 Fox Ave. He also noted where  
143 he understood June Street to extend to the property at 0 Fox Ave and indicated there are two  
144 subdivisions signed by the Planning Board and recorded at the Cheshire County Registry of  
145 Deeds that show access to this property from June Street. He referred to the deed for the parcel at  
146 0 Fox Ave that references two monuments at the end of June Street. He noted that the survey  
147 done in 1973, found those monuments still exist. Mr. Tousley stated he is not proposing any  
148 development or access to this property but would like confirmation this access exists.

149 Mr. Tousley indicated that a portion of the parcel along Washington St is located in the  
150 commerce zoning district but the rest is zoned residential. He felt removing the piece of the  
151 parcel in the residential zoning district from the parcel along Washington St would limit  
152 development of the parcel. He added the reason this property is in the commerce zone is because  
153 of a mini golf course, a use that existed on this site many years ago.

154 Mr. Tousley noted the wetlands and steep slopes that exist on this site, which he stated would  
155 prohibit him from being able to develop the parcel at 0 Fox Ave. He also noted this proposed  
156 adjustment would have no effect on zoning.

157 This concluded the applicant's comments.

158 Staff comment were next. Ms. Brunner stated engineering did provide comments on this  
159 application. Staff does not have an answer yet regarding the June Street access issue. She noted 0  
160 Fox Avenue does not have frontage on a Class V Road and this boundary line adjustment would  
161 not change this condition if it were approved. However, if development is proposed in the future  
162 or if 0 Fox Avenue is subdivided in the future, at that time the owner of 0 Fox Avenue would  
163 have to demonstrate legal access from and frontage on a Class V Road.

164 Ms. Brunner noted there were public comments on this application which have been shared with  
165 the applicant and the Planning Board in advance of the meeting and those comments have also  
166 been placed in the project file.

167 Ms. Brunner reviewed the standards relevant to this application. Her review is summarized  
168 below.

169 Hillsides: Ms. Brunner noted that there appears to be some precautionary slopes present on the  
170 back portion of the 510 Washington Street parcel within the area of land that is proposed to be  
171 conveyed to 0 Fox Avenue; however, no steep slopes are present on the portion of this lot that  
172 would remain after the adjustment. In addition, both precautionary and prohibitive slopes appear  
173 to be present on the 0 Fox Avenue parcel. Since the size of the 0 Fox Avenue parcel would  
174 increase as a result of this proposal, the boundary line adjustment would not make the 0 Fox  
175 Avenue parcel non-conforming with respect to lot size. In addition, no development or site work  
176 is currently proposed on either parcel. This standard appears to be met.

177 Flooding: Neither parcel is located in the 100-year floodplain or the floodway.

178 Comprehensive Access Management: There are no changes proposed to the access for either  
179 parcel.

180 Wetlands & 17. Surface Waters: There are 17,757 sf of wetlands located on the back portion of  
181 the 510 Washington Street parcel within the area of land that is proposed to be transferred to 0  
182 Fox Avenue. There will only be a very small area of wetlands remaining on the Washington  
183 Street parcel after the adjustment (146 sq ft). It is possible that some wetlands are located on the  
184 0 Fox Avenue parcel as well. Because the size of the 0 Fox Avenue parcel would increase as a  
185 result of this proposal, the boundary line adjustment would not make the 0 Fox Avenue parcel  
186 non-conforming with respect to lot size after accounting for wetland/surface water area. In  
187 addition, no development or site work is currently proposed on either parcel. This standard  
188 appears to be met.

189 This concluded staff comments.

190 The Chair then asked for public comment.

191 Mr. Carter Chamberlain of 11 Fox Avenue addressed the Board and stated he heard mentioned  
192 that there is a portion of land at the end of Fox Avenue that is not taxed to anyone and wasn't  
193 sure if he heard that comment correctly. Ms. Brunner in response stated the city's online  
194 assessing map does not show Fox Avenue extending up to 0 Fox Avenue. She indicated more  
195 research is required to figure out who owns this land. Mr. Lamb added it is not uncommon for

196 older subdivisions to have portions of road dedicated for road construction that were never built  
197 and could up in the situation as being described here.

198 Ms. Becky Kohler of 22 June Street was the next to address the Board. Ms. Kohler stated she had  
199 submitted comments to staff in advance of the meeting. Ms. Kohler went on to say that based on  
200 the documents shared by the applicant, it seems like the section the applicant anticipates access  
201 to 0 Fox Ave is through their property or what they believe to be their property. She stated she  
202 understands this is not an issue the Planning Board would address and the road currently does not  
203 exist as indicated on the applicant's map and wanted her comment documented. The Chair  
204 clarified with the Community Development Director the public communication sent in would be  
205 made part of this application file. Mr. Lamb answered in the affirmative.

206 Ms. Kohler asked whether a metes and bounds survey would address this question and provide  
207 more information around access. Mr. Lamb stated a surveyor can identify the location of rights-  
208 of-way surrounding a property, which has been done, but a full metes and bounds will not  
209 resolve the question of whether access to 0 Fox Avenue exists on June Street.

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

211 Mr. Tousley asked to address the Board again. The Chair reopened the public hearing

212 Mr. Tousley stated he would like to provide additional information on June Street. He indicated  
213 the information he has is based on lengthy work done by Attorney Bradley dating back many  
214 years ago. He also had an informal discussion with the Public Works Director and reviewed June  
215 Street and Fox Avenue. This portion of June Street was never used so is not a Class V road. He  
216 felt the Kohler property is being overly taxed on property they do not own. He stressed he has no  
217 intention of accessing June Street. Mr. Lamb in response stated, staff had spoken with the Public  
218 Works Director and Mr. Blomquist has the same information the Community Development  
219 Department staff has and agrees with the recommendation staff is providing tonight.

220 With no other comments, the Chair closed the public hearing again.

221 Councilor Remy noted the applicant had indicated using previously approved subdivision plans  
222 as a point of reference regarding June Street access and clarified that the Board at this time was  
223 not voting on whether June Street extends to the property at 0 Fox Ave.

224 Mr. Lamb in response clarified what the Councilor is asking is that the Board is not taking a  
225 position that the plan represents access from June Street. Councilor Remy agreed. Mr. Lamb  
226 indicated adding what the Councilor is saying will add clarification of the Board's intention. Mr.  
227 Lamb went on to say in his opinion, the Board is not taking a position with respect to access at  
228 all.

229 Mayor Hansel stated when he makes a motion he will not be adding any language about the  
230 access as he did not feel the Board had any purview over this issue and was not concerned about  
231 this being used as evidence for a decision on access.

232 C. Board Discussion and Action

233 A motion was made by Mayor George Hansel that the Planning Board approve S-03-21, as  
234 shown on the plan entitled "Boundary Line Adjustment Plan Between Lands of Toby Tousley  
235 Tax Map Parcel No. 532-003, 510 Washington St., Keene, New Hampshire & Fox Trail Farm  
236 LLC Tax Map Parcel No. 519-037, 0 Fox Ave., Keene, New Hampshire" prepared by Huntley

237 Survey and Design, PLLC at a scale of 1 inch = 40 feet on April 22, 2021 and last revised on  
238 May 3, 2021 with the following condition prior to signature by Planning Board Chair:

239 1. Owners' signatures appear on plan.  
240

241 The motion was seconded by Councilor Michael Remy.  
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243 The motion was unanimously approved by roll call vote.  
244

245 **V) Community Development Director Report**  
246

247 Mr. Lamb addressed the Board and stated staff has been working with the Steering Committee  
248 to set up some training opportunities. Mr. Lamb stated he appreciated members attending the  
249 training sessions offered by other agencies so far. He indicated he wanted to follow-up on  
250 discussion regarding the training as well as the newly adopted land use code. Ms. Kessler stated  
251 Board members will be receiving an email regarding topics they feel might be helpful as Keene  
252 Planning Board members.  
253

254 **VI) New Business**  
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256 None  
257

258 **VII) Upcoming Dates of Interest – May 2021**  
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- 260 • Planning Board Steering Committee – June 15, 11:00 AM
- 261 • Planning Board Site Visit – June 23, 8:00 AM – To Be Confirmed
- 262 • Planning Board Meeting – June 28, 6:30 PM

263 There being no further business, Chair Russell-Slack adjourned the meeting at 7:25PM.  
264

265 Respectfully submitted by,  
266 Krishni Pahl, Minute Taker  
267

268 Reviewed and edited by,  
Tara Kessler, Senior Planner