

City of Keene
New Hampshire

PLANNING BOARD
MEETING MINUTES

Monday, March 27, 2023

6:30 PM

**Council Chambers,
City Hall**

Members Present:

Pamela Russell-Slack, Chair
David Orgaz, Vice Chair
Mayor George S. Hansel
Councilor Michael Remy
Emily Lavigne-Bernier
Harold Farrington
Randyn Markelon, Alternate

Staff Present:

Jesse Rounds, Community Development
Director
Mari Brunner, Senior Planner
Megan Fortson, Planning Technician

Members Not Present:

Gail Somers, Alternate
Tammy Adams, Alternate
Roberta Mastrogiovanni
Armando Rangel
Kenneth Kost, Alternate

I) Call to Order – Roll Call

Chair Russell-Slack called the meeting to order and roll call was taken.

II) Minutes of Previous Meeting – February 27, 2023

A motion was made by Mayor George Hansel to approve the February 27, 2023 meeting minutes. The motion was seconded by Councilor Michael Remy and was unanimously approved.

II) Final Vote on Conditional Approvals

Chair Russell-Slack stated that as a matter of practice, the Board will now have a final vote on all conditionally-approved applications after all of the “conditions precedent” have been met. This final vote will be the final approval for the application and will start the 30-day appeal clock. The Chair asked whether there were any applications tonight that are ready for a final vote.

Ms. Brunner stated there that there is one application that is ready for a final vote and potentially a second one as well. Ms. Brunner stated that the first application that is ready for final approval

is SPR-870 Modification #2 for property located at 310 Marlboro Street, where the property owner has received approval to construct an addition containing approximately 57 residential apartments.

There were three conditions of approval for this application that needed to be met prior to final approval, including having the owner's signature on the plans, the submittal of a security, and the submittal of a revised lighting plan and light fixture cut sheets. Ms. Brunner stated that all three of these conditions have been met, and the plans are ready to be signed. Ms. Brunner noted that the Earth Excavation & Hillside Protection Conditional Use Permits for the proposed gravel pit on Route 9 may be ready for final approval tonight; however, she suggested that the Chair table this item until later in the meeting after the public hearing for the Earth Excavation Permit modification.

A motion was made by Mayor George Hansel that the Planning Board issue final site plan approval for SPR-870, Modification #2. The motion was seconded by Councilor Michael Remy and carried on a unanimous vote.

III) Boundary Line Adjustment

- 1. S-01-23 – Boundary Line Adjustment – 0, 59, 60 & 67 Thompson Rd - Applicant **Cardinal Surveying & Land Planning, on behalf of owners Gregory & Jeanette Gardner, Jeffrey & Allison Gardner, Jessica & Francis Pierannunzi, and Michael, Edward, & Thomas LaRoche, proposes a boundary line adjustment between the properties located at 0, 60, 67, & 59 Thompson Rd (Tax Map 241, Lots 104, 103, 102 & 101). The adjustment would result in the transfer of .16 ac from Lot 102 to Lot 101, .21 ac from Lot 102 to Lot 103, and .61 ac from Lot 104 to Lot 102. A waiver is requested from Sec. 25.10.8.B.2 of the Land Development Code regarding the requirement to submit an updated survey showing the full metes and bounds for lots 102 and 104. All properties are located in the Rural District.****

A. Board Determination of Completeness

Megan Fortson stated the applicant has requested exemptions from submitting a narrative explaining how the proposal complies with the 13 Site Development Standards in Section 20 of the Land Development Code, submitting separate existing and proposed conditions plans that show the location of surface waters and steep slopes on the subject parcels, and all technical reports. Staff have determined that the requested exemptions would have no bearing on the merits of the application. The Applicant has also requested a waiver from Section 25.10.8.B.2 of the Land Development Code regarding the requirement to submit an updated survey showing the metes and bounds of the revised parcels following the lot line adjustment. The submitted plan shows the metes and bounds for the parcel at 59 Thompson Road, which is Lot 101, and 60 Thompson Road, which is Lot 103, but does not show the metes and bounds of the parcels at 67 Thompson Rd (Lot 102) or 0 Thompson Rd (Lot 104). The Applicant has submitted a written waiver request, which is included as an attachment to the staff report. In making a decision as to whether or not to accept this application as complete, the Board may wish to consider whether the missing information is necessary for the Board to complete its review of this application.

A motion was made by Mayor George Hansel to recommend the Board accept application, S-09-22, as complete. The motion was seconded by Councilor Michael Remy and was unanimously approved.

B. Public Hearing

Ms. Wendy Pelletier of Cardinal Surveying addressed the Board and stated they have requested a waiver from submitting a plan from showing the metes and bounds of all subject parcels. The lots as shown on the plan are based on prior surveys. She noted that Lot 104 is 58 acres in size and pointed to the only area the applicant is proposing changes in (the front area). The reason for the waiver request is time, expense, and redundancy, as the area has already been surveyed.

A motion was made by Mayor George Hansel to accept the applicant's waiver request. The motion was seconded by Councilor Michael Remy and was unanimously approved.

Staff comments were next. Ms. Fortson stated that the four subject parcels are located in southeast Keene at the end of Thompson Road. The Branch River is located directly to the east, Marlboro Road (Route 101) is located to the south, and there are several residential properties located to the west and north. The property at 59 Thompson Road is a 0.53 acre parcel with an existing single-family dwelling. The property at 67 Thompson Road is a 20.33 acre parcel with an existing single-family dwelling. The property at 60 Thompson Road is a 0.98 acre parcel with an existing single-family dwelling. The undeveloped parcel at 0 Thompson Road is 58 acres in size and is owned by Gregory and Jeanette Gardner. All of these parcels are located in the Rural District, which has a minimum lot size of 5 acres and a frontage requirement of 50 feet. She indicated that the applicant's request is to perform a boundary line adjustment that will transfer 0.16 acres of land from Lot 102 to Lot 101, 0.21 acres of land from Lot 102 to Lot 103, and 0.61 acres of land from Lot 104 to Lot 102.

Ms. Fortson went on to say that there is no new development proposed as part of this application; however, it should be noted that there are both surface waters and wetlands present on the parcels at 0 and 67 Thompson Road and steep slopes present on all four parcels. Per Section 19.2.5 and Section 22.3.2 of the Land Development Code related to lot monuments, "*Final subdivision plans shall not be signed and recorded until after the monuments have been installed by the developer and verified by the Public Works Director, or security in an amount deemed satisfactory to the Public Works Director is posted ensuring the monuments will be set.*". As a result, staff recommends that the Board make the inspection of the set monuments by the Public Works Director or their designee a precedent condition of approval for this application.

With respect to sewer and water, the subject parcels do not have access to City water or sewer – the sewer main ends further southwest on Thompson Road before it reaches the subject parcels. The closest sewer main is along Marlboro Road, so any future development on these parcels would require the installation of a private well and septic system.

With respect to Traffic and Access Management, the existing site access points are shown on the BLA plan that was submitted by the Applicant. The parcels at 59 and 67 Thompson Road have a shared driveway that has been in place for a number of years. As part of this application, the

property owners have submitted an access easement agreement to formalize the use of the shared driveway by both sets of owners. In addition, the Applicant added a note on the BLA plan specifying that the shared driveway easement will be recorded at the Registry of Deeds. Hence, this standard appears to be met. The Applicant also included a note on the plan stating that, “*Any future modifications to the driveways shown on this plan may be handled through the submittal of a Street Access Permit application to the City of Keene Public Works Department.*” Including this note on the plan will make it easy for any future property owners to go through a simple process with the Public Works Department rather than having to come before the Planning Board to seek approval for any modifications for their driveways.

In regards to surface waters and wetlands, Ms. Fortson referred to aerial imagery of the subject parcels, which shows that there are surface waters and wetlands present on the properties at 0 and 67 Thompson Road and steep slopes present on all four parcels. The Applicant has requested an exemption from submitting separate existing and proposed BLA plans that show the locations of these features on the subject parcels and noted that no development is proposed at this time. The Applicant has also added a note on the plan stating that any future development on these lots will need to comply with the Surface Water & Hillside Protection Ordinances.

This concluded staff comments.

Councilor Remy noted there is a condition precedent being recommended related to the installation of lot monuments and clarified that the monuments would need to be installed before final approval of the plan. Ms. Brunner explained that there is a requirement in the Land Development Code, under Public Improvement Standards in Article 22, which states that, “*prior to signature of the plans by the Planning Board Chair, the monuments shall be set and inspected by the City Engineer*”. When staff became aware of this standard, they started recommending this as a condition of approval, so that everyone is aware that this is a requirement.

C. Board Discussion and Action

A motion was made by Mayor George Hansel that the Planning Board approve S-01-23 for a boundary line adjustment between the properties at 0, 59, 60, & 67 Thompson Rd as shown on the plan identified as, “Boundary Line Adjustment, Lots 241-102- 000, 101, 103, & 104, Thompson Road, Keene, NH 03431” prepared by Cardinal Surveying & Land Planning at a scale of 1 inch = 100 feet on February 17, 2023 and last revised on March 16, 2023, with the following conditions precedent prior to final approval and signature of the plans by the Planning Board Chair:

1. Submittal of four (4) full-sized paper copies, two (2) mylar copies, and a digital copy of the final plan.
2. Owners’ signatures appear on the plan.
3. Submittal of a check in the amount of \$51.00 made out to the City of Keene to cover the cost of recording the final plat.
4. Inspection of lot monuments by the Public Works Director or their designee following their installation or the submittal of a security in an amount deemed satisfactory to the Public Works Director to ensure that the monuments will be set.

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

IV) Public Hearings

1. **EXP-01-22, Modification #1 – Earth Excavation Permit – Gravel Pit, 0 Route 9 - Applicant and owner G2 Holdings LLC, requests to modify a condition of approval for EXP-01-22 related to the restoration of unpermitted impacts to the 75-ft wetland buffer at the proposed gravel pit on the property at 0 Route 9 (TMP #215-007-000) by changing it from a condition precedent to a condition subsequent to final approval. This site is 84.71 ac and is located in the Rural District.**

A. Board Determination of Completeness

Ms. Brunner addressed the Board and stated that the applicant has requested exemptions from all submittal items except for the narrative, application form, and the required fees; this includes an exemption request from submitting the required plans and technical reports. The reason for these exemption requests is because this application does not propose any new modifications to the site and there is nothing changing physically on the site. Hence, staff recommends that the Board grants the requested exemptions and accepts the application as complete.

A motion was made by Mayor George Hansel to recommend that the Board accept application EXP-01-22, Modification #1 as complete. The motion was seconded by Councilor Michael Remy and was unanimously approved.

B. Public Hearing

Brent Cole of Granite Engineering stated that they were before the Board last month for an extension request for the original Earth Excavation Permit application, EXP-01-22, which the Board granted. He indicated that there were two conditions of approval that the applicant had not met at that point, including the submittal of a security and the restoration of the wetlands buffer. Mr. Cole stated that they have submitted a security and it has been approved by the City. The one condition that they have not met is the restoration of the wetlands buffer. He indicated that due to the current season and weather, they are having a difficult time restoring the wetlands buffer. At this time, the applicant is requesting that condition #8 from the original approval be changed from a condition precedent to a condition subsequent to allow the applicant to have additional time for the buffer restoration to be completed and approved to the satisfaction of the City Engineer. He added that the wetlands scientist on the project will view all the plantings and make sure they are planted properly and are established appropriately.

Mr. Farrington asked for the timeline for the restoration of the wetlands buffer. Mr. Cole stated that they discussed this issue with City staff and if it meets the Board's approval, they would like the timeline to be extended to September 30th. He stated that the work will be completed very soon, the plantings are in – the City Engineer just needs to approve the plantings.

Chair Russell-Slack asked staff whether the applicant has discussed the September timeframe.

Ms. Brunner stated that a deadline of September 30, 2023 makes staff feel more comfortable. If the applicant does not meet the September 30th deadline, the approval would be invalid.

The Chair asked for staff comments. Ms. Brunner stated that staff comments were the same as when the application first came before the Board. The only request being made as part of this application is to change one of the conditions precedent to a condition subsequent to allow the applicant more time to achieve it. She stated that because this is an unusual modification, staff did not prepare a staff report.

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

Councilor Remy stated he is glad there is a timeline.

C. Board Discussion and Action

A motion was made by Mayor George Hansel that the Planning Board approve EXP-01-22, Modification #2 to change the condition of approval #A.8 for EXP-01-22 from a condition precedent to a condition subsequent with the following amendment to the condition:

1. The restoration of unpermitted impacts to wetlands and wetland buffers shall be completed and inspected to the satisfaction of the Community Development Director no later than September 30, 2023.

The motion was seconded by Councilor Remy and was unanimously approved.

V) Final Vote on Conditional Approvals

Chair Russell-Slack explained that the Board would now move on to discussing whether or not they should issue a final approval for the original Earth Excavation Permit, EXP-01-22, & the Hillside Protection Conditional Use Permit, CUHP-01-22, for the proposed gravel pit on Route 9. A motion was made by Mayor George Hansel that the Planning Board issue final approval for EXP-01-22 and CUHP-01-22. The motion was seconded by David Orgaz and carried on a unanimous vote.

VI) Staff Updates

Ms. Brunner stated that the Keene Community Power Program is launching in June. All residents who are eligible to participate in the program will be sent a postcard and an opt out letter by mid-April. There will be public meeting on April 25th at 6:00 PM at Heberton Hall.

Ms. Brunner went on to say this is the last meeting for Chair Russell-Slack and extended her appreciation for her years of service on the Board. The Community Development Director and the Mayor also extended their appreciation to the Chair. The Mayor stated he will be submitting a name to City Council for a new Planning Board member to be appointed.

VII) New Business

None

VIII) Upcoming Dates of Interest

- Joint Committee of the Planning Board and PLD – April 10, 6:30 PM
- Planning Board Steering Committee – April 11, 11:00 AM
- Planning Board Site Visit – April 19, 8:00 AM – To Be Confirmed
- Planning Board Meeting – April 24, 6:30 PM

There being no further business, Chair Russell-Slack adjourned the meeting at 6:58 PM.

Respectfully submitted by,
Krishni Pahl, Minute Taker

Reviewed and edited by,
Megan Fortson, Planning Technician