

City of Keene
New Hampshire

PLANNING BOARD
SPECIAL MEETING MINUTES

Monday, September 8, 2025

5:30 PM

**Council Chambers,
City Hall**

Members Present:

Harold Farrington, Chair
Roberta Mastrogiovanni, Vice Chair
Mayor Jay V. Kahn
Councilor Michael Remy
Sarah Vezzani
Armando Rangel
Ryan Clancy
Kenneth Kost
Michael Hoefer, Alternate (Voting)

Staff Present:

Paul Andrus, Community Development
Director
Mari Brunner, Senior Planner
Evan Clements, Planner
Megan Fortson, Planner

Members Not Present:

Randyn Markelon, Alternate
Tammy Adams, Alternate
Stephon Mehu, Alternate

I) Call to Order

Chair Farrington called the meeting to order at 5:30 PM and a roll call was taken. Mr. Hoefer was asked to join the meeting as a voting member.

II) Boundary Line Adjustment

- a) **PB-2025-16 – Boundary Line Adjustment – 124-126 & 130 Eastern Ave –**
Applicant HG Johnson Real Estate, on behalf of owner Bishop 2024 Revocable Family Trust, proposes to transfer ~0.22-ac of land from the ~0.57-ac parcel at 130 Eastern Ave to the ~0.95-ac parcel at 124-126 Eastern Ave (TMP#s 588-031-000 & 588-032-000). Both parcels are located in the Low Density District.

i. Board Determination of Completeness

Planner Evan Clements stated the applicant has requested an exemption from submitting separate existing and proposed condition plans and all technical reports. After reviewing each request, Planning Staff have made the preliminary determination that granting the requested exemptions would have no bearing on the merits of the application and recommend that the Board accept the application as complete.

A motion was made by Roberta Mastrogiovanni that the Planning Board accept Application PB-2025-16 as complete. The motion was seconded by Councilor Michael Remy and was unanimously approved.

ii. Public Hearing

Mr. George Hansel of HG Johnson Real Estate addressed the Board on behalf of applicant Terry Bishop. Mr. Hansel explained that all parcels in question have the same owner. The request is to adjust the property line at the rear of the parcel and add 0.22 acres from one parcel to the other. No new development is being proposed but the property owner is looking to add a ground mounted solar array and would like more space on one of the properties. If the plan for the solar array moves forward, which is not an item before the Board tonight, that too would need to comply with the City's regulations as it would relate to that kind of development.

He referred to the plan in which these parcels are located next to each other. There are some wetlands, which have been delineated on this plan. The wetlands are in the opposite section of the area that the boundary line is going to be adjusted.

Mr. Hansel referred to Section 20.2.1 – Zoning District Dimensional Requirements – and noted this adjustment is not going to create any non-compliance. The lots will be in compliance after the adjustment.

Section 20.2.2 – Character of the Land: Mr. Hansel noted the only character of land issue that could be contemplated are wetlands. However, because the wetlands are located on the opposite side of one of the lots it is not really affected. The applicant does not feel it is applicable.

Section 20.2.3 - Scattered or Premature Development: This section is to make sure there is adequate infrastructure for a subdivision, however, no such development is being proposed here. Both lots are serviced by city water and sewer and are also serviced by Eversource.

Section 20.2.4 – Preservation of Existing Features: None of the features are going to be changed as a result of this adjustment.

Section 20.2.6 – Special Flood Hazard Area: Property is not located in a flood zone.

Section 20.2.7 – Fire Protection and Water Supply: Property is connected to City water and no part of this application would require fire protection

Section 20.2.8 – Utilities: Property has city utilities.

This concluded Mr. Hansel's comments.

Applicant Terry Bishop stated the plan is to produce nearly 750,000-Kilowatt hours of electricity into the power grid that they would share. He stated he is waiting for to hear about this new high efficiency chip, which would produce more kilowatt hours.

Staff comments were next. Mr. Evans addressed the Board and stated the subject parcels are located on the east side of Eastern Avenue in southeastern Keene, approximately 1,700 feet from the Marlboro Street intersection to the South and 350 feet from the Bellevue intersection to the north. The property at 124 and 126 Eastern Avenue contains an existing three-unit multifamily building, an existing single-family building, a carport shed and associated site improvements. There is also a stream that runs along the northwest corner of the parcel under Eastern Avenue. The property at 130 Eastern Avenue contains an existing single-family building, detached garage, shed and other improvements.

He noted the purpose of this application is to transfer 0.22 acres of land from 130 Eastern Avenue to 124 and 126 Eastern Avenue. No development is being proposed at this time as part of this application. The parcel at 130 Eastern Avenue is 0.57 acres in size and the parcel at 124 and 126 Eastern Avenue is 0.99 acres. Following the transfer of land, both lots will continue to comply with all zoning dimensional requirements for the low-density district. The end parcel size, after the transfer will leave 124 and 126 Eastern Avenue at 1.21 acres in size and 130 Eastern Avenue at 0.34 Acres in size.

Mr. Clements noted, as indicated by the applicant, the character of land for the subdivision is described as gently sloping towards Eastern Avenue with a low point located in the northern edge of 124 and 126 where that stream is located. A portion of the stream is located on the corner of the parcel itself and has been delineated by a licensed wetland scientist. A 30-foot wetland buffer is shown on the plan. This standard appears to be met.

With reference to scattered or premature development, both parcels contain existing developed residential uses with access to city water and sewer. This standard has been met.

Preservation of existing features – Mr. Clements stated there are no impacts to existing site features as no additional development is proposed. This standard has been met.

Monumentation – the submitted plan shows the boundaries will be marked using a 5/8 inch capped rebar post, which will be set in all corners and there is a condition of approval related to the inspection of that lot.

Special Flood Hazard Area – This standard is not applicable as neither of the parcels are in a special flood hazard.

Fire Protection, Water Supply and Utilities – These standards are also not applicable as everything is fully developed with no additional development proposed.

Mr. Clements next reviewed the conditions of approval as outlined in the Board's packet. Mr. Clements stated Staff have made a preliminary determination that this project has no regional impact. This concluded Staff comments.

Mayor Kahn asked whether the solar array would be sufficient to power all the properties the applicant owns in the neighborhood. Mr. Bishop stated he would not be using solar but would be selling it back to the grid.

As there was no public comment, the Chair closed the public hearing.

iii. Board Discussion and Action

A motion was made by Roberta Mastrogiovanni that the Planning Board approve PB-2025-16 as shown on the plan identified as “Boundary Line Adjustment Plan” prepared by Envirespect Land Services, LLC at a scale of 1 inch = 20 feet dated June 28, 2025 and last revised August 2025 with the following conditions precedent prior to final approval and signature of the plans by the Planning Board Chair:

1. Owners’ signatures appear on the proposed BLA plan.
2. Submittal of two (2) mylar copies of the plans.
3. Submittal of a check in the amount of \$51 made out to the City of Keene to cover recording fees.
4. Inspection of the lot monuments by the Public Works Director, or their designee, following their installation, or the submittal of a security in a form and amount acceptable to the Public Works Director to ensure that the monuments will be set.

The motion was seconded by Councilor Remy.

The Councilor agreed this is not a regional impact project and felt it was a straightforward project.

The motion made by Roberta Mastrogiovanni carried on a unanimous vote.

III) Public Hearings

- A) **PB-2025-15 – Cottage Court Conditional Use Permit – Barn Conversion, 429 Elm St – Applicant HG Johnson Real Estate, on behalf of owner JC&C Rentals LLC, proposes to convert a barn into 2 dwelling units on the property at 429 Elm St (TMP# 520-005- 000). The parcel is ~0.48-ac and is located in the Low Density District.**

i) Board Determination of Completeness

Planner Evan Clements stated the applicant has requested exemptions from submitting separate existing and proposed conditions plan, a grading plan, a lighting plan, a landscaping plan, and all technical reports. Staff recommend that the Board grant these exemptions and accept the application as complete.

Ms. Vezzani stated she lived close to this property and asked the Board if she should recuse herself from voting on this application. Ms. Brunner asked Ms. Vezzani to clarify whether or not she lives 200 feet from this property and Ms. Vezzani answered in the negative. The Board did not feel it was necessary for Ms. Vezzani to be recused.

A motion was made by Mayor Kahn that the Planning Board accept Application PB-2025-15 as complete. The motion was seconded by Councilor Remy and was unanimously approved.

ii. Public Hearing

Mr. Hansel of HG Johnson Real Estate addressed the Board and introduced Mr. Joe Bagster, applicant. Mr. Hansel stated this application is for a Cottage Court Overlay District project. He stated this was a Cottage Court development built in the 30's and is a legal non-conforming use right now. Mr. Hansel noted to this property on a plan located on Elm Street. It is an existing lot that has multiple single-family buildings on it. The request is to convert an existing garage/barn into two new apartments. There is sufficient parking already on the site. The site has about eight parking spots, which would allow two more apartments to be added and have one spot per apartment on the entire lot with two extra spots.

Mr. Hansel went on to say the overlay district allows for single-family duplex and triplex uses in the low-density district. There are not many changes being proposed to the outside of the property, most of the work would be to the interior to create the two new units. The three garage overhead doors will be removed and replaced with traditional door entrances for the apartments. Storage areas are also going to be added, and the dormers are going to be expanded to get a little more headroom on the second floor. The two curb cuts and the loop configuration will remain.

The dwelling size standard allows for a maximum average unit size of 1,250 square feet and a maximum building footprint of 900 square feet per unit. Mr. Hansel stated this project, both with the existing and the new proposed units, is going to have an average unit size of 900 square feet and an average footprint of 637 square feet, which will fall below the maximum in the standard.

Parking – The standard requires a minimum of one parking space per unit and a maximum of one parking space per bedroom. There are eight existing parking spots on the site. Those eight spots will be shared between the five units and nine total bedrooms. This application, if approved, would fall into compliance with the standard.

Building Separation – All buildings exist. The applicant is not proposing any new buildings or expanding the footprint of any of the existing buildings. The applicant would need to apply for a building permit if this application is approved, which would address any life safety issues.

No modifications are being proposed for the driveways.

There are no internal roads being proposed.

Screening – No changes are being proposed to the exterior of the buildings. Hence, screening doesn't apply.

Architectural Guidelines – Standard 17.5.4. – Minimal exterior changes. The only change being proposed is that the applicant is replacing the garage doors and changing the windows to more modern energy efficient windows, which Mr. Hansel noted is not a substantial change.

Mr. Hansel noted in his application that he has indicated the proposal would be four additional units, which he indicated is a typographic error. The addition is only two units.

Mr. Hansel felt this type of additional housing would help with the housing crisis the City is experiencing. This concluded Mr. Hansel's presentation and turned the presentation over to the applicant.

Mr. Joe Bagster addressed the Board and stated he would reiterate what Mr. Hansel stated that this type of housing would address the shortage of housing in the City.

Ms. Mastrogiovanni stated this was a great idea and stated she has been to this property in the past and the only issue she has is that tenants seem to block the driveway, which makes it difficult to get in and out of the property.

Mr. Clancy asked for the square footage of the front unit. Mr. Hansel stated the average is about 900 square feet per unit.

The Chairman asked whether a bathroom needs to be added to the barn. Mr. Hansel stated the site is currently serviced by City water and sewer and the applicant is looking to see if that line could be extended or if it needs to be replaced; this will be decided during the building permit process.

Mayor Kahn asked if each unit would have its own staircase. Mr. Hansel stated each unit would have its own entry as required by the building code. Mr. Hansel referred to page 22 showing the three doorways in the front. One of those areas would be a common area (laundry, storage), the one in the middle would access the unit upstairs, and the other would access the unit downstairs.

Staff comments were next. Mr. Clements addressed the Board and stated the subject parcel is an existing 0.48-acre lot located on the eastern side of Elm Street, directly across the street from Fuller Elementary School and about 333 feet from the Timberlane Drive Intersection. The parcel contains three detached single-family residences, as well as a shed and a barn. Improvements include a U-shaped gravel driveway with two street access connections.

The purpose of this application is to convert the existing approximately 1,120 square foot barn into a duplex with a two bed and one bath unit and a one bed and one bath unit. This will increase the total count of residential units on the property to five. The property contains eight parking spaces where only five parking spaces are required. He added there is no proposed alteration to the site besides the barn conversion, and this project does not meet the threshold for major site plan review.

Regional Impact – Mr. Clements stated that after reviewing the application, Staff have made a preliminary evaluation that the proposed duplex does not appear to have the potential for regional impact; the Board will need to make a final determination on that.

He went on to say that the duplex is an allowed development type according to the table in the Cottage Court ordinance in the Low Density District.

The three existing detached single-family units were constructed between 1936 and 1940. The existing development of the site is considered legal non-conforming, as the applicant explained, because multiple principal uses are not normally allowed on a single lot in a residential zoning district. Approval of this Cottage Court Conditional Use Permit will bring the property into conformance with the City's zoning regulations in terms of allowed uses. All requirements appear to be met.

Regarding dwelling unit size, this standard requires a maximum of 1,250 square feet gross floor area and a maximum building footprint of 900 square feet per unit. The proposed project will result in an average ground floor area of 900 square feet per unit with five dwelling units. Total building footprint of all existing buildings is approximately 3,185 square feet, with an average building footprint size of 637 square feet per unit. Mr. Clements added that each building footprint appears to be less than the required 900 square feet, so this standard has been met.

The parking standard requires a minimum of one parking space per unit and a maximum of one parking space per bedroom. Each unit within the property has access to one of the eight existing parking spaces on site. This standard has been met.

Building separation – All buildings already exist. The conversion of the barn to a duplex will require a building permit application that meets all applicable building, fire and life safety codes. This standard has been met.

Driveways – The property contains an existing driveway, which appears to be at least 20 feet wide to accommodate vehicular traffic to parking areas. The standard appears to be met.

Internal roads – There are no internal roads, hence this standard does not apply.

Screening – The standard says that either a six-foot tall fence or a landscape buffer is required for screening. If the proposed building type, not density, is more intense than the adjacent building type. The proposed conversion is an existing barn into a duplex with no significant changes. The overall site does not appear to constitute a more intense building type to the surrounding property. Staff believe that this standard does not apply.

Architectural Guidelines – Mr. Clements stated the applicant has clearly articulated the intent to maintain a New England vernacular that already exists at the proposed site and surrounding area. He suggested the Board have its own deliberation on this issue.

Mr. Clements reviewed the conditions of approval included in the Board packet. This concluded the staff comments.

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

iii. Board Discussion and Action

A motion was made by Roberta Mastrogiovanni approve PB-2024-15 as shown on the site plan identified as "429 Elm Street, Keene" prepared by H.G. Johnson Real Estate at a scale of 1 inch

= 15'8" dated July 8, 2025 and in the application materials received July 9 2025, and August 4, 2025, with the following conditions:

1. Prior to final approval and signature of the plans by the Planning Board Chair, the following conditions shall be met:
 - a. Owner's signature appears on the site plan.
 - b. Submittal of five (5) paper copies and one digital copy of the site plan.

The motion was seconded by Councilor Remy.

Councilor Remy stated this project does not qualify for regional impact and agreed with Staff that this project looks similar to the existing property. He felt the proposal is a better use of an existing structure and felt it was a great application.

Ms. Vezzani stated she agreed with Councilor Remy and felt it was a great addition to the neighborhood.

Mayor Kahn felt it is going to be difficult to maintain a vernacular look that resembles the existing units on site. He asked whether there would be some process by which Staff would be reviewing a final plan, which shows the intended finish so that look has some kind of review post approval.

Mr. Clements stated this application is different in that it is a commercial site plan with a visual architectural analysis, which is essentially a collection of single-family and two-family structures.

He indicated the Cottage Court Conditional Use Permit gives some sort of guidelines on architectural appearance. He stated this duplex is not going to be reviewed under the Planning Board's architectural and visual appearance standards because this is not a major site plan review and doesn't meet the threshold for that type of review. He added if a condition was to be added regarding final visual appearance, it might be too subjective for Staff to make a determination on. Staff does not have a clear set of regulations to compare that final product to. He stated an option would be to require architectural elevations and renderings of the final barn, which would increase time and cost for the applicant and would probably require the Board to continue the application to another meeting to give them time to put that together. The Mayor did not feel that was necessary.

The motion made by Roberta Mastrogiovanni was unanimously approved.

- B) Continued Public Hearing - PB-2024-20 – Earth Excavation Permit Major Amendment & Hillside Protection Conditional Use Permit – Gravel Pit, 21 & 57 Route 9 – Applicant Granite Engineering LLC, on behalf of owner G2 Holdings LLC, proposes to expand the existing gravel pit located at 21 & 57 Route 9 (TMP#s 215-007-000 & 215-008-000). A Hillside Protection CUP is requested for impacts to steep slopes. Waivers are requested from Sections 25.3.1.D, 25.3.6, and 25.3.13 of the LDC related to the 250' surface water resource setback, toxic or acid forming materials, and the 5-ac excavation**

area maximum. The parcels are a combined ~109.1-ac in size and are located in the Rural District.

i) Public Hearing

Mr. Manley stated that during the last meeting at the two-hour and nine-minute mark, the Chairman closed the public hearing.

Senior Planner Mari Brunner reminded the Board that this was not a public hearing, and no public comment was being taken tonight. The Chair noted the public hearing was closed at the last meeting and the Board will be continuing its deliberation tonight. He stated he would like to start the deliberation with a motion.

A motion was made by Roberta Mastrogiovanni that the Planning Board approve PB-2024-20 for an Earth Excavation Permit Major Amendment and Hillside Conditional Use Permit as shown on the plan set identified as ‘Gravel and Earth Removal Plan; G2 Holdings, LLC’ prepared by Granite Engineering at varying scales on December 20, 2024 and last revised on August 22, 2025 with the following conditions:

1. Prior to final approval and signature of the plans by the Planning Board Chair, the following conditions precedent shall be met:
 - a. Owner’s signature shall appear on the title page and overview plan on Sheet 1 of the plan set.
 - b. Submittal of five (5) full size paper copies and a digital copy of the final plan set in pdf format.
 - c. Submittal of security for sedimentation and erosion control, stormwater management, and reclamation for the first permit period of work to be completed.
 - d. The applicant or owner shall pay all outstanding third-party consultant fees.
 - e.
 - f. Submittal of all approved state and federal permits. The approval numbers for these permits shall be added to the cover sheet of the plan set.
 - g. The requested waivers and conditional use permits with results shall be added to the cover sheet.
2. Subsequent to final approval, the following conditions shall be met:
 - a. Erosion control, sedimentation control, and drainage management shall be installed before any site preparation and/or excavation work begins and shall be maintained in good working order during the excavation project.
 - b. Over the life of the excavation permit and any renewal thereof, the applicant shall provide monthly inspections by a qualified third party licensed professional in the state of NH regarding erosion and sedimentation control, PH, and stormwater runoff. Reports for these inspections shall be submitted to the Community Development Department.
 - c. Over the life of the excavation permit and any renewal thereof, in accordance with Section 25.3.4.C of the LDC the applicant shall monitor ground water levels and surface water levels on a monthly basis to determine the extent to which there are any adverse impacts.

- i. The applicant shall notify the Community Development Department within 24-hours of any adverse impacts on ground water levels.
 - ii. The applicant shall implement the approved protocol for providing replacement water supplies for water supplies that are disrupted as a result of the excavation operations.
- d. In accordance with Section 25.3.3 of the LDC, a monitoring well shall be installed in the area of Period 1 in Spring 2026 to confirm the seasonal high water table conditions.
- e. In accordance with Section 25.3.3 of the LDC, seasonal high water level monitoring shall be completed in bedrock well BRW-09 prior to the commencement of work in Permit Period 8 and throughout the duration of work within this phase to confirm that the revised grades are at least 6-ft above the water table.
- f. In accordance with Section 25.3.5.C of the LDC, ongoing monitoring of ground water quality shall be conducted semi-annually throughout the term of the permit and any renewal thereof, and for a period of not less than 2-years following the cessation of excavation activities and reclamation of the excavation site.
- g. Six months prior to the commencement of work for the next permit period, the property owner shall submit a Permit Renewal application for review and approval by the Planning Board and sufficient security to cover the cost of sedimentation and erosion control, stormwater management, and reclamation for the next permit period of work to be completed.
- h. Excavation activities shall only occur between the hours of 7:00 AM and 5:00 PM, Monday through Friday.
- i. The area of un-reclaimed, inactive, and active excavation area shall not exceed 12 acres.
- j. The boundary between the excavation perimeter and buffer area should be clearly marked on the site for each permit period to avoid encroachment into the buffer area. Buffer areas should not be used to store stumps, boulders, earth materials or other debris in accordance with section 25.3.2 of LDC.
- k. The boundary of approved setbacks from service water resources within the excavation perimeter shall be clearly marked on the site to avoid encroachment
- l. At the end of all excavation operations, the site shall be reclaimed using pollinator friendly plantings and monitored in accordance with Section 25.4 of the Land Development Code.

The motion was seconded by Mayor Kahn

The Chairman noted because this application was reviewed over a period of a few months whether the Board was adequately versed to vote on it.

Mr. Hoefer stated he has attended site visits, and meeting and was prepared to vote on the application.

Mr. Kost stated he had also attended site visits, and meeting and was prepared to vote on the application.

Councilor Remy stated he missed one meeting in March but had watched the video of that meeting.

Ms. Mastrogiovanni stated she too was prepared to vote on this issue and did attend many of the meetings, read all the notes and watched videos of the ones she wasn't able to attend.

Mayor Kahn stated he was prepared to vote this evening.

Mr. Rangel stated he too was prepared to vote. He had attended all the meetings but was not able to attend the site visit.

Ms. Vezzani was prepared to vote. She stated she reviewed notes and watched the video of the meeting she missed.

Mr. Clancy stated he was prepared and ready to vote on this matter tonight.

Attorney Ice stated one of the alternate Board members who has voted previously on this project is now removed from voting, which she felt was an issue. She noted that this alternate member, Mr. Hoefer, replaced a Board member at the March meeting and questioned if that Board member can vote tonight. She indicated Mr. Hoefer replaced one of eight members so only eight can vote. She stated the Board is allowed by statute to have nine Board members, but the Board never appointed a ninth member.

Ms. Brunner agreed that Attorney Ice did have a point. She stated because Mr. Hoefer has been sitting on this matter from the beginning and has been at every meeting, he should continue to vote this matter. She advised that the Chair ask one of the regular members here tonight to step down and have Mr. Hoefer pick that spot for this vote. The Chair stated he would ask for volunteers and otherwise he would name someone to step down. Mr. Clancy was recused from this vote.

The Chair stated there are four additional conditions included in the packet and asked that the Board discuss this first. The first is a condition subsequent and it is regarding an addition to the reclamation regarding planning native tree species. Councilor Remy stated he was in favor of this condition. He stated there is already a lot of tree cover and did not feel the applicant would have to do too much to comply with this condition. Ms. Vezzani stated she was comfortable with this condition.

The second condition was regarding traffic and has two parts: Part A and Part B. Mayor Kahn stated as he has stated previously that safety is a concern to him on this route. He felt these traffic considerations are modest and achievable by the owner. He noted Item A and that the current traffic study outlines 74 trips to and from the site on a weekly basis. He felt what is being proposed was a generous statement. He further stated the site has increased in size from the original application of 10 acres to 12 acres. The situation with the eastbound direction is of

concern for site distances and other traffic safety measures. If the applicant is seeking the guidance both for the updated driveway permit for the additional acres and to gain the best recommendations from the party responsible for the safety on that highway, which is NHDOT, this is an important additional condition.

Councilor Remy stated he agrees with Part A, however, for Part B, he stated he wasn't sure if requesting an updated driveway permit is what he would go for as much as perhaps submitting notification to NHDOT that there has been a concern around the safety and the visibility around this area and asking for their recommendations. He felt this could trigger a safety study for the State and how they might make modifications to the road. He stated the applicant is not necessarily expecting more traffic. However, if the Board has concerns about the current layout, he felt it was appropriate for the applicant to send a letter to NHDOT with a copy to the City indicating the concern that exists on this route and for DOT to investigate the issue. The Councilor noted there is a sign that just says trucks entering on the eastbound side but felt another sign around the corner could be helpful.

The Mayor in response stated he agrees with Councilor Remy and to make sure the sign is more visible would be helpful. The Mayor noted the driveway permit request is because there is an alteration to the plan and asked for clarification. Ms. Brunner stated her understanding is that the New Hampshire Department of Transportation, which has jurisdiction over this road, requires a driveway permit when the use expands or is enlarged. The applicant would have to reapply just to make sure this is still an adequate driveway. She did not think DOT would necessarily require anything, but it could give DOT another opportunity to just look at the driveway access points and then let the applicant know if there is anything they could do to help improve safety. She felt this is an avenue to have DOT provide some safety suggestions but added what Councilor Remy has proposed would also work. She also suggested the Chair could give the applicant an opportunity to weigh in on some of these conditions, as the applicant has not had an opportunity to review the new proposed conditions.

Ms. Vezzani asked whether there was a cost for applying to the DOT for an updated driveway permit compared to what Councilor Remy suggested. Ms. Brunner stated what Councilor Remy suggested would not have a cost associated with it but wasn't sure how much the driveway permit would cost. Councilor Remy felt writing a letter would be at no cost and will also trigger the state to review this area. The Chairman stated he agrees with Councilor Remy's suggestion.

The Mayor felt the applicant should be the one initiating the correspondence with the state. He also added that with a driveway permit, this might enable a justification for the department to make these kinds of recommendations. He felt the idea was to link this with a process the Planning Department has in place and to not create something different. He added it is a fact that the trip generation has increased, and the driveway permit in place is based on less traffic. The Mayor felt the motion is worded appropriately because it gives the Department of Transportation the rationale as to why they ought to look at this issue. The Mayor did not feel DOT has any basis to provide this kind of feedback without this kind of regulation in place. DOT has given approval for a 10-acre site, and this is now a 12-acre proposal, which could require additional mitigation.

Mr. Manley addressed the Board and noted as a point of order, Section 2.1 of the Board's Rules of Procedure states that the Planning Board is made-up of nine members consistent with state law. The Chair stated Mr. Manley did not have standing.

Ms. Vezzani stated she would be in agreement with either one of the proposed suggestions.

Mr. Hoefer stated, with respect to the driveway permit, he understands the spirit for the request and asked whether this is not something that the Board should have requested with the original request to the applicant. He noted the Board was aware that the site was larger from the beginning of this process.

Councilor Remy stated that according to what Staff has stated, if the applicant meets the requirements of having had a change of use, they have to apply for an updated permit if there is something that triggers the State to require one. He felt if the expanded use required the applicant to obtain a new permit, they should be aware that this is State law and hence would need to work with the State. He did not feel this is something the Board should require.

Ms. Mastrogiovanni stated with respect to traffic and the proposal of a mitigation strategy of some kind, how does the City keep count of vehicles entering and exiting the site. She stated we are expecting an increase to traffic and asked if that is the case, what the mitigation strategy would be from Public Works. She added Route 9 is by far the most important artery into Keene and it is always a busy artery. Route 9 is not wide enough and to hypothetically see 10-wheeler dump trucks rolling off into that pit is a concern and wanted to make sure it is safe. She felt a mitigation strategy and the proper discussion with the State would make sense for this project.

Mr. Kost questioned as of now whether there was an increase to traffic. He stated the number appears to remain the same but just spread over more years. The Chairman agreed that this was the information provided in the application.

The applicant's representative, Mr. Cole, stated they would be willing to comply with either one of the items being suggested by the Board.

The third condition was in reference to monitoring vibration during and after blasting. Mr. Clancy stated that even though he is not voting on this matter, he is still part of deliberation on this Board. In reviewing all documents and hearing Board's concerns at the last meeting, he wanted to make sure the Board had appropriate tools to address any issues that would arise. He suggested having a third party monitor a baseline before a blast starts.

Mr. Kost, after having heard about foundation issues from abutters, agreed with what Mr. Clancy had stated. He felt what is being proposed would provide opportunity to monitor the work.

Councilor Remy stated this is not his expertise but wanted to know the applicant's position on this; if they are not opposed to it, that would be ok. If not, it would need to be discussed further.

Attorney Ice felt this is a duplication. She indicated the Board's packet has expert testimony, which indicates that outside of half mile, there would not be any issues at all. She felt it was overkill, but if this condition is needed to approve the application, the applicant agrees to it.

The next new condition was in reference to liability insurance. Attorney Ice stated the applicant just learned of this condition. The applicant does not have issue with this, but it is usually the blaster who carries insurance. She stated she wasn't sure the applicant would be able to obtain this type of insurance as they haven't had time to look into it. The concern with this condition is whether the applicant is going to be able to comply with it.

Councilor Remy stated the way he would interpret this language "*the applicant shall maintain in full force*" – whether it is carried by the sub-contractor or the applicant, they are covered by that insurance. Ms. Brunner stated in the motion the Board could clarify that language "*the applicant or their blaster should hold the insurance.*"

Ms. Vezzani stated, as someone who has some expertise in this field, she would recommend that the Board leave it as *the applicant shall maintain in full force commercial general liability policy for \$5,000,000 with the City of Keene as an additional insured*. She further stated the company that issues this \$5,000,000 policy will require the applicant prove that the sub-contractor is also carrying insurance.

With that the following amended motion was made by Councilor Remy:

m. The applicant shall plant native tree species in reclaimed areas as necessary to mitigate the view of the excavation operation, cliff faces, and access roads visible from Route 9.

n. If traffic impacts to Route 9 exceed the proposed conditions of a maximum of 90 trips per day or a maximum of 8 trips per peak hour as stated in the traffic memorandum dated February 18, 2022, a traffic management plan shall be required to evaluate and propose mitigation strategies. This plan and proposed mitigation strategies shall be subject to review and approval by the Public Works Director.

o. Due to the increase in size of the operation, the applicant shall apply to the New Hampshire Department of Transportation for an updated driveway permit and shall communicate back to the Board through city staff any New Hampshire DOT recommendations regarding vegetation clearing all season, safe sight distance and any other recommended Traffic Safety measures.

p. All blasting activities shall comply with the vibration and air over pressure standards established under NH Admin Rule Saf-C 1625.04 and any successor regulations.

q. Prior to the commencement of blasting, the applicant shall retain a licensed independent third-party blasting consultant acceptable to the City of Keene. The consultant shall

- i. Install seismographs at selected structures and locations within a two-mile radius of the blast site with a focus on the closest residence as well as and other sensitive receptors.
- ii. Record vibration and air over pressure levels for the first blast, event.

- iii. Prepare and submit a certified monitoring report to the City of Keene Community Development Department within 14 days of the blast.
- r. If monitoring results indicate the vibration and air over pressure levels exceed allowable State standards, the applicant shall:
 - i. Immediately cease further blasting until corrective measures are proposed, viewed and approved by staff.
 - ii Conduct an additional round of third-party monitoring for the next scheduled blast, at the applicant's expense.
- s. All seismograph records for subsequent blast shall be retained by the blasting contractor for a minimum of 12 months and be made available to the city upon request.
- t. The applicant shall maintain in full force and effect a commercial general liability insurance policy with coverage specifically endorsed for blasting and excavation activities, including coverage for:
 - i. Damage to structures, wells and other properties resulting from vibration, error of pressure, or fly rock.
 - ii. Contamination or degradation of groundwater or surface water attributable to the excavation or blasting operations.
- u. Coverage shall extend to claims by all property owners located within a two-mile radius of the blast site and shall also apply to any persons or property impacted by groundwater or surface water contamination within the affected watershed.
- v. The policy shall provide no less than \$5,000,000 combined single limit per occurrence and shall name the City of Keene as an additional insured.
- w. Proof of insurance, including the blasting, environmental endorsements shall be submitted to the Community Development Department, prior to the issuance of the excavation permit and renewed annually.
- x. The applicant shall be responsible for ensuring the claims under this policy are processed and resolved promptly in the event of verified damage or contamination.

The motion to amend was seconded by Sarah Vezzani and carried on a unanimous vote.

Ms. Vezzani stated the Board has addressed the regional impact, gone through the application with a fine toothcomb, added in appropriate adjustments and conditions to be able to move forward with this application.

Mr. Rangel stated this still continues to be a difficult application and appreciates all the additional work that has been put into this to add the additional conditions, which he felt would help mitigate some of the concerns. However, he thought it might not address all concerns. There are still those concerns about noise, drop in property values, historical site preservation, etc. He felt the additional conditions do help to address some of the larger issues.

Mayor Kahn agreed the additional conditions, along with the reports Staff have collected from expert land analysts, help approve this application. He felt there is regional impact, which the Board had taken into consideration. He felt the concerns of the public could continue to be evaluated by Staff and this Board.

Ms. Mastrogiovanni stated this is a difficult subject for both sides. She stated she appreciates all the planning the applicant had to do and agreed we need gravel as has been indicated by the State. She felt the process was a difficult one. There is regional impact, which the Board has voted on. At the last meeting, there were concerns raised by the Board that were addressed at this meeting. She indicated the Board has done its job and felt it is now up to the City to make sure what is outlined in the conditions are being followed.

Councilor Remy stated he supported this item in August. He felt the new conditions should help provide some comfort to the abutters. He felt these types of applications are always hard but felt the Board has reached a good spot with this application.

Mr. Kost stated he too supported this application last month. He felt the items the Board controls under the Land Development Code were addressed. He indicated the additional conditions make it easier to continue to support this application. He added the monitoring of this site does have to happen. He stated he would support this application.

Mr. Hoefer stated he was in favor of this application last meeting. He felt the Board's process was very thorough and noted that the City of Keene does have the strongest permit process in the State. He stated the City brought in experts whose concerns have been addressed to protect neighbors and the region.

Chair Farrington agreed with Mr. Hoefer that Keene does have a strong permit process as it relates to this item. He stated the Board has learned from the applicant that there are items in the code that could be modified.

The motion to approve this application carried on a 7-1 vote with Mr. Rangel voting in opposition.

IV) Staff Updates

None.

V) New Business

Chair Farrington stated there are AI tools available and they save time but cautioned the Board in using AI to reach conclusion with applications that come before the Board.

VI) Upcoming Dates of Interest

- Joint Committee of the Planning Board and PLD – September 8, 7:30 PM

- Planning Board Steering Committee – September 16, 12:00 PM
- Planning Board Site Visit – September 24, 8:00 AM – To Be Confirmed
- Planning Board Meeting – September 29, 6:30 PM

There being no further business, Chair Farrington adjourned the meeting at 7:21 PM.

Respectfully submitted by,
Krishni Pahl, Minute Taker

Reviewed and edited by,
Emily Duseau, Planning Technician