

**TOWN OF NEW HAMPTON
PLANNING BOARD
MEETING MINUTES
NEW HAMPTON TOWN OFFICE
NEW HAMPTON, NH 03256**

November 17, 2009

MEMBERS PRESENT

Mr. Kettenring, Mr. Luciano, Mr. Mertz, Mr. Joseph, and Mr. Conkling. Mrs. Lynch arrived at 7:08 p.m.

OTHERS PRESENT

Mrs. Lucas, Town Administrator

CALL TO ORDER

Mr. Kettenring called the meeting to order at 7:00 p.m. Mr. Kettenring asked Mr. Joseph to vote in the place of Mrs. Lynch. Upon her arrival he directed that Mr. Joseph would be voting in the place of Mrs. Gregg.

MINUTES

Minutes of October 20th

Mr. Mertz made a motion to accept the minutes. Mr. Conkling seconded. The vote passed.

CORRESPONDENCE

Mr. Kettenring acknowledged receipt of the following correspondence:

1. Letter from the Dept. of Environmental Services to Nora Foster regarding a Shore Land Application acknowledging receipt of the application.
2. Letter and supporting materials for a standard Wetlands Dredge and Fill Application on Coolidge Woods Road for the Town of New Hampton's work on a culvert on the U.S. Army Corps of Engineers land.

**PRELIMINARY
HEARING/SUBMISSION OF
APPLICATION**

*Carol & Amanda Huckins
205 Straits Road
Tax Map R-10, Lot 34
2 Lot Subdivision*

Brian Leary presented on behalf of the Huckins. The property is bisected by a power line right of way and bordered by Harper Brook. The two proposed lots to be subdivided were 5.2 and 7.3 acres in size respectively, north of the power line right of way and within the General Residential Zoning District. He noted the plans he brought before the Board showed topography, soils and boundaries and frontage in extensive detail for the area directly involved and the abutters. There was less detail in the remaining portion of the property south of the power line easement area. Mr. Leary felt they were bringing sufficient information to ensure compliance with zoning requirements for this proposal and would be requesting waivers for some application requirements.

- On the application checklist, Mr. Leary requested waiver on item 16. As they were not proposing any new road, he sought to omit the final road profile, center line stationing and cross sectioning and did not see a need for showing the existing road profiles.
- A waiver was requested on item 18 (for showing all surface water, wetlands, rock ledges, stone walls, open space to be preserved, and any other man made or natural features) as they did show these features in the area that was proposed for development for the new residence and the existing house.
- Mr. Leary requested a waiver on item 19 of the application

checklist for topographic contours. He advised the plans presented tonight showed field survey information for the area north of the power right of way, and south of it showed existing contours from the USGS quad sheet. He noted more detailed information on proposed contours would be provided in the proposed septic system application once the new house location was determined.

- The requested waiver for item 20 (appendix A) was for soils and wetland delineation. He noted each area of the proposed lots have more than twice the requisite minimums, using NRCS data.
- Item 23 is for base flood elevations. Town records show the property is not in the flood zone.
- He requested a waiver for item 27 (the Town or DOT driveway permit) as the new home would be using the existing gravel drive on proposed lot 34. It noted it is customarily shown on the Septic Design permit application.

Mr. Mertz asked about the use of the gravel drive and was advised the two lots will each have their own driveway. Mrs. Lucas noted there is no record of any permit ever issued for the existing gravel drive on lot 34A. Her belief was that the owner created the gravel driveway years ago. It has never been utilized and never been permitted. Part of the subdivision application process requires the Road Agent to look at the location of the existing gravel driveway and make sure that a safe driveway point could be put on that frontage. Her recommendation to the Board is to require the Road Agent to look at the location and get the permit. Mr. Leary suggested a driveway permit as a condition of approval as part of the building permit. Mr. Conkling asked about the access to the existing home and it was pointed out on the presented plan.

Mr. Mertz moved that the Board deny that particular waiver for the driveway permit. Seconded by Mr. Conkling, the motion passed.

Mr. Mertz made a motion to approve the waiver for the flood elevation contours, seconded by Mr. Luciano. The vote passed to approve this waiver.

The Board discussed the waiver with regard to showing soils and wetland delineation south of the power line easement. Mr. Leary noted they are not asking for any waiver on wetlands regulations, only a waiver to not show the contours and wetlands to the southeast of the right of way in the easement area. Mr. Mertz made a motion to approve that waiver, seconded by Mrs. Lynch. The motion was passed.

Regarding the waiver to show existing and proposed topography contours to the south of the easement, Mr. Leary noted the waiver is just for the application. The soils and topography would be shown on the septic design. Mrs. Lynch moved to approve the waiver, seconded by Mr. Mertz. Mr. Kettenring noted that it would be better to specify that the area for which the waiver is to be granted was south of the easement area only. Mrs. Lynch amended her motion to specify approval of the waiver for not showing soils and topography south of the easement only on the application. This was seconded by Mr. Mertz. The vote passed.

Regarding the waiver for showing surface water, rock ledges, wetlands, stonewalls, and open areas to be maintained in the area south of the easement, Mr. Mertz moved to approve the waiver, seconded by Mr. Luciano. The motion passed.

Regarding the waiver for road profiles. Mr. Kettenring noted there are no new roads. Mr. Mertz asked if any improvements to the gravel driveway would create a need for the profiles. He was advised it would not. Mr. Mertz moved to approve that waiver and it was seconded by Mr. Luciano. The motion passed.

Mrs. Lucas noted that there have been issues in the past with regard to junk cars and parts on the property. She asked if the owners planned to remove those items. Mr. Leary stated he had no knowledge of that situation.

Mr. Mitchell, who would be buying that parcel, stated he had already removed the vehicles and parts on his property except for some tires that he would be removing. His understanding was that remaining vehicles were on Carol Huckins' land.

- Mr. Mertz moved to accept the application. Seconded by Mr. Joseph. The motion passed. The application was accepted and would be discussed for the December 15th meeting if the required permits, septic applications and other details are *completed*. (Amendment approved at meeting of Dec. 15, 2009 in italics)

Mr. Mertz moved to continue the matter to the Dec. 15, seconded by Mr. Luciano. The motion to continue passed.

**INFORMATIONAL/CONCEPTUAL
MEETING**

*New Hampton School
The Gables building at 58 Main Street.*

Kirk Beswick, Director of Facilities for New Hampton School. Mr. Kettenring noted that this was an informational meeting and to address questions or discuss plans. This is not a publicized meeting so no decisions could be made this evening. Mr. Beswick invited Fire Chief Drake to participate in the discussion as he was present. The School had wanted to renovate the Gables and developed tentative plans and a budget for the work. Right now it is a 2 family unit on the tax card. A number of weeks ago there was a tentative plan for renovating the building. However the opportunity to put 5 students into the building's rear apartment from January to May presented revenue opportunities to begin the work. This changed the tentative plans because they would only have 8 weeks to complete the work and accommodate the students in January. Work on renovation began with clearing of trees and shrubs around the structure and shoring up of the foundation. Last week Mr. Beswick went before the Board of Selectmen to ask them if this was okay to change it from a 2 family unit to a mix of faculty housing in the front and student housing in the rear. The renovation is extensive and they were unable to get the fire chief or Fire Marshall's office representative on site until Thursday when they expressed some safety concerns. Any work related to the housing of students was stopped on Thursday.

He is asking the Board if it is possible to renovate the building so that

5 students could utilize the building for 5 months and then have the use go back to the two-family use. Does this constitute a change of use? Does this require site plan review? Mr. Beswick stated that discussions with Fire Chief Drake and the engineers are keying in on life safety requirements. He noted that Life Safety 101 Code book, 2006 edition, notes a definition of a dormitory as having 16 or more students in residence. It goes on to state that in a 2 family structure is an individual or couple with up to less than 4 unrelated persons. Mr. Beswick contends the rules allow up to 3 persons could be housed with the family and up to 2 more in the rear apartment, or that a variation of that number was permissible. There are 5 bedrooms in the front family unit and a 2 bedroom apartment in the rear.

Mr. Kettenring asked what happens after May. Mr. Beswick noted their intention is that it will not be utilized by students after May, but only for faculty in both units. Mr. Conklin asked if the building was going to be completely gutted and Mr. Beswick stated it would, in addition to extensive renovations on the exterior.

Mr. Mertz noted a letter from SFC Engineers that the school has, by dissecting the definitions, circumvented the need for a sprinkler system. Mr. Beswick maintained that a two-family unit does not require sprinkler system. They will have egress windows installed. Smoke alarms will be installed but they will not be tied into any panel, again because a two-family does not require it. The commercial sprinkler system would cost \$21,000 and his contention was it would put the project out of reach.

Mr. Kettenring asked Chief Drake for his comments. The Chief noted he was not notified until the day before demolition was to begin. The original intent presented to the Chief was to make 3 faculty apartments. Since then they found that it was only a 2 unit home. Egress windows were not to code, problems with electric tank work in basement and other issues were discussed as well as a fire/sprinkler system. The Chief advised he needed engineered plans to show the School's intent. The Chief then met with Joe Duncan of the Fire Marshall's Office, and the school's engineers. Mr. Duncan reiterated Chief Drake's comment that engineered plans were needed. They asked the Fire Marshall if one student in the front and 4 in the back would meet code. The Fire Marshall said code does not cover temporary use, but is judged on the stated intent. The original intent discussed with the Chief was to put the 5 students in the back. The school discussed the need for smoke and heat detection, and asked about sprinklers, but the Fire Marshall reiterated the Chief's stand that the plans needed to be designed and then brought before the Chief. Fire officials cannot design the project for the school. Chief Drake advised that this is not a decision for the Board, but for the Fire Marshall and Fire Department.

Chief Drake pointed out there exist a number of compliance problems at the school. He noted over the years the school would often do a project first and then he would be brought in. Chief Drake noted he had the understanding that the School was going to talk about site plan review regarding the changes to the exterior of the building. Egress windows on the second floor are necessary, as is an exit egress (stairs) outside the building because the interior stairs are too

steep. Mr. Beswick stated the exterior stairs would make the interior stairs for convenience only.

Mr. Kettenring stated the Board needs to determine if putting students instead of faculty into the apartments requires site plan review. He asked the Board if students in faculty housing constituted a change of use.

Mrs. Lucas stated the Board should consider what constitutes the need for site plan review. Site plan review is required for a multi-family unit's change in use. The question is as follows: The building exists now as a 2-family residence based on the ordinance. Does the Board consider a family in the front, and the back being used as a dormitory as a two family unit? Or is it a commercial use?

Mr. Mertz asked if faculty housing could be construed as a commercial use. Mr. Joseph asked how many bedrooms were in the building. Mr. Beswick advised there were 4 in the front and 1 in the rear. He added most bedrooms on campus have 2 students, but they can be one to three per room based on configuration.

Mrs. Lucas read definitions for the Board: A two family dwelling is a single residential building containing 2 primary dwelling units designed for occupancy by not more than two families. A multi-family dwelling is a residential building designed for or occupied by 3 or more families with the number of families in residence not exceeding the number of dwelling units provided. The definition of family is one or more persons occupying a single unit provided that unless all members are legally related no such dwelling unit shall contain more than 5 unrelated persons, further provided that domestic servants employed on the premises may be housed on the premises without being counted as family. Mr. Kettenring summarized that 5 students could be considered a family unit.

Mr. Mertz stated his impression was that what New Hampton School has presented is not a change of use.

Mrs. Lynch asked if any records showed residency in the Gables building over the years. She remembered in 1980's and early 1990's that students did live there.

Mrs. Lucas stated the problem is the school often does things without the knowledge of the town. She pointed out that zoning began in March 1986 and there is no record of any students living there, it shows a single family home and one apartment.

Mr. Beswick stated their intention is to be able to provide housing for faculty with larger families. They want to take the revenue from the students to make the house compliant for the faculty's family use.

Mr. Mertz made the motion that the proposal from New Hampton School, given the definitions in the current Town Ordinance, does not constitute a change of use. Seconded by Mr. Conkling. Mr. Mertz stated his belief was it was a change of use but he also believed the definitions do not support a change in use. Mr. Kettenring noted the Board would have to go by the rules. He then asked for a vote. The Board voted unanimously that the School's proposal tonight did not

constitute a change in use. Mr. Kettenring then asked if anyone had comments.

Mrs. Lucas noted that Mr. Beswick stated at the Board of Selectmen's meeting there was a discussion of putting in fire sprinklers, and now it is not in the plan. She is speaking for herself when she says she is uncomfortable with the fact that the School now states the students will only be placed for five months. Mrs. Lucas stated her personal view was that she has little confidence in anything that is said. She stated that it was her hope that the school would take any steps possible to assure the safety of students and fire personnel who might have to rescue students.

Mr. Kettenring stated that his view was whether you are putting faculty or students, young or older, into a building as old as the Gables, the school would be foolish not to do everything in their power to protect these people. The Planning Board may not be able to require a site plan review but it would be foolish to not take the input of the Fire Chief very seriously.

Mr. Beswick stated he heard the comments offered tonight very clearly. He stated that he has been working constantly to meet compliance issues brought to his attention. Based on the preliminary walk through with the Fire Chief, the sprinklers, the egress windows and external staircase, were all part of their plans. Since then he has been required to get engineered studies for the foundation work and a number of other items that consumed their budget. He stated that the cost for what is now required is such that any additional work not required by code has to be reconsidered. Mr. Beswick noted the tuition from the five students is critically important to the continuation of the project. However, he stressed that the safety of all the students and faculty was paramount. He will be looking at the sprinkler system, but it is not clear right now if they will be able to go ahead with it in the six weeks he has to complete the work.

Mr. Joseph suggested that anyone moving into that building be made aware there are no sprinklers.

Mr. Kettenring stated that it was cheaper to put in a sprinkler when the building is stripped down than it is after the dry wall is up.

Mr. Beswick stated engineering costs for blue prints and structural engineers for a commercial sprinkler system will cost \$21,000 and will put the project out of possibility.

Mr. Kettenring suggested that Mr. Beswick work closely with Fire Chief Drake. He then asked Chief Drake if he had any comments.

Chief Drake noted that in the past a secondary egress at the Pillars building created a situation with the Precinct Planning Board where the egress had to be removed and go through site plan and be reconstructed. Mr. Kettenring noted the egress was required for the existing use now. Mr. Beswick offered to come back before the Board with a progress report on the project. Mr. Kettenring stated that was unnecessary so long as he kept in touch with Chief Drake who would advise Mrs. Lucas and thereby the Board.

INFORMATIONAL/CONCEPTUAL MEETING

*US Cellular re: SBA Towers
Ridge Road Cell Tower
Tax Map R-4, Lot 27*

Ms. Swenson came before the Board regarding a proposal to add an additional 10 feet to the existing tower. After reviewing under section K paragraph 12 (ii) the modifications will require special exception site plan approval because the applicant or co-applicant is adding additional height.

Mr. Kettenring 1/9/2001 when it originally received a variance, the ZBA put a limitation of 80 feet. They also noted that no further timbering should be done within 300' of the tower beyond the immediate construction site. He stated that is already an issue. She stated she was not a current tenant and would not have any information on that.

Mr. Kettenring stated that there is nothing really that the Planning Board can do until the ZBA acts.

She requested a joint meeting with the ZBA, and asked if she could discuss some waivers they would require for site plan review. As this was a Conceptual Meeting, the Board could provide a consensus. However, whether additional height would require special exception or a variance would be a question for the Town's attorney.

The consensus of the Board was that the issue would go to the ZBA and they would then request a joint meeting if it were deemed necessary.

Ms. Swenson asked if, assuming they are going to site plan review, she could discuss some of the waivers she anticipated would be required.

As this is an existing tower some requirements would not seem to apply. Some of the studies would not be required. Mr. Kettenring stated that she could note those on the application and the Board would act at that time. He stated that existing information already available to the Board and that was not changing would not be requested from her.

Mrs. Lucas noted that if it is determined to need a variance, ZBA might request a study to show the necessity of a ten foot extension. Propagation maps would show the coverage effects before and after the 10 foot extension. She already has this information.

Ms. Swenson stated she believed she would be asked for a need for increase in coverage and a study on the increase in visibility. She stated that they were willing to bring in a crane and do a "balloon" test. She asked if there were any other issues the Board would be interested in. There were none.

Mrs. Lucas advised she would contact the attorney, and would be in touch with her and then she could apply to the ZBA.

OTHER BUSINESS

*Conceptual Discussion
Kevin Drake
New Hampton Auto
Route 104*

Kevin Drake, owner of New Hampton Auto advised the Board that he was considering moving his showroom and retail operation to the KGI property at the location which was the formerly the right half of the Middleofnowhere Café at the Route 104 Plaza. He was wanted to

know if he needed to do Site Plan Review. He wanted to have some small bikes, helmets, gloves, boots, apparel, spark plugs and some parts. He was asked if he would use outdoor display. He would discuss this with other tenants to be sure it wouldn't be a problem. He is aware of the outdoor display space limitations in the regulations.

Mr. Kettenring asked the board for a consensus and the feeling was that it was not a change of use. Parking was determined to not be an issue.

Mrs. Lucas asked if any repair would be done at the new location, and Mr. Drake stated there would not. She asked if a platform would be required for the outdoor display. Mr. Drake stated he would be sure that other *tenants did not have any objections*. (Amendments approved at meeting of Dec. 15,2009 are in italics)

Mr. Mertz made the motion that the proposed use was not a change in use. Seconded by Mr. Conklin. The vote passed unanimously.

Mrs. Lucas asked about the separation in the attic with regard to the renovations required by the new Pizza place. Fire Chief Drake stated that it is a truss roof and there was no fire separation or fire suppression other than at the bank and now above the Pizza Shop. He will be working with KGI to remedy the issues.

Mango Security does Mr. Drake's alarm work, and that work will also be done at the new facility.

Discussion Regarding Drive Thru's

Mr. Conkling brought up the Ordinance on drive-thrus and brought up that he felt they are not all bad. Mr. Kettenring noted that the intent in the area was to reduce driveway through and promote pedestrian and mixed use.

Mr. Joseph noted that hazardous nature presented by having drive-thru businesses on Route 104.

Mrs. Lucas quoted the zoning ordinance which specifically excludes drive thru's in that area. The ordinance would have to be changed.

Planning Board Alternate Vacancies

Mr. Mertz noted the Planning Board roster had several empty alternate positions and suggested an effort be made to fill the positions.

Proposed Warrant Article Regarding Permit Structure Changes and Occupancy Permits

Mr. Mertz provided a proposed amendment to change the permit structure and establish a condition for occupancy as a result of new construction, or expansion or substantial renovation.

A. Administration

The Board of Selectmen or their agent is hereby given the power and authority to enforce the provisions of this Ordinance and to control the issuance of any building permits. This is not a change.

B. Permits

1. On and after the effective date of this Ordinance, it shall be unlawful to change the nature or extent of any structure, use or lot,

or erect any structure, or alter the size of or relocate any building in any district without first obtaining a permit from the Board of Selectmen or their designated agent.

This is not a change but the exception for “less than 120 square feet” has been removed.

2. A building permit shall be required if the estimated value of labor and materials of any building construction, remodeling, structural alterations, enlargement or relocation exceeds \$5,000.00.

This was an increase from \$1,000. It was discussed that removing carpeting and installing hardwood could be more than \$1,000 but a building permit should not be required for that kind of work. Also, sending an assessor to do a pick-up on your property value can cost the town significantly, and should only be necessary where the value of the change is more significant.

3. Ordinary repairs which are non-structural repairs and do not include major alteration of, or replacement of heating systems are exempt from this requirement.

Changing a sink in the bathroom, or having an electrician move outlets would not require a building permit. However, heating systems do need to be reviewed by the Fire Chief.

4. A copy of the building permit shall be posted prior to commencement of any construction and shall remain until construction covered by the permit is completed.

There was no change in this section.

5. All work shall be in compliance with all applicable State of New Hampshire building and Life Safety codes. It is the responsibility of the person performing the work to insure that this requirement is met.

6. Installation of any fossil fuel, propane or interior wood fired heating systems shall require inspection and approval by the Fire Department.

Exterior wood fired heating systems would not require inspection and approval by the Fire Department.

7. Expiration. All building permits shall expire one (1) year from the date of issuance and must be renewed in writing regardless of the status of the project (unless completed or abandoned). Renewal of the building permit with no additional fee is permitted for incomplete projects provided twenty-five percent (25%) of the construction is completed per year. It is the permittee's responsibility to return the permit to the building official and request the extension.

C. Certificate of Occupancy

1. No person shall be permitted full time residential use of any building, structure or premises, or part thereof, hereby erected, relocated, altered, converted or extended until a Certificate of Occupancy has been issued by the Board of Selectmen or their agent provided the structure is in one or more of the following categories

a. New Structure

- b. Expansion or change of use*
- c. Substantial Renovation (See definitions)*

The definition of “Substantial Improvement” means any combination of repairs, reconstruction, alteration or improvements to a structure in which the cumulative cost equals or exceeds 50% of the market value of the structure. The market value of the structure shall be equal (1) to the appraised value prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to damage occurring. The purposes of this definition of Substantial Improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage regardless of actual repair work performed. The term does not however include any project or improvement of a structure required to comply with existing health, sanitary and safety code specifications which are solely necessary to assure safe living conditions or any alteration of a historic structure provided that the alteration will not preclude the structure’s continued designation as a historic structure.

Mr. Mertz noted that the definition stated “Substantial Improvement” whereas the Ordinance wording was “Substantial Renovation”. The definition comes from the Flood Plain Development Ordinance so it was discussed to make all references read: “Substantial Renovation”.

2. To apply for a Certificate of Occupancy the construction, repair, remodeling, erection etc. must be completed and the Building Permit returned with the Certificate of Occupancy application with documentation attesting to the installation of the following systems:

- a. State of New Hampshire approval for operation of a septage disposal system or other permitted system in accordance with RSA 147:8.*
- b. Water supply, either private or public.*
- c. Adequate power source for Electrical System (i.e., electric, solar, wind)*
- d. Fire Department inspection results for fossil fueled, propane or interior wood fired heating system (if required i.e., year round use).*
- e. Installation of Hard Wired Smoke Detectors*
- f. Driveway Permit, either State or Town*

C Fees

1. The Board of Selectmen shall determine and update the format for applications for building permits and the required fees on a regularly scheduled basis.

The building permits are currently \$10.00 which is considerably less than they cost the town to process and follow up on. The Chairman of the Select Board is reviewing this and looking at what other towns are doing for fees – possibly a sliding scale or some other fee schedule will be determined.

Mrs. Lucas brought up section 2 f. and suggested wording be changed to “Confirmation that the driveway installation was done in

accordance with the Permit". Additionally, she noted the existing Sign Ordinance is item "C". Mr. Mertz suggested either making the Sign Permit part of this warrant article as 8. or make "Fees" item D.

Mrs. Lucas noted the last date for receiving a Citizens Petition for a Zoning Change is December 9th. The last day for notice for the first hearing is December 24th. Last hearing date is January 5th.

Mr. Mertz made a motion to put this amendment to a public hearing and asked if any Planning Board member had comments or suggestions.

Mrs. Lucas noted that the reason for Certification of Occupancy was that there some instances where approval for construction of a septic system is on file, but there is no check by the Town or the State to see if septic system was installed or if it was installed per the plans.

Another problem recently was a manufactured home installed before there was electric or other services. A family was using a generator for electricity and causing noise issues for the neighborhood.

The other situation which has occurred is heating systems that are installed improperly. The Fire Chief advised the Board of a running heating system installed in an unfinished house, with improper wiring, and incomplete staircases. He listed carbon monoxide hazards and a myriad of situations that put firefighters as well as citizens in peril. He also expressed the hope that a building inspector will be approved by voters in the near future because it is becoming more than he can handle alone. He stated that the town is lucky no one has been killed. He expressed his support for this warrant and noted it was a first step for the town to properly address safety issues. The Board members discussed that most people are completely unaware of the requirements for inspection on heating systems.

ADJOURNMENT

Motion to adjourn was made by Mr. Joseph and seconded by Mr. Mertz. The meeting was adjourned at 9:31 p.m.

Respectfully submitted,

Kristin Harmon