

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

March 16, 2010

**MEMBERS PRESENT:**

Mr. Kettenring, Chair; Mr. Luciano, Mr. Conkling, Mrs. Gregg, Mr. Mertz and Mr. Joseph. Mrs. Lynch arrived at 7:04 PM.

**OTHERS PRESENT:**

Mrs. Barbara Lucas, Town Administrator

**CALL TO ORDER:**

Mr. Kettenring called the meeting to order at 7:00 PM.

**MINUTES:**

*Minutes of January 19, 2010 and  
February 16, 2010.*

A motion to accept the January Minutes was made by Mr. Conkling and seconded by Mr. Mertz. The motion passed.

A motion to accept the February minutes was made by Mr. Mertz, seconded by Mrs. Lynch. The motion passed.

**CORRESPONDENCE:**

A UNH Extension flyer for the Saving Special Places workshop on April 17<sup>th</sup> was reviewed by the Board.

A notice was circulated among the Board members that May 8<sup>th</sup> is the annual Planning Conference which will be held in Nashua this year.

A letter from DES regarding the complaint report about the Ambrose Pit was received. It outlined violations of Sludge Management Rules it found with the property. A response by the owners was included outlining remedies and corrections they have made for those violations.

A letter from the Selectmen to G10 LLC regarding an off-premises business sign on the former stone yard on Route 104 was copied to the Planning Board. Mr. Mertz noted that since the letter was sent, the owners changed the sign to indicate a new business was "coming soon" at that location. This put the sign in compliance with Town Ordinances.

**PUBLIC HEARING/SUBMISSION OF  
APPLICATION:**

*Philip Wolfe, Jr.  
136 Evergreen Drive  
Tax Map R-6, Lot 24  
Three Lot Subdivision*

Mr. Dan Ellis for Ames Associates was present to represent Mr. Wolfe. Outstanding issues from the last Planning Board meeting were the addition of a notation on the plan indicating Lot 1 would be accessible from Evergreen Drive and comments from the Fire Chief whose concerns focused on the lack of water supply for firefighting needs and the narrow driveway with nowhere to turn around. His suggestion to solve this issue was to upgrade the existing turn around currently located on the driveway to accommodate fire apparatus and equipment. The Chief also suggested adding to the plan that the residences to be constructed would be equipped with residential sprinkler systems when built.

Mr. Ellis noted Mr. Wolfe is willing to agree to widen the drive to 12

feet in width from Evergreen Drive to the turnaround before any building permits for the new lots would be issued, and he is willing to expand the turnaround to 40 feet deep to accommodate a fire truck turning around at the corner on the shared portion of the driveway. The houses would be required to have sprinklers. Mr. Ellis shared copies of the notations for all three matters (the access to Lot One, the widening of the driveway and turnaround, and the requirement of sprinkler systems in the new houses) with the Board.

Mr. Ellis noted that the additional houses add to an existing neighborhood-wide deficit of water for fire-fighting. Mr. Kettenring noted this issue has come up before and the addition of sprinkler systems has been acceptable to the Fire Chief to help ameliorate the fire danger in these remote areas of town.

Mr. Kettenring asked for public comments and there were none. Mr. Conkling made a motion that the application be accepted pending expansion of the driveway and the addition of sprinklers. Mr. Ellis stated that his notes for the plan are worded to ensure the driveway would be enlarged with the turnaround prior to the issuance of building permits for the new lots, and the sprinklers would be installed prior to the issuance of an occupancy permit. Subdivision approval should be issued.

Mr. Mertz asked if the survey notes would be the same as the handout and it was confirmed that they are the same on the copy of record. Mr. Mertz then seconded the motion to approved the plan with the additional notes was passed. The motion passed. Mr. Ellis will bring mylars to the next meeting for signatures.

**PUBLIC HEARING/SUBMISSION OF APPLICATION:**

*Elizabeth Short  
3 & 5 Firehouse Lane  
Tax Map U-2, Lot 7  
Site Plan review – operation of beauty shop  
in the Village District*

Ms. Short was not present at the time this item came before the Board. Mr. Mertz made a motion to table the issue until the end of the meeting in case she arrived later. Seconded by Mrs. Lynch, the motion passed.

Ms. Short arrived at 7:48 PM and the Board resumed discussion of the matter. She discussed her plan with the Fire Chief who stated he had no issues so long as there was no parking on Firehouse Lane. Mrs. Lucas noted she had received nothing from the Chief. Mrs. Lynch asked about handicap accessibility and Ms. Short stated the size of her business did not require those adjustments. She anticipated no more than two clients at any time. When asked, she explained the planned sign above her door which was well within the size limits of the ordinance.

Abutter Barbara Chase expressed concern about the traffic on Route 104. Ms. Short stated the Fire Chief did not express any concerns. Mrs. Lynch asked about hardwired smoke detectors, and Ms. Short stated they were already installed. Mrs. Lynch asked about the walkway to the steps, which was explained. Ms. Short noted a railing would be installed for the stairs. Mrs. Lucas stated she would speak with the Fire Chief. Mrs. Gregg made a motion to accept the application, seconded by Mr. Mertz. The motion passed. Mr. Mertz moved the matter to be continued to next month, seconded by Mr. Joseph. The motion passed.

**INFORMATIONAL/CONCEPTUAL MEETING**

*Route 104 Diner  
Tax Map U-8, Lot 2  
Alex Ray and Jeff Day*

Alex Ray and Jeff Day are contemplating summer ice cream sales on the left side of the diner parking lot (a gravel "overflow" parking area to the west of the diner). The structure is a 30 foot former RV. They would propose setting up electric, water and sewer (tied into the restaurant sewer). They have spoken with the Health Department who are comfortable with employees using the bathrooms in the diner, rather than having them in the structure. Hours would probably be noon to 9 or 10 PM from about Memorial Day to Columbus Day. For the coming summer they are either seeking a Hawkers' and Peddlers' permit or a Building Permit. Plans for a permanent structure will be brought before the Board in a year. Mrs. Gregg was in favor of a temporary permit so that the Board would have better information when a permanent newly constructed structure would be addressed a year from now.

The Chairman noted the question for the board is whether this extension requires site plan review or expedited site plan review, or can the ice cream facility be eligible for a Hawkers and Peddlers' Permit as a temporary facility.

Mr. Joseph noted Route 104 is a high volume, high speed area. Mrs. Lynch asked about signage and lighting. The owners responded that signage would be as per the ordinance, as would lighting. The owners will discuss with the police the delineation of the walkway and requisite lighting from the restaurant to the ice cream trailer.

Mrs. Lucas noted the restaurant is an extension of a non-conforming use in a zone that does not allow restaurants in that zone. The permanent structure will need to be scrutinized and possibly taken to the ZBA regarding the expansion of a grandfathered use.

Mrs. Lynch made a motion to recommend the Selectmen issue a Hawkers and Peddlers temporary permit from May to October 2010 for ice-cream sales only, subject to review by the Fire and Police departments for life and safety issues. Seconded by Mr. Joseph, the motion passed.

**OTHER BUSINESS:**

*Robert and Casey Donnelly  
Straits Road  
Tax Map R10, Lot 39*

The Donnellys came to discuss cutting a house lot from their parcel of 85 acres. The proposed lot had a 250 foot frontage, went 300 feet back and would be approximately 2 acres or better. Abutting this proposed lot are Mr. Coombs' 5 acre lot, and a 2 acre lot belonging to his son, Bob Donnelly. Mr. Donnelly noted visibility is still good from the proposed driveway area, with a small rise in the land along the road. The soils and perc tests have not been done, but the general lay of the land is level with an intermittent stream that is along the border of the lot.

Mr. Kettenring noted that there are no issues that cause a problem at this point in the planning, but the soil testing would be informative. Mrs. Lucas suggested the Donnellys speak with Mr. Boucher regarding a possible driveway location.

**PUBLIC HEARING/CONTINUATION:**

*KGI Properties, inc.  
NH Route 104, 57.9 acres*

The representatives for KGI were not present when this matter came up on the agenda, so Mr. Conkling moved to table this until the representatives arrived, seconded by Mr. Mertz. The Donnelly's

Tax Map R-4, Lots 90, 90A, 90J & 90K  
Update of Commercial Project Status

matter was discussed first. Then Mr. Mertz made a motion to take the KGI matter off the table, seconded by Mr. Luciano. The motion passed.

Mr. Dougherty was advised that there was no quorum at the last meeting so language for an agreement with KGI regarding a further extension was discussed, but the Board's consideration of a further extension begins this night. Mrs. Lucas was directed to provide the draft to Mr. Dougherty.

Mr. Rossi asked the Board to consider giving the extension. As an abutter, Mrs. Gregg stated she appreciated the language that was developed in the proposed agreement. The agreement is to grant an 18 month extension (from October 2009) which would go to April 2011. Mr. Conkling made a motion to grant the extension with the language, seconded by Mrs. Lynch. Discussion began with Mr. Mertz who noted the Traffic Study which should include Memorial Day and Bike Week, means the start of the study would not begin until after April 2011 and the information would not be compiled for another 6 months afterwards. Mr. Mertz suggested have the studies start before the conclusion of the extension to allow for the review process to begin in April 2011. Mr. Kettenring noted the updates on the previously done studies as well as the hydro-geological study would be done in that time as well. Mr. Dougherty noted that the studies are expensive and would not be timely. Mrs. Lynch noted the interest in expediting the process by Mr. Mertz is understandable, but the request is to suspend all work until April 2011. Mrs. Lynch stated she was comfortable with allowing the 18 month extension, but she wanted the motion to reflect the limitations in the wording proposed by the town attorney. Mr. Kettenring read the proposed motion.

*In light of the current economic climate as well as KGI's willingness to work with the Board to modify its application in a manner which promotes the best interests of the town, and in light of substantial expenses which is required to undertake the remaining studies required for this application, I move to grant KGI Properties LLC an additional 13 month suspension (to April 2011) during which its application will remain open without KGI being required to actively pursue it. At the end of that time, KGI will be required to either undertake the remaining required studies or withdraw its application. No further extensions shall be granted. This extension is specific to KGI's ownership of the property and the currently pending plan dated October 2007 without any substantial alterations. This includes retention of all transportation improvements and modifications to which KGI and the Board have agreed to date. This extension does not guarantee approval. Upon KGI's reactivation of its application, all studies completed to that date must be updated if necessary or the expert who prepared the study must certify that no updates are necessary. Moreover all studies which have not been undertaken must be completed promptly.*

Mr. Conkling motioned to approve the extension as read by the Chairman. Mr. Lynch seconded the motion. Vote passed.

Mr. Kettenring read the heading of the motion: *Motion to approve*

*extension contingent on the signing of the agreement between the parties which shall be attached to this motion.*

Mr. Conkling amended his motion to approve the extension contingent upon the signing and receipt of the agreement. This was re-seconded by Mrs. Lynch. The motion passed.

Mr. Kettenring read the agreement wording:

*Now come the Town of New Hampton Planning Board ("the Board") and KGI Properties LLC ("KGI") located at 45 Broad Street, Fourth Floor, Boston, Massachusetts, and hereby agree as follows:*

- 1. On October 31<sup>st</sup>, 2005 KGI Properties, LLC submitted a site plan application for its property on Route 104, Tax Map R-4, Lots 90, 90A, 90J & 90K.*
- 2. Although undertaking numerous studies and design modifications during initial months the application was pending, in August 2008 KGI sought and was granted a one-year time period and then an additional three-month period during which it would not be required to actively pursue its application due to economic conditions at that time.*
- 3. Economic conditions having not improved, KGI now seeks an additional 18 months time period during which it will not be required to actively pursue its application but the application will remain open or pending with the Board.*
- 4. In light of the ongoing economic downturn as well as KGI's willingness to work with the Board in the past to develop the site in a manner which is in the best interests of the Town, the parties hereby agree as follows:*
  - A. KGI's application will remain with the Board for the next 13 months without KGI being required to actively pursue approvals. At the end of that time KGI will be required to either undertake the remaining required studies or to withdraw its application. No further extension shall be granted.*
  - B. This extension is non-transferrable as it is specific, to KGI's ownership of the property and to the currently pending plan dated October 30, 2007, without any substantial alterations. This includes retention of all transportation improvements and modifications which the Board and KGI have agreed to date.*
  - C. This extension does not guarantee approval. Upon KGI's activation of its application, all studies completed to date must be updated as necessary or expert who prepared the study must certify that no updates are necessary. Moreover all studies that have not yet been undertaken must be completed promptly.*

Signature lines were provided for the Chairman of the Planning Board, KGI Properties LLC (the Applicant) and New Hampton Route 104, LLC (the Property Owner). Chairman Kettenring signed the agreement.

Mr. Conkling noted the difference of the number of months in the agreement. Mr. Kettenring explained the chronology.

Mrs. Lynch asked about the two names (KGI Properties, LLC and New Hampton Route 104, LLC) and was advised they are the same people, but two different legal entities.

Mr. Dougherty noted he would take the agreement back to his offices to be signed and would Fed-Ex the agreement back to the Town along with the document which stated legal authority for the signer for KGI and NH Route 104, LLC. Mrs. Lucas noted she would make the correction to the number of months as stated in the document.

**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

DRAFT