

LONDONDERRY, NH PLANNING BOARD

MINUTES OF THE MEETING OF MAY 9, 2018 AT THE MOOSE HILL COUNCIL CHAMBERS

I. CALL TO ORDER

Members Present: Art Rugg, Chair; Mary Wing Soares, Vice Chair; Rick Brideau, Ex-Officio – Town Employee; Leitha Reilly, member; Giovanni Verani, Ex-Officio – Town Manager Appt; Al Sypek, member; Scott Benson, Assistant Secretary; Jim Butler, Town Council Ex-Officio; Ann Chiampa (alternate member); Roger Fillio (alternate member)

Also Present: Colleen Mailloux, Town Planner and Laura Gandia, Associate Planner

Chairman Rugg called the meeting to order at 7:00 PM, explained the exit and emergency procedures, and began with the Pledge of Allegiance.

II. ADMINISTRATIVE BOARD WORK

A. APPROVAL OF MINUTES: N/A

B. REGIONAL IMPACT DETERMINATIONS: Town Planner Mailloux informed the Board that she had one project for their consideration.

Application for design review of subdivision plan for a lot line adjustment and road right of way (ROW) relocation, Two Roundstone Drive, Map 14 Lot 49-4, and 10 Roundstone Drive, Map 14 Lot 49-5, Zoned GB, Access Road, LLC (Owner & Applicant)

Town Planner Mailloux recommended that the Board find that this project is not a development of regional impact as it does not meet the criteria set forth by the Southern New Hampshire Regional Planning Commission.

Member M. Soares made a motion to find that the project is not of regional impact.

A. Sypek seconded the motion.

The motion was granted, 7-0-0. The Chair voted in the affirmative.

C. DISCUSSIONS WITH TOWN STAFF:

1. Appointments for full members to the Southern New Hampshire Planning Commission (SNHPC):

Chairman Rugg stated that as of right now Deborah Lievens, himself and Lietha Reilly are the applicants for Londonderry's three full time members. Londonderry is allowed three members by statute (RSA 36:46). He stated that the Planning Board

makes a recommendation of the candidates and the Town Council appoints the members.

Member M. Soares made a motion to recommend Deborah Lievens, Arthur Rugg and Leitha Reilly to be appointed as full members to SNHPC.

A. Sypek seconded the motion.

The motion was granted, 7-0-0. The Chair voted in the affirmative.

Chairman Rugg informed the Board that there is currently an opening for an alternate position on the SNHPC. He stated there are two candidates here tonight, Brian Battaglia and Jason Knights. At this time J. Butler and R. Brideau arrived.

Brian Battaglia, 14 Sandy Brook Lane, introduced himself to the Board. He stated that he has lived in Londonderry for 26 years. He stated that he was in law enforcement for over 30 years with the Nashua Police Department and was in a supervisory capacity for 10 years there before he retired. He received his master's degree in public education after retiring and that is where he first was introduced to local and regional planning. He stated that he now has the time to devote to local and regional government and would love the opportunity to work on the SNHPC.

Chairman Rugg opened it up to questions from the Board. L. Reilly asked if it would be an issue as the meeting are during the day. B. Battaglia stated it would not. Chairman Rugg thanked him for his interest and stated the Board would be in touch with a decision.

Jason Knights, 4 Hall Road, introduced himself to the Board. He stated that he has lived in Londonderry for 14 years. He received his MBA from Southern New Hampshire University. He stated that he now has time as his children are older to volunteer in local planning and government.

Chairman Rugg opened it up to questions from the Board. A. Chiampa asked him if he worked in marketing. He stated that he had and reviewed the positions and companies he worked for. R. Fillio asked if the meetings during the day would be a problem. He stated that they would not. Chairman Rugg thanked him for his interest and stated the Board would be in touch with a decision.

2. Chairman Rugg informed the Board that it received a Notice of Merger of Parcels from the Town of Londonderry to merge 268 Mammoth Road, Map 9 Lot 45 and 268 Mammoth Road, Map 9 Lot 41-1.

Town Planner explained that the Town is seeking to merge two parcels that it owns in conjunction with the fire station rebuild.

Member A. Sypek made a motion that the Board authorize the Chair to sign the lot merger.

M. Soares seconded the motion.

The Board discussed notification issues and decided to postpone this issue until next week to allow notice to be sent to the school district.

Member A. Sypek withdrew his motion and M. Soares withdrew her second.

Action on the lot merger was postponed until June 6, 2018.

3. Member M. Soares discussed the high school's presentation of the school sign

M. Soares stated that the class of 2018 came before the Town Council regarding an electronic sign for the high school as their gift. She stated the school does not have to follow the rules of the town, as they are a municipality, but the recommendation was the school should follow the rules and apply for a variance with the ZBA. Town Planner Mailloux pointed out that the ZBA does not have any authority in this case over governmental land use. She stated that after the Town Council meeting, the town attorney was consulted, and if the School Board is the property owner, there would be no need for a variance with the ZBA. She stated that the presenters of the project will be attending the next Heritage Commission meeting to discuss their project and have the Heritage Commission voice their opinion on the sign. M. Soares stated that the students' project was more about having a sign that was better economically for the school versus something not attractive. R. Fillio stated that there are three other signs in town that are electronic. A. Chiampa stated there are restrictions on those type of signs, only being allowed to be changed once a day. A. Sypek stated in his opinion, he thinks the class should go ahead with it. M. Soares stated the class needs the School Boards permission. Town Planner Mailloux stated that was correct and hopefully the Heritage Commission can give the class some guidance on what might be allowed for illumination. M. Soares said she would be the last person to want an electronic sign, but thought the class presentation was really well done. J. Butler asked if it would be similar to Windham's high school sign. M. Soares stated they presented three options, with one similar to Windham's. She stated that if a sign was allowed that constantly flashed different messages, it would defeat all the rules that the town currently has. L. Reilly stated that the Windham sign is at a traffic light, which makes a difference in her opinion.

III. OLD BUSINESS - None

IV. New Plans -/Non-Binding Conceptual Discussions -

- A. Application for design review of a minor site plan for the construction of a 768 SF coffee and ice cream shop, batting cages and associated site improvements, Nine Buttrick Road, Map 7 Lot 33, Zoned C-1, JMMKC Corporation (Owner) and Don Charette (Applicant)

Chairman Rugg read the case into record. Town Planner Mailloux stated there are

no outstanding checklist items and staff recommends the application be accepted as complete.

M. Soares made a motion to accept the application as complete per Staff's recommendation memorandum dated May 9, 2018.

R. Brideau seconded the motion.

The motion was granted, 9-0-0. The Chair voted in the affirmative.

Chairman Rugg noted that the 65-day time clock had started.

Jason Lopez, Keach-Nordstrom Associates, Inc., 10 Commerce Park North, Suite 3B, Bedford, New Hampshire and Don Charette, applicant, 20 Holton Circle, Londonderry, New Hampshire, addressed the Board. J. Lopez stated the access for the property would be off Buttrick Road. He stated the project is scheduled to be phased, with phase one reconstructing an old building into the coffee shop and building the parking lot. He stated that phase two, as the business grows, would be to add a deck off the building and some batting cages. He stated that the lot does contain a small pond and a bridge that will remain in place. He noted that the wetland area is less than 0.5 acres, which was reviewed with Richard Canuel, and needs no buffer. He stated the lot is served by a state approved septic system and private well. He pointed out that because this business will be serving the public beverages the business will connect into the Pennichuck water line. He stated that there will need to be some improvements done to the existing driveway, and a sight distance easement, to trim some brush, which will then meet sight distance requirements. He noted that there will be 16 parking spots on the lot. He reviewed with the Board a meeting with the Heritage Commission on July 27, 2017, for logos and signage. Don Charette added that the hours will be from 6 a.m. to 10 p.m.

Chairman Rugg opened it up to questions from the Board. Town Planner Mailloux reviewed some design review items with the Board. A. Chiampa voiced concern about not taking down too many trees on the Peabody Row side as it is a very historic street with 8 houses that are eligible to be included in the historic properties protected district, along with 7 barns. She also wanted the stone wall to be more around the entrance for the public to see it. J. Lopez stated that to gain the required sight distance, the stone wall had to be moved. She asked what the proposed dimensions were for the batting cages. J. Lopez stated 15 feet wide and 50 feet long. G. Verani asked if this would operate yearlong. D. Charette stated it was seasonal. L. Reilly asked A. Chiampa if the properties on Peabody Row are on the historic list or eligible to be on the list. A. Chiampa stated the properties were on the list. L. Reilly asked if these properties come with rights. Town Planner Mailloux stated the properties are on the Londonderry list of eligible properties for the national historic register. L. Reilly voiced concern about the one residential property to the south having enough buffer. Karen Hutchinson, resident of the abutting property addressed the Board, stating she has a commitment from the owner that the lights will be shut off at 10 p.m. and she has trees and shrubs to buffer the noise. A. Sypek asked if they would be serving anything besides coffee and ice cream. D. Charette stated they would have other

items, such as pastries, cakes and cookies. A. Sypek asked if there would be seating inside. D. Charette stated there would.

Chairman Rugg opened it up to the public and there was none.

Chairman Rugg brought it back to the Board. J. Lopez asked for clarity on the staff recommendations regarding the 25-foot wide roadway easement. He stated that Don Charette is not the owner of the property and he is not in a position to offer that up. He noted that in his opinion, widening of the roadway would not be conducive heading towards that property due to the pond and the wetland. Town Planner Mailloux explained that the town engineer specifically requested this to be in the conditions, and he could defer and work this out further with John Trottier or move forward tonight with this condition. D. Charette asked how this widening affects his line of sight. Town Planner Mailloux stated that the town is looking to establish a 50-foot right-of-way, so if the town needs to do any future grading or work on the road, there is sufficient road to do it. J. Lopez asked D. Charette what direction he would like to take. D. Charette asked the Board how long it would take for him to resolve this issue. Town Planner Mailloux stated that if D. Charette needed to defer tonight, it would be on the agenda for next month. J. Lopez stated that he will go forward tonight, but might be back before the Board if the owner does not allow it. J. Butler asked what the right-of-way is on Buttrick Road. J. Lopez stated it varies on Buttrick Road.

M. Soares made a motion to grant conditional approval of the minor site plan for a change of use to allow a coffee and ice cream shop, batting cages and associated site improvements, 9 Buttrick Road, Map 7 Lot 33, Zoned C-1, JMMKC Corporation (Owner) and Don Charette (Applicant), in accordance with plans prepared by Keach-Nordstrom Associates, Inc. dated April 12, 2017, last revised April 13, 2018 with the following precedent conditions to be fulfilled within two years and prior to plan signature and subsequent conditions to be fulfilled as noted in the Staff Recommendation Memorandum dated May 9, 2018.

J. Butler seconded the motion.

The motion was granted, 9-0-0. The Chair voted in the affirmative.

"Applicant", herein, refers to the property owner, business owner, or organization submitting this application and to his/its agents, successors, and assigns.

PRECEDENT CONDITIONS

All of the precedent conditions below must be met by the Applicant, at the expense of the Applicant, prior to certification of the plans by the Planning Board. Certification of the plans is required prior to commencement of any site work, any construction on the site or issuance of a building permit.

1. The Applicant shall provide the Owner's signature on the plans.
2. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Tighe & Bond review memo dated May 9, 2018.
3. A sight distance easement shall be reviewed and approved by the Town.
4. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
5. Third-party review fees shall be paid within 30 days of conditional site plan approval.
6. Financial guarantees shall be provided to the satisfaction of the Department of Public Works and Engineering.
7. Final engineering review.

PLEASE NOTE – If these conditions are not met within two (2) years of the meeting at which the Planning Board grants approval, the Board's approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. No construction or site work may be undertaken until a pre-construction meeting with Town staff has taken place, filing of an NPDES – EPA Permit (if required), and posting of the site-restoration financial guaranty with the Town. Contact the Department of Public Works to arrange the pre-construction meeting.
2. The project must be built and executed as specified in the approved application package unless modifications are approved by the Planning Department & Department of Public Works, or, if Staff deems applicable, the Planning Board.
3. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
4. All site improvements must be completed prior to the issuance of a certificate of occupancy.
5. As built site plans must to be submitted to the Public Works Department prior to

the release of the applicant's financial guaranty.

6. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.

V. Other Business -

A. Woodmont Commons Annual Update

Town Planner Mailloux informed the Board that Ari Pollack, attorney for Pillsbury Development Realty, LLC had a conflict for this evening and would like to reschedule the update to one of June Planning Board meetings. The Board concurred.

B. Commercial Zoning Workshop

Town Planner Mailloux stated that she would be reviewing conditional uses allowed in the commercial zone. She passed out a list of permitted uses that is allowed in the Commercial Performance Zone (CPZ) and went over it with the Board. She noted that currently the Conditional Use Permit (CUP) language in the existing zoning ordinance says the Board either grants or denies, but there is no criteria for which the Board renders its decision. She then went over the criteria that the Board can grant a CUP and asked if the Board more specific requirements. The Board's consensus was to use general criteria. She reviewed new language and discussed possible scenarios with the Board. She stated that she would encourage them to send her more comments and feedback to continue to work out the new zoning language.

VI. ADJOURNMENT

Member M. Soares made a motion to adjourn the meeting at approximately 08:57 p.m. Seconded by R. Brideau.

The motion was granted, 9-0-0.

The meeting adjourned at approximately 08:57 PM.

These minutes were prepared by Beth Morrison.

Respectfully Submitted,



Chris Davies, Secretary

These minutes were accepted and approved on June 6, 2018 by a motion made by M. Soares and seconded by C. Davies.

STAFF RECOMMENDATION

To: Planning Board
From: Colleen P. Mailloux, AICP, Town Planner
John R. Trottier, PE, Assist. Dir. Of DPW

Date: May 9, 2018

Application: Application for formal review of a minor site plan for a change of use to allow a coffee and ice cream shop, batting cages and associated site improvements, 9 Buttrick Road, Map 7 Lot 33, Zoned C-1, JMMKC Corporation (Owner) and Don Charette (Applicant)

- Completeness: There are no outstanding checklist items. Staff recommends that the Application be accepted as complete.

Board Action Required: **Motion to accept the application as complete per Staff's Recommendation Memorandum dated May 9, 2018.**

- Waivers: There are no waivers required for this application.

Recommendation: Based on the information available to date, Staff recommends that the Planning Board **CONDITIONALLY APPROVE** this application with the Notice of Decision to read substantially as follows:

Board Action Required: **Motion to grant conditional approval of the minor site plan for a change of use to allow a coffee and ice cream shop, batting cages and associated site improvements, 9 Buttrick Road, Map 7 Lot 33, Zoned C-1, JMMKC Corporation (Owner) and Don Charette (Applicant), in accordance with plans prepared by Keach-Nordstrom Associates, Inc. dated April 12, 2017, last revised April 13, 2018 with the following precedent conditions to be fulfilled within two years and prior to plan signature and subsequent conditions to be fulfilled as noted in the Staff Recommendation Memorandum dated May 9, 2018.**

“Applicant”, herein, refers to the property owner, business owner, or organization submitting this application and to his/its agents, successors, and assigns.

PRECEDENT CONDITIONS

All of the precedent conditions below must be met by the Applicant, at the expense of the Applicant, prior to certification of the plans by the Planning Board. Certification of the plans is required prior to commencement of any site work, any construction on the site or issuance of a building permit.

1. The Applicant shall provide the Owner's signature on the plans.
2. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Tighe & Bond review memo dated May 9, 2018.
3. A sight distance easement shall be reviewed and approved by the Town.

4. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
5. Third-party review fees shall be paid within 30 days of conditional site plan approval.
6. Financial guarantees shall be provided to the satisfaction of the Department of Public Works and Engineering.
7. Final engineering review.

PLEASE NOTE – If these conditions are not met within two (2) years of the meeting at which the Planning Board grants approval, the Board’s approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. **No construction or site work may be undertaken until a pre-construction meeting with Town staff has taken place, filing of an NPDES – EPA Permit (if required), and posting of the site-restoration financial guaranty with the Town.** Contact the Department of Public Works to arrange the pre-construction meeting.
2. The project must be built and executed as specified in the approved application package unless modifications are approved by the Planning Department & Department of Public Works, or, if Staff deems applicable, the Planning Board.
3. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
4. All site improvements must be completed prior to the issuance of a certificate of occupancy.
5. As built site plans must be submitted to the Public Works Department prior to the release of the applicant’s financial guaranty.
6. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.

MEMORANDUM

To: Planning Board

Date: May 9, 2018

From: Planning and Economic Development
Department of Public Works & Engineering
Tighe & Bond, Inc.

Re: Map #: 7 Lot #: 33
Wicked Good Scoops
Formal Site Plan Application
9 Buttrick Road

Owner: JMMKC Corporation
Applicant: Don Charette

Keach-Nordstrom Associates, Inc. submitted plans and supporting information for the above-referenced project. The DRC and the Town's engineering consultant, Tighe & Bond, Inc., reviewed the submitted plans and information, and review comments were forwarded to the Applicant's engineer. The Applicant submitted revised plans and information and we offer the following comments:

Design Review Items:

1. The Applicant should provide the owner's signature on the Existing Conditions plan (acknowledged by Applicant.)
2. A 25' roadway widening easement should be provided as typically requested by the Town.
3. The Applicant should address the following comments relative to the Non-Residential Site Layout Plan (Sheet 2 of 8):
 - a. The truck turning plan was received, but it should include a detail for the type of truck used, and the sheet should be included in the plan set. Note 27 on the Title Sheet should also state for what truck the site is designed.
4. The Applicant should address the following comments relative to the Grading, Drainage & Erosion Control Plan (Sheet 3 of 8):
 - a. The Applicant has indicated that the proposed landscape wall is to be a maximum of 2.9' high; however, it is still called out on the plan to have a max height of 36". Please clarify, and regardless of the wall's final proposed height, please provide a detail.
5. The Applicant should address the following comments relative to the Construction Details (Sheet 7 of 8):
 - a. The 50-year peak elevation in the detention pond cross-section does not match the 50-year peak elevation in the Stormwater Management Report.
6. Sight Distance easement language has been submitted, and it is Tighe & Bond's understanding that it is under review by the Town.
7. The Applicant should verify the DRC comments for the project have been adequately addressed by providing written confirmation from each department as applicable:

- a. Please verify that the comments of the Conservation Commission have been adequately addressed;
- b. Please verify that the comments of the Planning & Economic Development Department have been adequately addressed.