

Meeting Minutes
August 6, 2019
JK, DC, KM, HK, RO, SB, KS

**PLANNING BOARD
RINDGE, NEW HAMPSHIRE
August 6, 2019**

DATE: August 6, 2019 TYPE: Public Hearing APPROVED: September 3, 2019
TIME: 7:00 pm

CALL TO ORDER: 7:00 PM

ROLL CALL MEMBERS: Jonah Ketola, Dennis Casey, Kim McCummings, Holly Koski, Sam Bouchie

ROLL CALL ALTERNATES:

ABSENT: Jason Paolino, Cheves Walling

EX OFFICIO: Roberta Oeser

PLANNING DIRECTOR: Kirk Stenersen

APPOINTMENT OF ALTERNATES:

OTHERS PRESENT: Andre Aho, Joseph Cincotta, Betty Commerford, Bernd Foecking, Bob and Roniele Hamilton, Joleen Little, Tim Rousseau and Judy Unger-Clark

Call to order and Pledge of Allegiance

Roll call by Chairperson

Appointment of alternates.

None present to appoint

Announcements and Communications

Kim McCummings said that the Farmer's Market continues to be on Thursdays from 3 PM to 6 PM on the West Rindge common. The Farmer's Market runs from Mother's Day to Columbus Day weekend.

Approval of Minutes

1. Approval of July 2, 2019 minutes

MOTION: Roberta Oeser moved to approve the minutes of July 2, 2019. Dennis Casey seconded the motion. Vote: 5-0-1 (Sam abstained)

New Business/ Public Hearings

1. **CONSIDERATION OF** an application for a Minor Site Plan submitted by Hampshire Country School, 28 Patey Circle, Rindge, NH, for property located on Deer Run Lane, Map 4 Lot 30 in the Residential Zoning District. The applicant is seeking approval for a three unit faculty dormitory.

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Planning Director Kirk Stenersen read the background information from the Planning Department memo:

- 1) LineSync Architecture on behalf of the Hampshire Country School has submitted for approval of a minor site plan for the construction of a new 3-unit faculty dormitory building for the Hampshire Country School located at 45 Deer Run Lane.
- 2) The following waivers have been requested by the applicant from the Site Plan Regulations (see waiver request letter July 18, 2019 for justification provided for the waiver requests):
 - a. Section VI.1.A.8: “Copy of any driveway permit(s) required.”
 - b. Section VI.1.B.4: “Uses of abutting properties shall be identified, with approximate location of the structures thereon within 200 feet of the subject property.”
 - c. Section VI.1.B.5: “Boundary lines, their sources, approximate dimension and bearings, and the lot area in acres.”
 - d. Section VI.1.B.6: “The location of all building setbacks required by the Zoning Ordinance.”
 - e. Section VI.1.B.9: “Plans for snow removal and storage. Location to be consistent with the Town of Rindge Wetlands Conservation District Ordinance.”
 - f. Section VI.1.B.10: “Location of any existing and proposed easements, deed restrictions and/or covenants.”
 - g. Section VI.2.B.4: “Location and total number of parking spaces; loading spaces and other similar facilities associated with the use.”
 - h. Section VI.2.B.5: “A landscaping plan, describing the number, location, types and size of all existing and proposed landscaping and screening including fences and walls.”
 - i. Section VI.2.B.7: “The location, type, and nature of all existing and proposed signage.”
 - j. Section VI.2.B.9: “Delineation of wetlands certified by a certified wetland scientist.”
 - k. Section VI.2.B.10: “Soils data (types and boundaries) based on the National Cooperative Soil Survey (NCSS).”
 - l. Section VI.2.B.12: “The location and distance to the nearest fire hydrant(s) and/or fire pond(s).”
 - m. Section VI.2.B.14: “Location of test pits and percolation tests including test pit logs.”
 - n. Section VI.2.B.16: “Base flood elevations and flood hazard areas, as applicable, based on available FEMA maps.”
- 3) Map 4 Lot 30 is bi-sected by a zoning district line and is located in both the Residential and Residential – Agricultural Zoning Districts and educational facilities or dormitories/ housing are not an allowed use. However, Hampshire Country School has obtained a special exception for the expansion of the existing non-conforming use (9 dormitory units currently on the property).
- 4) It is my opinion that the following requested waivers are not required

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- a. From Section VI.1.A.8 as the driveway is existing and a driveway permit is therefore not required.
 - b. From Section VI.1.B.10 as the applicant has affirmed that there are no known easements, deed restrictions, or covenants on this lot.
 - c. From Section VI.2.B.14 as the applicant has provide the required information on the septic design plan.
 - d. From Section VI.2.B.16 as the base flood elevations and flood hazard areas are not applicable to this lot.
- 5) It is my opinion that the others waivers requested are reasonable requests and should be granted based on the reasons supplied by the applicant.
- 6) The applicant has provided the Planning Board with the information necessary to make an informed decision on the application. I recommend the Planning Board accept the application as complete, subject to the granting of the waivers, and open the public hearing.

Joseph Cincotta from LineSync Architecture went over the waiver request letter dated July 18, 2019 item by item. The parcel is very large and this will have no impact on abutting properties. There is no net increase in occupants at the Hampshire Country School due to this project, it is a relocation of current occupants.

MOTION: Roberta Oeser moved to accept the “Hampshire Country School Faculty Dorm” minor site plan as substantially complete and grant the following waivers as presented:

- a. From the Site Plan Regulations Section VI.1.B.4 – Uses of abutting properties
- b. From the Site Plan Regulations Section VI.1.B.5 – Surveyed boundary lines
- c. From the Site Plan Regulations Section VI.1.B.6 – Building setback lines
- d. From the Site Plan Regulations Section VI.1.B.9 – Plans for Snow Removal
- e. From the Site Plan Regulations Section VI.2.B.4 – Parking and loading
- f. From the Site Plan Regulations Section VI.2.B.5 – Landscaping plan
- g. From the Site Plan Regulations Section VI.2.B.7 – Plans for signage
- h. From the Site Plan Regulations Section VI.2.B.9 – Wetland delineation
- i. From the Site Plan Regulations Section VI.2.B.10 – Soils data
- j. From the Site Plan Regulations Section VI.2.B.12 – Fire Hydrant location

Kim McCummings seconded the motion. **Vote: 6-0-0**

Planning Director Kirk Stenersen read the regarding the application section from the Planning Department memo:

- 1) The proposed project is located on Tax Map 4 Lot 30 which is in both the Residential and the Residential – Agricultural Zoning District.
- 2) There is no public infrastructure or public utilities proposed.
- 3) The subject parcel is 212± acres.

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- 4) The application is for the construction of a new 3-unit faculty dormitory. It is my understanding that there will be no expansion in the number of students or faculty.
- 5) Access to the site will be via Deer Run Lane which is a private driveway which services the existing dormitories for the Hampshire Country School on the subject parcel.
- 6) New Hampshire Department of Environmental Services Septic Approval has been obtained for the new septic system.

There was discussion on the location of the zoning line between the Residential District and the Residential – Agricultural District line.

Chairman Jonah Ketola opened the public hearing.

There were no comments from the public.

Chairman Jonah Ketola closed the public hearing.

MOTION: Roberta Oeser made a motion to approve the “Hampshire Country School Dorm” minor site plan subject to the following conditions:

- 1) All applicable governmental permits shall be obtained.
- 2) Prior, during and after recording of the decision, the applicant shall be made aware that any conditions placed on this site plan through other governmental or permitting agencies are hereby included in this approval.
- 3) All construction, site work, and site operations shall be consistent with the most recent set of Septic System Construction Plans by SepticPro (Dated 05/01/2019 with a 06/02/2019 revision date).

Holly Koski seconded the motion. **Vote: 6-0-0**

- 2. DISCUSSION WITH** Andre Aho of ATA Construction on a previously approved 14 Lot Planned Unit Residential Subdivision, on property located on East Monomonac Road (Map 3 Lot 72) within the Residential – Agricultural Zoning District.

Planning Director Kirk Stenersen summarized the Manea Drive 14-lot subdivision which was approved in 2007. Construction started at that time and stopped fairly quickly due to the crash in the economy. ATA Construction has resumed construction of the roadway in July and there have been inquiries on what is going on with the project. Based on the Notice of Decision there needs to be a performance bond put into place, a Homeowners Association needs to be established and the Open Space needs to be permanently protected. There does not appear to be any zoning or regulation changes which affect the vesting of the project. The NHDES permits have expired at this point and the Board should discuss inspections of the roadway construction for acceptance purposes.

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Andre Aho went over how he talked to Mike Cloutier in the spring about continuing the roadway construction and Mike's concern with getting it done quickly as the town is paving East Monomonac Road this summer. Andre contacted Mike to set up a meeting on site once construction began. Mike contacted Kirk and he looked into the status of the project. It was discovered that the NHDES permits (wetlands and site specific) have expired. A site specific permit (now Alteration of Terrain) is required if the area of disturbance is over 100,000 square feet. If the shared driveway is not constructed until the roadway is stabilized and the drainage outfall pipe is installed and stabilized then the roadway area of disturbance will be under 100,000 square feet. Andre stated he is planning on progressing along this path if the Planning Board is ok with this.

A lengthy discussion took place on the NHDES Alteration of Terrain permit requirement and the 100,000 square foot threshold and the gray area of breaking it up into sections. Discussion took place on all governmental permits must be in place for the town approval to be valid. Discussion took place on the wetlands permit not being required to construct the roadway. Discussion took place on the performance bond which is for the construction of the roadway. The amount is determined by the applicant providing construction cost estimates that the Planning Director and Road Agent can review to make sure that the value is reasonable. The Board discussed having an inspecting engineer to witness and sign off on the roadway being constructed to Town standards. The reason for this is that when it comes time to accept the road as a town road part of the process is a letter from an engineer stating that the roadway was constructed to town standards. Andre stated that it makes sense for everybody to have an inspecting engineer.

Andre Aho stated that the Homeowners Association document has been completed by Jeffrey Crocker but it has not yet been recorded. The Open Space is permanently protected through language in the Homeowners Association document. The Notice of Decision did not require town counsel review at the time of approval so that document should be recorded.

Discussion ensued on who to use for an inspecting engineer. The firms suggested were TFMoran, CHA, SVE and Meridian. Kirk Stenersen will reach out to see who is available and get an estimate for the inspections.

The final conclusion was that a performance bond needs to be put in place. ATA Construction is to provide cost estimates for the construction of the roadway. Kirk Stenersen and Mike Cloutier will review and set a final bond amount. The Homeowners Association document needs to be recorded to meet condition number 2 and number 3 for the permanent protection of the Open Space. ATA Construction will provide a letter from their engineer in regards to the applicability of the Alteration of Terrain permit and the 100,000 square foot threshold. An inspecting engineer will be hired and ATA Construction will provide money for an escrow account to be set up by the Town to pay the inspecting engineer.

Roni Hamilton questioned whether the project will still be subject to the impact fees and if that change requires a new application for the subdivision. After a lengthy discussion the Board determined that the Impact Fee Ordinance no longer exists so impact fees no longer apply to this project and this does not affect the vesting of the project.

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Judy Unger-Clark commented that she thinks the Planning Board needs to address PURD's and whether they are allowed in Residential and Residential – Agricultural Zoning districts. She feels they are not permitted. A brief discussion took place on the conflict between PURD's and the zoning requirements.

Planning Office Report

- 1. FOLLOW UP** on Map 2 Lot 41-2 and unpermitted site plan activities occurring on the property located on the northwest corner of the intersection of Rand Road and U.S. Route 202.

Planning Director Kirk Stenersen briefly summarized the violation. Last fall the site was cleared and regraded into a flat gravel area using on-site material. This spring building materials showed up on the site. Approximately three weeks ago materials for MiBoxes begin showing up and assembly of the boxes started. Planning Director Kirk Stenersen read the CEASE and DESIST order from the Code Enforcement Office to Tim Halliday dated July 31, 2019. It is the understanding that the MiBoxes are being assembled by employees of Jamie VanDyke.

Planning Director Kirk Stenersen read an e-mail dated August 6, 2019, 3:35 pm from Tim Halliday through Evie Goodspeed, office manager for Tim:

“Hi Kirk, I can't find a Planning Board email and Tim wanted me to send this out for Tonight's meeting. 'Jamie VanDyke contacted me back when the roads were posted about needing a place to store some metal buildings that he had to take delivery of. I agreed to allow him to store them on the Road Rd lot. Later he had a MyBox delivery to the same site on the Road Rd without my knowledge or approval shortly there after he started putting the boxes together. I have spoken with Dave Duvernay about this, and all MyBoxes are in the process of being removed from the property. They will be located at 58 Rt 202 Rindge. Please let me know if you have any further questions. Tim Halliday”

Jonah Ketola expressed his frustration with the process for enforcement on multiple projects in the town of Rindge which have not been permitted. He stated that the enforcement needs to be consistent across the board. He wants everyone to follow the same process and to go through the permitting process before beginning construction on a site as is required by the regulations. Discussion took place on unpermitted activities at the Rand Road site. Land clearing does not require Planning Board approval but regrading and using the site for a storage yard and/or manufacturing does require Planning Board approval. Discussions took place on the upgrading of the logging road and potential wetlands violations and complaints to the Conservation Commission.

The Board would like Tim Halliday to come in conceptually to discuss what is going on with the property and unpermitted activities.

Discussion took place on steps to take to get better enforcement. Planning Director Kirk Stenersen read from the Site Plan Regulations Section XIV.5. “Enforcement: These regulations shall be enforced by the Board of Selectman acting by and through its duly authorized representative if any.” Planning Director Kirk Stenersen also read from the Site Plan Regulations Section XIV.6.

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“Penalties: As provided in New Hampshire Revised Statutes Annotated, and as amended, Chapter 676, Section 17, any person who violates any of the provisions these Site Plan Review Regulations, or any provision or specification of any application, plat or plan approved by, or any requirement or condition of a permit or decision issued by the planning board shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person, and shall be subject to a civil penalty of \$275 for the first offense, and \$550 for subsequent offenses, for each day that such violation is found to continue after the conviction date or after the date on which the violator receives written notice from the town that the violator is in violation, whichever is earlier. Each day that the violation continues shall be a separate offense.”

The Planning Board does not have enforcement authority and court action is really the only way to get answers if landowners ignore Code Enforcement letters and Cease and Desist orders. If the Town does not get tougher on the enforcement of the rules then others will do the same thing and there will be a snowball effect. After a lengthy discussion on concerns with enforcement the Board asked Planning Director Kirk Stenersen to write a letter to the Board of Selectman requesting that the Selectman have a consistent policy of enforcement and begin leveling fines if need be.

Adjourned: 8:53 PM

Respectfully submitted,
Kirk L. Stenersen
Planning Department