

EPPING, NH PLANNING BOARD MEETING

THURSDAY August 13, 2020
MINUTES

The Town of Epping Planning Board will meet online on Thursday, August 13, 2020 at 6:00 PM via Zoom Meeting software. Zoom Meeting: <https://us02web.zoom.us/j/81130587488?pwd=eHhKdmgrd2I0ZU5sZXEvWGJWSIBIZz09> Meeting ID: 811 3058 7488 Passcode: 108780

PRESENT – Joe Foley, Heather Clark, Susan McGeough, Dave Reinhold; Alternate Michael Vose; Selectmen’s Representative Mike Yergeau; Planner Brittany Howard; Secretary Phyllis McDonough.

CALL TO ORDER: Chairman Foley called the meeting to order at 6:00.

DISCUSSION Nathan Kaminski

Nathan Kaminski joined the meeting via Zoom. Kaminski informed the Board he met with Howard regarding 26 Hedding Road on a “landscaping” job. Kaminski agreed to forward his notes to Howard regarding his concerns to be attached to the minutes.

Chairman Foley asked Howard what is the next step. Howard stated the Board needs to look at the ordinance for an excavation to put on the ballot for the town vote in March.

Chairman Foley stated part of the purpose of having a planning board is protecting the abutters. He stated the person doing the work has to take responsibility also. Howard stated she would reach out to Town Attorney and the homeowner.

Kaminski thanked the Board.

PUBLIC HEARING: Conditional Use Permit
Owner/developer: Dennis Vigliotte
Location: 48 Long Meadow Farm Drive Map 015 – Lot 001-010

Brittany Howard read notice of a Conditional Use Permit. There were no abutters present.

Chris Albert joined the meeting via Zoom. He explained the proposal is for the installation of a kidney shaped inground pool. Albert informed the Board the Conservation Commission reviewed the plan and were happy with the resolution. The entire back yard is lawn with an existing garage and shed which is up to the wetland edge small five to ten-foot trees buffer, an existing well. Proposing a ten low vegetative buffer, need to leave about a five-foot gap to be able mow and store his equipment.

Reinhold moved Clark seconded the motion to accept the plan. **Roll Call Vote; Selectman Yergeau, Clark, Reinhold, McGeough and Chairman Foley all voting aye.**

Chairman Foley opened the public session.

There was a 30 second pause for residents to call in.

Chairman Foley closed the public session.

McGeough moved Clark seconded the motion to approve the conditional use permit. **Roll Call Vote; Selectman Yergeau, Clark, Reinhold, McGeough and Chairman Foley all voting aye.**

PUBLIC HEARING: Continued Site Plan
Owner/developer: Joseph Falzone
Location: 72 St. Laurent St. Tax Map 029 – Lot 224

Britany Howard read notice on a continued Site Plan for Joseph Falzone. Abutters present: Donna & Greg Keefe, Maureen Denyou.

Clark moved McGeough seconded the motion to accept the plan. **Roll Call Vote; Selectman Yergeau, Clark, Reinhold, McGeough and Chairman Foley all voting aye.**

Scott Cole from Beals Associates and Joseph Falzone came before the Board via Zoom on the continuation for a Site Plan on St. Laurent Street. Cole explained the design has been revised regarding a waiver that was approved at the last meeting to allow the number of units on a cul-de-sac and since have submitted plans for review.

Cole explained at the north east corner there's no additional structures proposed in that area have made every attempt to keep the mature vegetation as possible for buffer in that area. Cole explained the drainage is going into the cul-de-sac and then into a wet pond which is adjacent to the trail system. He noted he has received comments from Tighe & Bond which are minor in nature, and feels this is the best design for this property and looking for comments from the Board.

Clark stated this design is an excellent job on addressing the concerns of the abutters and the Board, especially saving the mature trees.

Chairman Foley questioned if there are any problems with Railroad Ave. and the intersection. Cole explained is a there's a 400-foot wide distance. Howard asked that that be added to the plan.

Howard explained the site next door will be developed, not sure on the time frame on this. She stated there was concern with the exit from the roadway being so close to the parking lot, and what to do in the time frame this project is completed and the other project not being started.

Falzone spoke on the proposed plan by Jack Murray next door, and explained he's given Murray's project two accesses onto the new road. Howard stated the concern is when this

project is done first. There will be two exits onto the parking lot, which is very wide onto Railroad Ave. Howard suggested Falzone have a conversation with Murray about having some type of barrier there until Murray puts their design through. Falzone agreed on putting signs and boulders there.

Chairman Foley stated that Railroad Ave. is narrow and questioned the turning radius' where it joins Railroad Ave. Cole stated it's 25 feet. Yergeau said the Town has received bids to redesign drainage issues on the road and correct the road that encroach properties. Work on the road should be coordinated. Cole stated they still need to go to water & sewer. Falzone stated he is willing to work with whatever the Board requests.

Chairman Foley opened the public session.

The Keefe's, abutters to the property, thanked the applicant for saving the trees and are happy with the new plan.

Maureen Denyou stated she is still concerned with the drainage and asked how this will not affect her property. Cole showed the peak of the hill that leads down to St. Laurent and showed where it will drain to the south. Denyou asked if St. Laurent is going to be hooked up to water & sewer. Cole stated that is correct. She asked about the pipes in that area were not properly done. Selectman Yergeau commented that he will bring Denyou's concerns to the next water & sewer meeting.

Selectman Yergeau asked Cole if the pond is a bio retention pond. Cole stated it's a wet pond that's in the water table.

Howard asked Cole if he added the agitator to the plan to keep it from freezing. Cole stated that has not been done as of yet.

There was a 30 second pause for residents to call in.

Chairman Foley closed the public session.

Howard explained what is needed to conditionally approve the proposal. All state permits that are required for water & sewer, etc., impact fees will be assessed on the units, units will be sprinklered, the roadway will need a name from the 911 liaison, condo docs to be reviewed and condo plans to be recorded, respond to the letter to Tighe & Bond, Water & Sewer approval needed, the discussion to be work with the DPW and right-of-way with the RFP coming through with Railroad Ave., the site distance to be changed, and active and substantial development and what offsite fees.

Howard explained the offsite improvement requires the applicant to pave a portion of the road, the total is 267 feet of frontage, which is \$5,600. Active and substantial development to bring the road to gravel before putting the top base on. Falzone stated he has to wait for the allocation of the water and looking at the virus he would like to have extra time. Howard asked what is the

time frame is for construction. Falzone explained he is looking at March 2021 to put the road in would be active and substantial then would have four to five years from that date.

Clark moved Reinhold seconded the motion to approve the site plan with the conditions stated. **Roll Call Vote; Selectman Yergeau, Clark, Reinhold, McGeough and Chairman Foley all voting aye.**

PUBLIC HEARING: Continued Site Plan application and Conditional Use Permit
Owner/developer: EHNR Realty Development Trust of 2001
Location: Fogg Road Tax Map 022 – Lot 082-001

Brittany Howard read notice of a continued Site Plan application and Conditional Use Permit by EHNR Realty Development Trust of 2001. Abutters present: Gary Meagher, Randall Greenwood, Heidi Dunham.

Clark moved McGeough seconded the motion to accept the plan. **Roll Call Vote; Selectman Yergeau, Clark, Reinhold, McGeough and Chairman Foley all voting aye.**

Joe Coronati joined the meeting via Zoom to update the layout of the site without some of the waivers and with other waivers. He showed a color rendering of the site with the previous cul-de-sacs with homes around it, decided to eliminate the cul-de-sac and run the road out to the original loop road. He explained the loop road has changed in location, has changed in width one area at 26 feet another at 24 feet. Coronati stated the development is 102 units, 58 units less than what was previously approved.

Coronati explained the main thing that was worked on was the water and sewer design and the road design; the drainage design still needs to be worked on. Coronati showed the overview of the water sewer plan, the cross-country line that comes from 125, road profiles and utilities, preliminary grading and the lighting plan changed a bit. He explained the only change to the landscaping is eliminating the arborvitaes and will go with Vermeulen Yews. Coronati stated the drainage still needs to be reviewed by Tighe and Bond and water and sewer design will be reviewed by Underwood.

Abutter Randy Greenwood 16 Fogg Road stated he is concerned with the amount of times this plan has been brought before the board. He questioned the water that will be needed to support this development with the drought situation in the town, what year the traffic study was done and if it was done when school is in session and if the natural buffer could be kept.

Chairman Foley explained the water & sewer is not a Planning Board issue. This will be contingent, if approved, that the plan needs to go to water & sewer who will address the concerns.

Coronati stated the original design for this was at 160 units, this has been a 40 percent reduction which is a major reduction to traffic. There is an allocation agreement for this site with water & sewer. Coronati explained there was a trip analysis done two years ago, which is not a traffic study.

Abutter Greenwood asked how much of the natural woods is where Pine & Pond ends to the development. She also asked if 20 percent are allowed to be families, where are those families going to be located in the development. Greenwood asked about the wetlands to the right of the property is the sewer system was able to bypass that.

Paige Libbey responded to Greenwood's question stating the woods are approximately 70 feet wide and the closest unit is approximately 120 feet to the property line. Coronati explained the 20 percent can be anywhere on the property, there's no dedicated location. Coronati explained the wetlands showing where the sewer lines that run out to 125, avoiding all wetland impacts. Regina ?? stated there is a traffic issue before this proposal is complete.

Abutter Heidi Dunham had a question about water & sewer. Chairman Foley directed her to speak to the Water & Sewer Commission on any questions she may have.

Chairman Foley opened the public session.

There was a 30 second pause for residents to call in.

Chairman Foley closed the public session.

McGeough moved Chairman Foley seconded the motion to continue to September 10, 2020.
Roll Call Vote; Selectman Yergeau, Clark, Reinhold, McGeough and Chairman Foley all voting aye.

PUBLIC HEARING: Site Plan
Owner/developer: Farmsteads of New England, Inc.
Location: 38 Plumer Road Map 022 – Lot 071

Brittany Howard read notice of a Site Plan application by Farmsteads of New England, Inc.
Abutters present: Mike Morasco, Mike Yergeau, Thomas Duxbury.

Chairman Yergeau recused himself as he is an abutter.

Brian Jones representing Farmsteads of NE and Deborah Desenza joined the meeting via Zoom. Jones explained Farmsteads is a 21-acre parcel, nonprofit entity for individuals with autism or other developmental disabilities. Jones explained this property was bought in 2017 and the owner would like to further develop the property and offer people with special needs to live and work on site.

Jones explained the proposal is to expand for new residential spaces, eight buildings around the cul de sac with four studio style apartments, and a build a barn with a fenced in area for animals and keep the central area open for crops and walking paths for exercise, and sidewalks that wrap around the cul-de-sac. There will be two trash enclosures, and a gravel parking area for staff and visitors, which is one of their waivers.

Jones explained there is also a waiver for the conditional use permit is for a small wetland that is within the 25-foot buffer. He stated they met with the conservation commission who had no issues with the proposal. He stated they will maintain the stone wall

Jones showed the drainage and grading plan, informed the board they did apply for an AOT permit.

Jones stated there is a private onsite septic and well, underground utilities and a sprinkler system. He stated they will leave the existing tree line, do plantings around the cul-de-sac, and have just enough lighting on the sidewalks.

Clark moved Chairman Foley seconded the motion to accept the plan. **Roll Call Vote; McGeough, Reinhold, Clark and Chairman Foley all voting aye.**

Chairman Foley asked on about the detention pond if that is right on the property line. Jones explained there is a ten-foot berm and will build a field stone wall approximately two or three feet from the roadway all that will be seen is the stone wall. The pond is less than three feet. There's an existing culvert with a 12-inch pipe. The Chairman asked where that is draining from and to. Jones explained that discharges to the swale. During the larger storms some water will be going through that pipe. The Chairman stated that drainage will have to be looked at further.

Reinhold stated he will have to look at that pipe to see what's going on with it.

Chairman Foley opened the public session.

Abutter Mike Morasco stated this is a wonderful idea, and a great addition to the community. Morasco asked about the cul-de-sac in the driveway and questioned if the fire department saw the plan. Howard stated she did show this to the fire department who had no initial concerns. Morasco is concerned two new wells going in on site and a lot of concern drawing down on the well. He asked if there was a study done. Jones stated they have not done a draw-down study on the wells.

Abutter Tom Duxbury 22 Longmeadow Farm Road breakdown all the way to the rock wall will there be trees. Jones at the present there won't be any plantings. Jones stated Duxbury's property is quite a distance from this proposal. Duxbury stated he sees this proposal as a great opportunity for the use.

There was a 30 second pause for residents to call in.

Chairman Foley closed the public session.

Desenza stated there will be five live in staff with staff changes at 7:00, 3:00 and 11:00. She explained the folks that are supported at the facility do not drive.

The Chairman took a consensus of the board on whether this area should be considered a driveway or a road. Clark stated she considers this a driveway and would have to be named for

911 purposes. McGeough is going to abstain due to not hearing the presentation, Reinhold and Vose responded a driveway.

Howard explained Impact fees are normally split between the school, police and fire and since there will be no one attending the Epping school from this site, she asked the board to address how they want to split the impact fees. Vose, McGeough, Reinhold, the Chairman agreed to split the impact fees between police and fire. Clark excused herself from the decision as she sits on the school board. The Board agreed on the rationale for the decision because of the circumstances on how the proposal will be used.

Clark moved Chairman Foley seconded the motion for the waiver on the gravel driveway for the conditional use on the wetland buffer impact. **Roll Call Vote; Clark, Reinhold and Chairman Foley all voting aye. McGeough abstaining as she had difficulty hearing the presentation.**

The Board agreed to have Reinhold look at the drainage and if there's a minimal change the applicant does not need to come back before the Board. If there's a substantial change the applicant will need to appear before the board with that change.

Clark moved Reinhold seconded the motion to approve the site plan with the conditions electric to be changed on the plan to overhead then underground, discuss active and substantial bring the driveway/roadway up to gravel before the base coat, off site roadway fees \$10,868.00 before issuing first building permit, all state permits and confirm with the fire department on the cistern and that the fire department is okay with the access, 911 roadway name, how the impact fees will be split, and respond to Tighe & Bond letter. **Roll Call Vote; Clark, Reinhold and Chairman Foley all voting aye. McGeough abstaining as she had difficulty hearing the presentation.**

PUBLIC HEARING: Three Lot Subdivision
Owner/developer: Marie & Marilyn Farnsworth
Location: 64 Towle Road Tax Map 004 – Lot 006

Brittany Howard read notice of a Three Lot Subdivision by Marie & Marilyn Farnsworth. There were no abutters present:

Clark moved Chairman Foley seconded the motion to accept the plan. **Roll Call Vote; Selectman Yergeau, Clark, McGeough, Reinhold and Chairman Foley all voting aye.**

Roscoe Blaisdale joined the meeting via Zoom to explain the proposal. He stated this site is approximately 28 acres on Towle Road that the applicant would like to subdivide into three lots. He stated there is a small wetland out back, a lot of frontage and test pits came back with good results.

Blaisdale stated there is well near the left property line, would have to give 200 feet of frontage to the lot to the left of the well, to fit the common driveway in for the big lots, although it makes the well radius go onto the 14-acre lot which will be one of the waiver requests, and a waiver for HISS mapping.

Chairman Foley stated he has an issue, being there 183 feet of frontage on the south side and 200+ feet on the north, he stated in the future someone wanting to subdivide one of those two lots that would need a waiver because of frontage. Bleasdale explained it's over 200 feet of frontage, where 183.9 feet is part of it, and by the telephone pole is a drill hole with an additional 31.48 feet.

Chairman Foley asked how wide the road is in front of this property. Reinhold stated 16 feet, 18 feet in some spots. Reinhold stated the right-of-way is approximately 50 feet. Chairman Foley stated he would like the Town to have a 50-foot right-of-way.

Bleasdale asked if the 50-foot right-of-way could be a slope easement from the opposite side. Chairman Foley agreed with the suggestion from Bleasdale. Reinhold concurred with the slope easement.

Chairman Foley opened the public session.

There was a 30 second pause for residents to call in.

Chairman Foley closed the public session.

Chairman Foley moved Clark seconded the motion to grant the waiver for the well radius over the property line for being over the property line and no HISS mapping for the large lots. **Roll Call Vote; Clark, Reinhold, McGeough and Chairman Foley all voting aye.**

Clark moved Reinhold seconded the motion to approve the site plan with the conditions, slope easement, impact fees, state subdivision approval, and driveway permit. **Roll Call Vote; Clark, Reinhold, McGeough and Chairman Foley all voting aye.**

MINUTES OF 7/9/2020 FOR APPROVAL – Chairman Foley moved Clark seconded the motion to approve the minutes. **Roll Call Vote; McGeough, Clark, Reinhold and Chairman Foley all voting aye.**

NOTICES OF DECISION FOR SIGNATURE – Site Plan Soaring Hawk, LLC; Site Plan EHNR Realty Development Trust of 2001; Site Plan Sig Sauer, Inc; Site Plan ERRCO; SD Paul Downs & Cory Purchas; SP & CUP Sig Sauer, Inc.; SD Don Madore; SP Joseph Falzone; SP Bluebird Epping, LLC. The Notices of Decision will be signed by Chairman Foley.

INVOICES FROM TIGHE & BOND FOR PAYMENT – St. Laurent St. \$1,172.50; Riverside Subdivision \$1,462.50; Equestrian Estates \$225.00; Riverside Subdivision; \$562.50; Bluebird Site Plan \$900.00.

Clark moved Chairman Foley seconded the motion to pay the invoices from Tighe & Bond. **Roll Call Vote; McGeough, Clark, Reinhold and Chairman Foley all voting aye.**

ACCEPTANCE OF SYDNEY LANE AND THE TEN-YEAR PLAN FOR DOT – Chairman Foley moved Clark seconded the motion to approve the acceptance of Sydney Lane. **Roll Call Vote; McGeough, Clark, Reinhold and Chairman Foley all voting aye.**

ADJOURNMENT – Clark moved McGeough seconded the motion to adjourn at 9:30pm. The motion carried.

NOTE: THE NEXT MEETING DATE IS SEPTEMBER 10, 2020 at 6:00 p.m. VIA ZOOM

Respectively Submitted,

Phyllis McDonough
Planning Board Secretary

Concerns from Nathan Kaminski, regarding 26 Hedding Road -

I am speaking to you today based on an invitation which I received from Brittany Howard. My wife Mary and I met with her last week regarding the activity at 26 Hedding Rd. As abutters to that property, we had concerns about the process that has resulted.

On or about the first of April, 2020 after the trees had been cut and stumping commenced, my wife inquired with Brittany if there would be a public hearing regarding the scope and duration of the project. Brittany advised Mary that since this was a landscaping job, there was no need for a hearing or permit. Brittany said that she had talked to the homeowner and he told her he intended to remove some earth and plant a lawn, a position which she reiterated last week when we met with her.

After several weeks of excavation during most of May, as I recall, it produced four or five enormous piles of sand. Particularly in the back part of the lot, the excavation went so deep you could barely see the excavator. Using our 50 ft tape measure, we believe the area of the excavation is approximately 250 ft from Rte. 87 northward, at the western boundary, and about an average of 250 feet along the back boundary and front boundary. I would say that the average depth is about 8 feet, across the area. These are our estimates. (about 18,000+/- cu yds). I have a map lot layout, so I feel comfortable with this estimate. Since the cessation of excavation there have been many, many trucks, of the large 25yd variety (info from Brittany) removing the sand. This has occurred in spurts-some days 15 trucks and some days none There remain two or three large piles which, to really see the magnitude, need to be viewed from the back part of the lot. Mary provided photos to Brittany this AM, so hopefully they have been distributed. If you look closely, you can see me in the photo, a 6' tall person.

We have been told by Brittany that the sand piles will be removed, and when I asked "how long", she told me "it will take as long as it takes." (Refer to Brittany's May email where she says that is what she was told by the homeowner.) Hence we thought we needed to revisit the issue in our meeting of last week.

Brittany mentioned that the Planning Board was looking into refining/revising the language in the Zoning Regs, and that was the basis for the invitation here tonight.

I have done a word search in the Zoning Regs for the words 'landscaping' and 'excavation'. In Section 12 – Definitions, excavation is defined as "1) The land from which earth material are excavated; or 2)The act of removing earth materials for commercial taking, sale or use on other premises for the purpose of enhancing the value of the land to which the earth materials are transported." This is a good, black and white definition which should be the predicate for any excavation, whether it be 100 cu. yds or 10,000 cu. yds. I feel this definition should be part of any rewrite and be inserted in every zone in the regulations. As a practical matter, I spoke last week with the NH Division of Revenue Admin. and was told that all excavations need a permit, whether a 100 cu. yds. or 10,000 cu. yds. The individual, whether it be a business or not, should be required to file a Notice of Intent to excavate with the Planning Board or it's designee. This would be forwarded to the State, as I am told by the State commission that regulates these matters this is the current procedure. If an excavation plan is small (size to be determined) the applicant can file a simplified form such as those for building permits that can be found in the lobby on the Planning Office wall, for small house improvements such as a wall or arbor. If an excavation is large or more involved (size to be determined), then the Board should hold a Public Hearing with plans, abutters, et al. In so doing the Epping Boards would be able to determine the scope and duration of the project, and place any limits or reporting requirements, which, in your judgement, are appropriate. This would also make the individual subject to the State Regs 155, for example, Section 155-E4 "The regulator shall not grant a permit ...for excavation within 50 feet of the boundary of a disapproving abutter..." The benefits are numerous, not limited to noise, hours of operation, dust, view from abutters land, but also quantity, and, since there is a State fee, small though it may be, Epping would be conforming to State Regs.

If the Town thinks that this would require additional resources to monitor/administrate, perhaps a processing fee could be imposed to defray the cost, helping the taxpayer. In our case, a \$.50 per cu yd fee would result in the \$10,000 range. The current project, where trucks come, fill their own trucks, may have limited to no reporting of the volume being removed. The process I propose should require some recordkeeping, by trucking company, for a paper trail for the Town, State, to properly price the State fee. Landscaping, on the other hand, is lightly referred to in the regs, other than “to enhance the natural qualities of the land.” Since any landscaping project could have an excavation associated with it, and since any excavation could have landscaping associated with it, it is important to separate the excavation component in regulation.

In our discussion with Brittany, I asked how the determination gets made, landscaping vs excavation. One method was to consult local area Towns to see what they do. Based upon her idea I called the Planning Office in Exeter and spoke to a Mr. Doug Eastman in the Planning Office. I described the situation noted above and his immediate conclusion was “if the facts you presented are close to being correct, it is clearly excavation” and would have been deemed so, in Exeter.

If the State of NH tells me that all excavation needs to be reported and the Town of Exeter has an excavation reporting requirement, perhaps Epping should conform.

I believe it is not too late for the Board to make a new determination that 26 Hedding is excavation, and apply the methodology that currently exists in the Regs. Moving forward I hope the Board will use/enforce the existing language without make modifications that are not incorporated into the regs as it appears to have happened, i.e. using a somewhat arbitrary 10,000 cu. Yds. to have a permit requirement. As I said, the definition that exists in Section 12 should be used as a basis for the wording of a revised statute, and this statute should be inserted in/apply to each Zone in the Town. The rules need to be written and apply to all equally, the very definition of equal justice under law.