

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

October 18, 2016

**MEMBERS PRESENT**

Regular members Mr. Kettenring, Mrs. Hiltz, Mr. MacDonald, Mr. Mertz, and Mr. Broadhurst were present.

**OTHERS PRESENT**

Permitting Assistant Mr. Pollock and Town Administrator Mrs. Lucas

**CALL TO ORDER**

Chairman Kettenring called the meeting to order at 7:00 p.m.

**MINUTES**

Mrs. Hiltz made a motion, seconded by Mr. Broadhurst, to accept the minutes of 9/20/16 as presented. Vote was unanimous.

**CORRESPONDENCE**

Letter from NHDES concerning an Alteration of Terrain Permit application for Ambrose Brothers New Hampton Pit.

Copy of a letter from the Zoning Board of Adjustment regarding a rehearing for a variance request for constructing a 10x16 foot shed within 20 feet of the side setback that was denied.

**(Cont.) PUBLIC HEARING**

*Michael Sharp; NH Route 104 & Riverwood Drive; Tax Map U-17, Lot 55 – Site Plan Review for health focus facility.*

Mrs. Lucas said that Brown Engineering was still working on the requests from NHDOT. They hope to have plans ready for the next meeting to allow time to notify the abutters.

Mrs. Hiltz made a motion, seconded by Mr. MacDonald, to continue the hearing until 11/15/16 at 7:00 pm. Vote was unanimous.

**(Cont.) PRELIMINARY HEARING/ SUBMISSION OF APPLICATION**

*Scott Buitta: Site Plan Review to create an outdoor BBQ food service and Catering Business at 599 Route 104 Tax Map R5, Lot 5 owned by G10 LLC.*

Mr. Pollock handed out Mr. Buitta's plans that were prepared by Holden Engineering and the comments revised from October 3, 2016, titled "Site Plan Route 104 New Hampton, NH".

Mr. Buitta showed the Board the amended plan with the new information that was discussed 9/20/16. He went through the comments and said that where he wrote accepted is where there was no further question or did not need any further information.

Mr. Buitta asked if he noted the BBQ's days/times of operation on the amended application, saying that the previous meeting the Board had suggested he not limit himself if he needs to be open more hours. Mr. Kettenring said it appeared Mr. Buitta did not limit himself but suggested that Mr. Buitta state the hours that he would be open for record purposes.

Mr. Buitta said that he would be open every day asking if he could have days off if he went on vacation. Mr. Kettering said that he could have shorter

days or hours, but could not exceed the hours/days that the Board approved originally. Mr. MacDonald asked about the hours of operation versus public hours. Mr. Kettenring said that the Board's concern was only with the public hours because of traffic flow.

Mr. Buitta said that he was setting up this year, hoping to open the business next year.

Mr. Mertz noticed that the food truck was currently in front of the existing building on the plan and wanted clarification on what was drawn in front of and to the side of the building. Mr. Buitta said that the food truck would not interfere with the existing structure and that the flat area was for shrubs and a landscaping idea.

Mr. Mertz noted the dumpster is shown on a concrete pad. Mr. Buitta said that there would be a fence around the dumpster.

Mr. Mertz asked what would be around the smoke house area. Mr. Buitta said that there would be an "employees only" sign saying, but people would be allowed as the fire for the smoker is enclosed.

Mr. Kettenring said that the Board and Mr. Buitta had received a letter dated 9/20/16 from the Fire Chief Drake stating that after preliminary review of Mr. Buitta's 8.5x11 drawing and a site visit, he recommends the following:

1. That the BBQ offer adequate turning around space at the end of the property for emergency vehicles;
2. Provide the Fire Department with access keys to install a Knox box on the main building;
3. Purchase and mount fire extinguishers for the property (a number would be determined when plans and building locations are finalized);
4. An inspection will be conducted prior to opening for business.

Fire Chief Drake also stated that the location of the food truck and smoker in proximity to the existing building should be acceptable.

Mrs. Lucas said that when she went with a Selectman to look at the existing sign location she became concerned with a mail box that blocked the view of traffic coming from the west. She recommended Mr. Buitta review the location of the mailbox.

Mr. Kettenring asked if the Board had any questions or concerns and there were none. Mr. Kettenring asked if the public had any questions.

Mr. Deturk, 73 Blake Hill Road, commented that the location looks like a yard sale, and that it is mowed. He was under the impression that the setback area would not be mowed. Mr. Buitta commented back that he is mowing what he is supposed to and doing what the Board has asked of him. Mr. Kettenring asked about the yard sale. Mr. Deturk said that there were a lot of items strewn around the yard making it look like a yard sale, asking if the items were related to the business. Mr. Buitta said the items were business related.

Mr. Buitta asked if he had questions in the future would he need to come to a meeting. Mr. Kettenring said that he would and if he made any changes the board would need to review it.

Mr. Mertz asked about the two porta-pottys on site. Mr. Buitta said that one was for employees (behind the building) and the other for public use (by the dumpster). Mr. Mertz asked if more bathrooms were needed would they go near the proposed area and Mr. Buitta said that they would.

Mrs. Lucas asked if the portable water issue was resolved. Mr. Kettenring said that Mr. Buitta would be getting water from the spring in Bristol, using 12 Burleigh Mountain Road and 49 South Mayhew Turnpike as backup.

Mr. Broadhurst made a motion, seconded by Mrs. Hiltz to accept the plan as complete. The vote was unanimous.

Mr. Kettenring suggested the condition that the area around the building would be for planting only and not a patio, and that the requirements of the Fire Chief are met. Mrs. Lucas suggested adding any other state approvals.

Mr. Kettenring clarified the 3 conditions:

1. Meeting the Fire Chief's requirements before operation of the facility.
2. Meeting all state requirements
3. Make a finding as to label the site map to reflect the use of the area around the building is for landscaping only.

Mr. Buitta said he would like to move the building in the future. Mr. Kettenring said when he did it, it would be necessary to come back to the Planning Board, so the finding would be for the current proposed plan.

Mr. Kettenring asked the Board and the public for any further discussion and there was none.

Mr. Mertz made a motion, seconded by Mr. Broadhurst, to approve the plan as presented with the conditions listed above. The vote was unanimous and the Board signed the plan.

**DISCUSSION ON  
AGRITOURISM AND  
POSSIBLE ZONING  
AMENDMENT**

Mr. MacDonald distributed copies of the proposed Agritourism amendments saying that at the last meeting they had decided to incorporate Agritourism as a Special Exception and said he added an Agritourism row in the ordinance. He said he added a paragraph on how each zone can use Agritourism.

Mr. Mertz asked for clarification on what the last line "pick your own" meant. Mr. Kettenring asked if town counsel should review this amendment before approval. Mrs. Lucas said that it should be finalized first. The full amendment would be posted before the public hearing.

**DISCUSSION ON MASTER  
PLAN UPDATE**

Mr. Mertz said that he did not have anything to add to the Master Plan Update. It was noted that not all member received Page 47 so Mr. Kettenring suggested that they discuss the Master Plan next meeting so everyone could review page 47.

Mr. Mertz said that any notes on his copy would be amended and sent out.

There was a discussion on the Master Plan changes including a section on transportation. It was noted that the Conservation Commission portion on Open Space would be prepared by next July. There is a hearing tentatively set for November.

Mrs. Lucas advised that Section E – Signs was updated per the new Supreme Court Laws and provided the board with what town counsel recommended.

**DISCUSSION ON 2017 ZONING  
AMENDMENTS**

Changes were made to sections:

- 1) **II**
  - a) reworded ordinance to read “if the selectmen or another agent determine the use has been discontinued notice shall be sent ordering the removal of the sign(s) within 60 days”.
- 2) **Section 7, I** (changes are in red; additional wordage is in blue)
  - a) signage that involves business tenants
- 3) Changes the word business to property
- 4) **IX: Temporary Signage**
  - a) recommended ordinance to read “that no off premise signs be allowed in the Town of New Hampton”. In other words, if the sign has nothing to do with the business, then it is not allowed unless it is a temporary sign, which only allows two signs on the lot.
  - b) recommended that a form be made for property owners to fill out to help keep track of temporary signs
- 5) **Article 8**
  - a) attorney crossed out what Town had for exceptions
  - b) town used to exempt
    - onsite directional and new information signs
    - signs and notices such as:
      - For Sale
      - For Rent
      - No Hunting/No Trespassing
      - Political
  - c) town can no longer exempt the signs listed above. These signs are now considered in the definition a sign and must meet the ordinance requirements
- 6) **Use Being Advertised**
  - a) can not base it on what is being advertised, but on the use of the property.
- 7) **Definition of Signs**
  - a) recommended removing the last sentence “Signs do not include: flags, pennants, colors or insignia of any nation, state or town, which is not part of the sign, or a flag or pennant that indicates the a premise is open for business.”

- b) recommended on the concern that someone will use a flag in place of a sign
- c) Mrs. Lucas recommends removing the word flag entirely from the definition of signs
- d) Mrs. Lucas also recommends that a paragraph be added to general provisions that includes that only two flags are permitted on any lot in all zoning districts. The total area that the flags take up is no more than 40 square feet (a 5x8 American Flag).

Mrs. Hiltz suggested increasing square footage. Mrs. Lucas said this was up to the Board advising that if the square footage was increased a business could put up two huge signs that could say anything. Mrs. Hiltz asked about exempting the American flag and Mr. Kettenring said you could not exempt it. Mr. MacDonald asked about line of sight; if no one can see it, would it not be allowed. Mr. Kettenring suggested 80 total square feet for both flags. Mrs. Lucas suggested that the Board think about the flag situations. Mr. MacDonald asked if the board could make the flag rule per zoning districts and the board agreed. Mr. MacDonald asked if the standup flags were considered flags and Mrs. Lucas said that the town considered those as pennants.

- e) Signs less than two square feet are exempt from these regulations in all zoning districts.
  - Each lot is allowed one sign unless otherwise required by law
  - This would include Beware of Dog

Mr. Broadhurst asked if he had a mile long driveway and the property could not be seen from the road, would the sign ordinance still be in effect. Mrs. Lucas answered that the person would need to look at the definition, which reads “any structured device representation that is designed or used to advertise, display or call attention to anything, person, business, activity, idea or place, whether for commercial or noncommercial purposes”. Mr. Kettenring said that if it is not within sight of the road, it is not calling attention or advertising. Mr. MacDonald asked if signs on the side of a building were included. Mrs. Hiltz suggested that it was considered art. Mr. Kettenring said that the board will need to do a lot of explaining with any definition that they come up with. Mr. Broadhurst asked if the board could ask counsel what is considered art. Mr. MacDonald said that the board should be more concerned with regulating commercial properties because people with residential properties would be offended. Mrs. Lucas said that the current ordinance on signs in the general residential areas allows one on premise sign up to nine square feet. Mrs. Lucas said that the board should try to word the sign definitions by either regulating or exempting them. Mr. Kettenring suggested that signs not within eyesight of the road should be exempt and the board agreed. Mr. Broadhurst asked if the American flag was now considered a sign. Mrs. Lucas said that under the current definition it is adding that counsel suggested taking the American flag out of the definition with flags having their own definition. Mr. MacDonald asked if naming a property was considered a sign and Mrs. Lucas said it was. Mr. Kettenring said the board has a lot to consider relative to signage.

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Mr. MacDonald asked when the definitions needed to be finalized and Mrs. Lucas said by the 11/15/16 meeting, with any changes ready for a public hearing in December.

Mr. Mertz said that in number three “each property shall have...” he recommends that the board change “*shall*” to “*may*”.

Mr. Broadhurst said he would like to see what is considered art due to a prior experience with an art legal matter.

Mrs. Lucas suggested members email her with any ideas on definitions.

Mr. Kettenring asked Mr. Deturk if he had a question, suspending the current discussion. Mr. Deturk said it was his understanding that state law (SB 146) going into effect 6/1/17 now allows for more than one home on a property and asked if this supersedes any town restrictions. Mr. Kettenring said that this topic was next on the agenda. Mrs. Lucas explained that the new law addresses accessory units, which are apartments and not secondary houses.

Mr. Broadhurst distributed information relative to SB 146. Mrs. Lucas reviewed the current regulations which allows for one accessory apartment per lot, by Special Exception, and only in the GR District. It can no longer be restricted to just that District; it must be allowed anywhere where the town allows single family dwellings. The current ordinance allows single family dwellings everywhere with the exception of the Industrial District.

Mrs. Lucas advised the current ordinance has Special Exception criteria that limits building, parking area and driveway to no more than 50% of the lot which would be applied when considering an accessory apartment but the definition for lot coverage in each district does not match the 50% rule. This will need correction.

Mrs. Lucas said the current definition for accessory apartments, limits the percentage in accessory structure that can be used by an apartment. The town had created this rule to ensure that the primary use of the structure was accessory and not an apartment. This new law cannot limit the percentage, but it is up to the town whether they want to allow these accessory apartments be attached to the main dwelling or in an accessory structure. Mrs. Lucas pointed out you could still have an accessory apartment in a different structure but the ordinance limits the apartment from becoming a 2<sup>nd</sup> dwelling unit because it defines a lot as having one primary use. She said the ordinance cannot limit the number of bedrooms in the apartment to less than two, or less than 750 sq. ft. She said counsel said it should state that it must meet the appropriate septic system requirements.

Mrs. Lucas said it was up to the board whether they wanted to require that one of the units be occupied by the property owner. The board agreed they wanted this requirement. There was concern on how this would be enforced or if someone owned a home but traveled for periods of time, would that mean they could only rent out one unit. Mrs. Lucas suggested the board

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define “bedroom”. The board considered the restriction that if an accessory apartment was permitted in a different structure, not attached to the primary home, there could be an increased lot size requirement.

The board agreed to consider adding an additional meeting to finalize any amendments, if needed, after the regular November meeting.

**OTHER BUSINESS**

After discussion the board agreed to hold the 1<sup>st</sup> Public Hearing on zoning amendments on 1/2/17 with a possible 2<sup>nd</sup> Public Hearing on 1/17/17.

Mr. Mertz asked Mrs. Lucas if she spoke with the Police Chief about safety practices for public meetings. She said she had but no policy has been drafted yet. Mr. Mertz said this policy would address a situation where the board felt there was an applicant or member of the public who needed to be removed from a meeting. Mrs. Lucas suggested if a board member felt the PD should be called, then they should be. She suggested having an officer standby in the adjoining room, out of view, if the board felt there may be a problem. She said this policy would dictate how the PD would be notified, by whom, and what would the response be.

**ADJOURNMENT**

Mrs. Hiltz made a motion, seconded by Mr. MacDonald to adjourn at 9:11 pm. Vote was unanimous.

Respectfully submitted,

Regina Adams  
Pam Vose