

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

August 16, 2016

**MEMBERS PRESENT:**

Regular members Mr. Kettenring, Mrs. Hiltz (excused absence), Mr. MacDonald, Mr. Hays, Mr. Mertz, and Mr. Broadhurst were present.

**OTHERS PRESENT:**

Permitting Assistant Mr. Pollock and Mr. Deturk (73 Blake Hill Road)

**CALL TO ORDER:**

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

**MINUTES**

The minutes of July 19, 2016 were read by the members prior to the meeting. Mr. Kettenring asked if there was any discussion. Mr. Hayes said that he did not talk about the smoke going into the building on Page 2. Mr. MacDonald said that it was him. Mr. Broadhurst motioned that the minutes be approved as modified. Mr. Hayes seconded the motion. Vote passed.

**CORRESPONDENCE:**

No correspondence.

**(Cont.) PUBLIC  
HEARING/ABUTTERS  
HEARING**

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

The applicant heard from DOT. Mr. Pollock said that the State DOT has asked for improvements on NH Route 104. Brown Engineering is preparing plans that reflect the changes. The plans are expected to be ready for next month.

Mr. Mertz made a motion, seconded by Mr. Hayes to continue this item to 9/20/16 at 7:00 pm.

Mr. Kettenring asked for any discussion.

Mr. Mertz said that because of the changes that DOT wants, the abutters will have to be notified again.

Mr. Kettenring said that the board will notify the abutters again if the plans are done before the agenda deadline.

Vote was unanimous.

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

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

Mr. Kettenring said that Mr. Buitta was not present, but that he notified Mrs. Lucas prior to the meeting of his absence.

The board read through Mr. Buitta's responses to the issues that the Planning Board sent him. Mr. Kettenring reviewed each of the items.

Mr. Deturk of 73 Blake Hill Road, Bristol asked if the scale (50x50) on the plan had to be the same as the new building.

The Board was not aware of a new building. The area that Mr. Deturk was speaking of is for Mr. Buitta's equipment.

Mr. Deturk said that he believes that Mr. Buitta will put in a roof like Meredith BBQ to keep the water off the equipment.

Mr. Kettenring said that it would have to fit into the designated area. The Board was under the impression that all of the equipment would be out in the open.

The Board agreed that if a building is being constructed, then they would need to see what the structure looked like .

Mr. Pollock reminded Mr. Kettenring that the meeting was not a public hearing. Mr. Kettenring suggested that the Board review the comments.

It was a consensus that it appeared that Mr. Buitta had not sufficiently answered the questions.

After a brief discussion, the board agreed that each member should review Mr. Buitta's responses and get them back to Mrs. Lucas or Mr. Pollock by Tuesday August 23, 2016, so that Mr. Buitta can provide any additional information needed for submission for the September meeting. Mr. Kettenring told Mr. Deturk that he could also express his concerns to Mrs. Lucas. Mr. Pollock reminded the board that Mr. Buitta was not present and that this is not a public hearing.

Mr. Deturk was concerned about the hours that Mr. Buitta had established. Mr. Buitta wrote that his hours would be from 10 am to 7 pm. Mr. Deturk pointed out that with this being a BBQ business, those hours are inaccurate because Mr. Buitta would be cooking 24 hours a day.

Mr. Kettenring said that the Board is only concerned with the hours that he is open for traffic flow, but the Fire Chief would be interested as to the issue of Mr. Buitta using a smoker for cooking without anyone on site. Mr. Kettenring said that the Board would ask for his operational hours as well as his customer hours.

Mr. MacDonald said that in Question 11, Mr. Buitta is requesting a twenty foot buffer. Mr. Kettenring said that he would need to go back to the Zoning Board of Adjustment for a variance to amend his current plan.

Mr. Mertz moved that the Board continue this item at the next meeting. 9/20/16 at 7pm. Mr. MacDonald seconded the motion. Vote was unanimous.

**DISCUSSION ON**  
**AGRITOURISM AND**  
**POSSIBLE ZONING**  
**AMENDMENT**

Mr. MacDonald said that the Board had agreed to have Agritourism as a special exception. He asked if the Board would add the word Agritourism into the Town Ordinances. Mr. Kettenring said that they would need a definition.

Mr. MacDonald asked if the Board would want to use the State's definition.

Mr. Kettenring said that they should originate their own definition as some parts of the State's definition might not be applicable to what the town needs per zone.

Mr. Hays asked about Special Exceptions.

Mr. Kettenring said that the Zoning Board of Adjustment would consider the special exceptions (after adoption by Town Meeting vote), but the Planning Board would need to come up with a definition for the Zoning Board of Adjustment to follow.

Mr. MacDonald said that the definition from the seminar under land use law review was:

“Attracting visitors to a working farm for the purpose of eating a meal, making overnight stays, enjoyment of the farm environment, education on farm operation, or active involvement in a the activity of the farm which is ancillary to the farm operation.”

Mr. Kettenring said that a problem that this definition could create was that if someone wanted to have tractor races, someone could argue that it was to bring people to the farm.

Mr. Kettenring asked the Board if they wanted to work on the definition of Agritourism to see what each member would want to see allowed or prohibited for special exception.

The Board agreed that they limit the use of Agritourism. Mr. MacDonald read:

RSA 674:32-a -“Agriculture activity not explicitly permitted by zoning ordinance shall be deemed to be permitted”

RSA 674:32-b –“with two exceptions; Agriculture used deemed permitted, may without restriction be expanded, altered, changed to another agriculture use, so long as it complies with BMPs and laws.”

1. New establishment and reestablishment after disuse significant expansion of the keeping of livestock, poultry and other animals.
2. New establishment and reestablishment of significant expansion of farm stand and retail operation or other use involving onsite transactions with the public. The Town may require special exceptions, building permits, or other approval under these conditions. Regulate the flow of traffic to limit the impact of adjacent properties, streets, sidewalks, and public safety.

Mr. MacDonald said the way these RSAs were written, the Town has the right to review the farms activity.

Mr. Kettenring said that the way he interpreted this was that the Town has to right to prohibit certain types of activities.

Mr. Kettenring said that perhaps the Board would only allow a certain percentage of the acreage of the farm be for this use.

Mr. Mertz said that the Board should also add regulations on parking, noise disturbance, hours of operation, and visual impact.

Mr. MacDonald said that he would research what some towns have done to see what is working.

Mr. MacDonald said that the lawyer at the seminar suggested that instead of defining Agritourism, the Town use special exception.

Mr. Kettenring said that he did not like the suggestion because the Zoning Board of Adjustment likes to have explicit definitions so they know what to allow. The Planning Boards' objective is to give guidance to the Zoning Board of Adjustment as to what types of special exceptions (with criteria) are allowed Zoning Board of Adjustment. The guidance (criteria) includes: frequency of operation, impact on traffic, impact on the neighborhood, noise, etc.

Mr. MacDonald countered with what he calls "analog" items. Such as: does it look right, the size of the business, does it fit in the neighborhood, etc. As opposed to "digital" items. Such as: no tractor pulls, no pig races, etc.

Mr. MacDonald does not believe the Board should outline the definition. He wants the Zoning Board of Adjustment to think for themselves.

Mr. Mertz said that if the Board's definition to the Zoning Board of Adjustment is not clear, then they might approve of something the Planning Board does not intend.

Mr. MacDonald asked if the Board came up with "analogs" with examples to go along with the definition, would that be better.

Mr. Kettenring said that the Board is writing an ordinance as to what types of Agritourism are allowed under special exception. The Zoning Board of Adjustment already follows a guideline (criteria) with some of the examples that Mr. MacDonald gave. But the Board can add more of the items previously listed.

Mr. Mertz said that the Board could add the phrase "no outward appearance of..." He used the example that the applicant can do what they want, but if neighbors can see, smell, or hear it from the road, then it will not be allowed.

Mr. MacDonald added if it pertains to the farm, then it should be allowed as pigs do smell and roosters can be loud.

Mr. Mertz said his examples did not pertain to the farm activity, just the additional activity.

Mr. Kettenring asked (with permission from the lawyer) if the Planning Board could define it as, Agritourism is prohibited except as follows...Then the Board would formulate the types of things that the Board feels would be reasonable if they met all of the other conditions.

Mr. Kettenring said that with the way the law is written the town has a right to prohibit all Agritourism.

Mr. Broadhurst asked if the town was trying to promote Agritourism.

Mr. Kettenring feels that they should. He would love to see farming expand, but he does not want Agritourism to ruin what the Town has established with one mistake.

Mr. Kettenring said that the Board should limit the amount of land the farm could use for Agritourism.

Mr. Hays asked which Towns have successfully addressed this issue.

Mr. MacDonald said that Derry had.

Mr. Kettenring suggested that the Board still ask the attorney if they could use the phrase that Mr. Mertz had given. While still look into what Derry had addressed.

Mr. Kettenring reminded the Board that they only had two months to come up with a working definition.

Mr. Kettenring said that they need to limit frequency, limit percentage of property involved and have the current list of limitations involved also.

Mr. MacDonald gave the example of a lady in Concord. The property owners around her are all onboard with her use of Agritourism because she had met with them and told them that the music stops at 9 and traffic is not an issue because the people use busses to get there, while their vehicles are parked in Municipal parking. There is also not any drunk driving involved as people are not driving from the venue.

Mr. MacDonald asked if the Board could write into the definition that the abutters should have a say. There are many stories of successful accounts where the abutters are involved.

Mr. Pollock said that would come in at the Public Hearing for the special exception.

Mr. Kettenring said that the Board does take some of what the abutters say into account, but does not believe that the abutters should have the final say into what their neighbor can do on his/her property.

Mr. Broadhurst asked what the noise ordinance was in New Hampton.

Mr. Mertz said that Noise ordinance was for obnoxious use. It is defined as: Any use that may be obnoxious or injurious by reason of production of emissions, dust, smoke, refuse matter of fumes, noise, vibration, or similar conditions, that is dangerous to the comfort, peace, health or safety to the community is prohibited.

Mr. Kettenring said that the Board needs to find a good definition without

being too restrictive.

Mr. Kettenring asked the Board if they had any other ways to effectively approach this issue.

Mr. Pollock said that they should stay away from percentage of revenues.

Mr. Kettenring agreed, but he believes, as did most of the board, that percentage of land and frequency be a major contributor.

Mr. Hays said that they should include items that could potentially irritate neighbors.

Mr. Kettenring said that maybe the definition could include a certain distance to the nearest dwelling.

Mr. Kettenring said that the Board needs to talk to the lawyer before talking about what the Board can prohibit.

Mr. Hays asked if the Board came up with a definition, could they change it later.

Mr. Kettenring said it has to be changed at Town Meeting, and if they forgot something, it would be a year before they could change it. Anyone applying within that time would be allowed under the adopted regulation.

### ***Auxiliary Dwellings***

Mr. MacDonald said that as of July 1, 2016, NH passed a new Legislation law that says that no town could prohibit auxiliary dwelling unit (ADU) on residential property or “in-law apartments”.

Mr. MacDonald said that the Town can still use it’s ordinances to limit size, parking, and how many auxiliary living spaces are constructed.

Mr. MacDonald would like to see if the Town’s current ordinances are in compliance with the new Legislation law.

To clarify what the new Legislation law was defined as, Mr. Pollock read that it is “a second smaller dwelling on the same grounds as a single family house attached or detached”. Such as an apartment over the garage, in the basement, an out building, also called “Granny Flats”, “In-Law apartments”, “Family apartments”, or secondary units.

Mr. MacDonald said that the Law also read that a Municipality may require adequate parking, require owner occupancy of one of the units, require demonstration that a unit is the owners primary dwelling unit, control for architectural appearance, limit the number of ADU’s per single family dwellings, and limit the number of unrelated individuals that occupy the single unit.

The Town cannot however, limit ADUs to one bedroom or less (750 square feet), require familiar relationships between occupants of principle dwelling and ADU occupants, require additional dimensional standards or require a door between primary structure and ADU to remain unlocked.

(Planning Board, August 16, 2016, cont.)

The Board discussed the phrases attached and detached and how an unattached garage of a primary dwelling could be considered attached.

Mr. Kettenring said that by next meeting the Board should have clarification of the details about the ADU and if there is anything that the board needs to add.

Mr. Mertz said that if the Board is missing something related to ADUs, then the Board would need to know for next meeting to have sufficient time to act upon it.

*Signage*

Mr. MacDonald said this new law also says that the Town cannot prohibit signage under certain circumstances. He was wondering whether the Town's lawyer had looked at the current sign ordinance especially temporary signs.

**DISCUSSION ON MASTER  
PLAN UPDATE**

Mr. Mertz asked if each member had a copy of the new Master Plan. Not everyone did.

The revised plan will be copied and available for pick up.

Next meeting, the board will be able to discuss the plan in more discussion chapter by chapter and dating the revised copy by section when it was written.

Mr. MacDonald asked what the process was to adopt this.

Mr. Kettenring said it would go to a public hearing and then the Board would vote to adopt it.

Mr. Mertz said that the subcommittee would have a Public Hearing August 22, 2016 at 6:00 pm and discuss the different sections to be brought before the Board. Then, they would also type up a new copy with the revisions in it. If the subcommittee needed to meet again before the September meeting, they would have time to do it.

Mr. Mertz will send an email when the proposed plan is able for review.

**ADJOURNMENT**

Mr. Mertz made a motion, seconded by Mr. MacDonald to adjourn at 8:30 pm. Vote was unanimous.

Respectfully submitted,

Regina Adams