

## Minutes

### Planning Board Meeting

June 6, 2019

Members of the Planning Board in attendance were Charles Moreno, Chairman, Terry Hyland, Steve Leighton, and Donald Coker and Don Clifford, Alternate members. The Chairman opened the meeting at 7:35 PM and announced the members present. The Chairman noted that due to absences, both Alternate members are designated for voting at this meeting. It was noted that the July meeting will be held on Thursday, July 11<sup>th</sup>, due to the Independence Day holiday. The closing date for applications to appear on the agenda for the July 2019 regular meeting is 5 P.M. Tuesday, June 18, 2019; revised materials must be submitted by Tuesday, July 2<sup>nd</sup>. The Chairman advised that the Board has a policy setting time limits for meetings and that the Board will not consider any new business after 10:30 PM and that the meeting will adjourn by 11:00 PM. The Chairman then addressed the Board and noted that Mr. Clifford had been voted as an Alternate member at a previous meeting when several members were absent. He noted that Mr. Clifford has served on the Board and had asked to continue as an Alternate member. The Chairman then asked for a new motion regarding Mr. Clifford's request to serve as an Alternate member. Terry Hyland then made a motion to approve the request of Don Clifford to serve as an Alternate member. Steve Leighton seconded the motion; there was no further discussion, and the vote was unanimous in the affirmative. Mr. Moreno then briefly reviewed the lengthy agenda for the evening and it was agreed to again save the minutes of the April meeting for later due to the large audience. Regarding the minutes of the May meeting, the Chairman noted that he had an edit that he wished to put forward for page 3. He noted that the site plan for Parker Mountain Lodge had been accepted with conditions (please note the April 2019 minutes), and that pending conditions of approval include the NH DOT permit, stormwater calculation, adding the well radius and fire zone/no parking area to the plans, and taking the application forward to the Board of Adjustment. He asked that this information be added to the draft minutes of the May meeting for clarification. Donald Coker made a motion to accept the minutes for the May meeting with the above information added, Steve Leighton seconded the motion, and there was no further discussion. The motion to approve the amended minutes was passed by majority vote in the affirmative.

The first item of continuing business was the application of CECIL C. ABELS II for Non-Residential Site Plan Review for a Concert and Outdoor Event Venue to be located at his property at 664 First Crown Point Road (Tax Map 19, Lot 73A); Mr. Abels had been present at the start of the meeting but had indicated that information on his driveway is still pending and he had requested that discussion be continued forward.

Turning to the application of MICHAEL CARTER for Non-Residential Site Plan Review for a Wedding/Event Venue (PARKER MOUNTAIN LODGE) to be located at his property at 496 Parker Mountain Road (Tax Map 10, Lot 3), the Chairman advised the audience of how the meeting would be run, and advised that people need to speak one at a time and that all questions for the applicants need to come through the Board. Michael Carter was present accompanied by Carey Garneau of Carter and Company. Atty. Stephen Bennett and Tobin Farwell of Farwell Engineering were also present. There were a number of abutters and neighbors present. The Chairman noted that the plan had been accepted for consideration with conditions and that one major condition is approval by the Zoning Board of Adjustment. No plan updates have been submitted. Steve Leighton stepped off the Board, noting that since the last meeting, he had been hired to do work at the site and noting that he does not want any conflict of interest. Tobin Farwell then presented. He noted that the Planning Board had wanted the parking area replaced with a porous surface and they have moved the tent area but the details are not yet on the plan. Lighting and the dumpster location are now on the plan. They are working with NH DOT, and plan an apron area for entry to the site. They are in the queue for official approval from DOT and he said that the permit will be issued next week. They will do what the Board wants for pervious surface and would ask that the Board make that a condition of approval. Well radius and the fire zone/no parking area have not yet been added to the plan but will show on the final.

Mr. Moreno noted that various proposals for the parking area had been offered at the last meeting, given the soil conditions, and mud. He said that it was the Board's idea to look into semi-pervious pavers or that they should do a stormwater plan to show that if there is trouble, mud will not be flowing off the property or into the pond. Tobin Farwell said that it was their intent to go with the pervious surface. Don Clifford noted that no calculations have been included to show that any one solution would work, and that was what the Board had been hoping to see—information on what they will do if there is a failure of the grass parking surface. Donald Coker noted that this plan could be approved with conditions, saying that there are specific issues, but noted that he is concerned about what options the

Town will have if these things are not done. Mr. Moreno noted that some of the plan updates are very straightforward, or other things, like NH DOT, are conditions of approval that must be met before something can happen. Donald Coker asked why the plan updates had not been completed. Tobin Farwell explained that he has been focused on NH DOT, and that he did not want to make any plan changes in advance of the decision from the Board of Adjustment. Atty. Bennett said that he knows that there are a couple of issues, especially parking, and having a fall-back plan in case in the middle of the season the grass surface fails. He said that they cannot give the Board a stormwater plan now, but asked if the Board would consider the following option: they would ask to come back in July and present an alternative parking plan. He said that it seems like a reasonable request, since the parking plan is being required as a fall-back option in case of failure. He said that the likelihood of needing the fall-back plan in the first three weeks is less than later in the season. He said that would give the Board the option at that meeting to tell them the conditions for approval and if that area is unusable for parking, they would have to get it replaced or no further events. He said that they have been willing to agree with just about everything that the Boards have requested, and they are trying to bend over backwards. They are willing to meet all of the Board of Adjustment's conditions of approval, and he said that they do know that they can come up with some sort of alternate plan. There are only two weddings scheduled between now and July 11<sup>th</sup>, he noted. Donald Coker noted that if the parking area fails, that finding a contractor doesn't happen overnight. Board members discussed the proposal, noting concern with the grass surface and the issue of finding a contractor. Donald Coker said that the applicant's willingness to agree with all of the proposed conditions speaks for them. Terry Hyland agreed that replacing the parking area in midseason could be a problem. Atty. Bennett suggested a third alternative: if the grass is unusable, they will bus in all guests, as they have planned to do for large events in any case. He noted that only one or two of the events planned will exceed the existing parking capacity and they have already arranged for a bus for those events. Don Clifford asked where the guests will be parking, and the applicants responded that the guests will be picked up at their hotels. Discussion continued, with Board members expressing concern about a mid-season failure and with the question of who determines if the grass surface has failed. Charlie Moreno asked again about the plan, for example if they are planning for silt fencing, etc. Atty. Bennett noted that there are other options, and at the last meeting, the Board's request was for a plan only in case of failure. Don Clifford and Donald Coker agreed; Mr. Moreno continued to express concern that there was no information to work from. Charlie Moreno then noted that he thought that he had seen that there had been discussion of banning the use of pesticides, herbicides, and fertilizers within 25 feet of the pond. Don Clifford noted that anyone can use those products, and also noted that it was clear at the site review that the tent area was well defined and up away from the pond. Mr. Moreno said that he wants to be sure that no fertilizer is used near the pond. Michael Carter advised the Board that this is already part of their agreement with their landscapers; they use Elfs out of Rochester. Mr. Moreno then noted the potential list of conditions of approval mentioned so far—well radius, fire zone, no fertilizer within 25 feet of the pond, all of the Board of Adjustment's conditions of approval, and revoking the site plan on November 2<sup>nd</sup>. The applicants noted that the proposal is for uncontested revocation under RSA 676: 4a and also to revoke the right of appeal and for the revocation to be recorded at the Registry of Deeds so that it appears in the chain of title. Mr. Moreno noted that it is still a process that involves abutter notice, etc. Atty. Bennett said that the applicant will bear the costs of notice, and he noted that no public hearing is required unless requested by one of the interested parties. The Chairman then advised that this would be one of the conditions of approval of the site plan, including that the costs are to be borne by the applicant.

The Chairman then turned to other pending issues. Regarding the Fire Chief's recommendations, the applicants noted that they have an inspection scheduled for Tuesday. Don Clifford asked the Fire Chief if he could submit a letter. Chief Whitehouse suggested that he provide the Board with a copy of his permit for assembly. Regarding the DOT permit, it was agreed that there should be no events unless the NH DOT permit is in hand. Atty. Bennett said that NH DOT may give them time to complete the required improvements, and the Chairman suggested that the Board can defer to DOT on timing. Donald Coker asked what would happen if they do not have the permit before the first event, and it was agreed that if no permit, then no event, and asked that at least temporary "do not enter" and "stop" signs should be in place to mark the one-way access drive. Recapping the current proposal, it was noted that the proposal is now for a maximum of 175 guests, with all events outdoors under tents, and a maximum of 10 guests overnight. Atty. Bennett noted that the average number of guests is slightly under 100. Mr. Moreno said that they should include a provision that if multiple police calls are needed for a disturbance, then the site plan should be revoked for non-compliance. Donald Coker suggested that this is already covered by the statutes and is unnecessary. Don Clifford noted his discomfort with the fact that the Board's request regarding stormwater was not addressed. The Chairman noted that there had been a request for a waiver regarding the stormwater plan which has not yet been addressed. Michael Carter addressed the Board and advised that he appreciated that the Board is considering a waiver, and said that not being ready had caught them off-guard as well. He said that he wanted to assure the Board that if there was a problem, he is confident that he can get somebody to deal with the situation

quickly. He advised that Bub Hebert has been doing the work on the lodge and he is confident that under his direction, any problems would be resolved as soon as possible. Donald Coker said that he feels that Mr. Carter should get credit for meeting all the conditions, and said that he thinks that they deserve the ability to come back with the stormwater information in July, as requested earlier in the meeting. Terry Hyland agreed. There followed a general discussion among Board members. Charlie Moreno said that he does not want to waive the requirement for stormwater planning. Don Clifford noted that they were not looking for a plan, just calculations for a product that could be installed if it fails. He said that he is in agreement with Donald Coker's proposal to continue the stormwater to next month. Charlie Moreno agreed, saying that a conditional approval allowing them to come back next month with the stormwater would allow them to go ahead with the next couple of events. Board members noted that the conditional approval could always be revoked if there is a problem. Atty. Bennett agreed, saying that they are asking for temporary conditional approval to go until July 11<sup>th</sup>.

The Chairman then reopened the public hearing on the application, noting that abutters and neighbors had previously expressed concerns about the number of guests, parking, traffic, cleanup after events, and the condition of the pond and Little River system. He noted that the NH DOT permit will address parking and traffic issues, and that he believes that the Board is addressing concerns over the pond and Little River through the stormwater requirement and the 25 foot buffer zone, including no fertilizer, around the pond. Gloria Reinfurt spoke first, noting that the original start of the project was for a permit to operate the venue; now they are stating that it will only be a temporary permit for six months and they are interpreting that the Board of Adjustment gave temporary approval, with revocation of the plan after that time. Her question is whether the original application for a permanent venue will be reinstated upon the revocation of the current plan. Mr. Moreno clarified that the approval expires November 2<sup>nd</sup>, and he then read the working of the revocation agreement proposed by the applicants. Mrs. Reinfurt said that her concern was that the agreement means that they can go back to the original application. Sheila Straffin-Varden asked if an approval sets precedent, and said that she thinks that a lot of the neighbors are worried about this issue. Donald Coker said that in his opinion no, that the revocation sets the clock back to before the application. He noted that the structure can be converted to a different use, but that anything other than residential use would have to come back to the Board. Mr. Moreno agreed, saying that any new proposal starts from scratch. Don Clifford noted that use is a Board of Adjustment matter, and noted that the Planning Board is the site plan. Mrs. Reinfurt noted that there is still concern about this approval be used as a precedent. Donald Coker advised that every application and every set of circumstances is unique, so he does not really believe that it is a precedent. Jen Ederly then spoke, noting that she is the on-site manager, that she has experience and enjoys working with people, and then describing some of the renters, noting that they are mostly from NH, and want to celebrate a special day. Eric Rowe spoke in favor of Jen Ederly and her ability to handle the venue as manager. Chris Kofler said that they have done a great job of restoring the lodge, and ended by stating that he supports the project. There being no further comments, the Chairman asked for a motion to close the public hearing. Don Clifford made a motion to close the public hearing. The motion was seconded by Terry Hyland, there was no further discussion, and the vote was unanimous in the affirmative. Donald Coker noted concern with pesticides, saying that he was concerned if there was just a restriction on fertilizer. Charlie Moreno noted that pesticides, herbicides, and fertilizers all affect water quality. Michael Carter asked if he could address the question, and advised the Board that they turn down requests for spraying for mosquitoes from their guests. He said that the location has a constant breeze and that there are so few bugs that they can leave doors and windows open, so spray is not needed and they request that guests not spray. The Chairman then recapped the eight conditions that he had put together in a list.

Donald Coker then made a motion to approve the plan as most recently presented with the eight conditions enumerated below:

1. Follow all conditions as set by the Board of Adjustment.
2. Sign and complete the Site Plan Revocation agreement to be effective after November 1, 2019, with the applicant covering all the costs associated with revoking the plan under 676:4a.
3. Final inspection by the Fire Chief and the issuance of a valid permit of assembly.
4. NH DOT permit—there shall be no events held without an approved permit, and the erection of a 'do not enter' and 'stop' sign and temporary 'no parking' signs along Parker Mountain Road/NH Route 126.
5. Everything agreed upon between the Board and applicants, and all items as represented in statements by the applicants.
6. No fertilizers within the 25 foot buffer around the pond.
7. Well radius and 'fire zone/no parking zone' to be added to the plan.
8. Stormwater calculations for the parking area to be submitted for review at the July 11, 2019 regular

meeting of the Planning Board.

Tobin Farwell asked if a full stormwater management plan would be required. Mr. Moreno suggested that it would be advisable, because then no waiver would be required. There was no further discussion on the motion. Don Clifford then seconded the motion. The Chairman called the vote. The vote was four ayes and no nays; the motion passed by majority vote of the voting members.

The second item of continuing business was the application of ERIC A. ROWE for a Function Hall/Wedding Venue to be located at his property at 414 Evans Mountain Road (Tax Map 5, Lot 26). Eric Rowe was present. Letters have been received from the Road Agent and Fire Chief, and Chief Whitehouse was still in attendance at the meeting. The Chairman began by recapping where things had left off at the May meeting, noting that the Board had requested letters from the Road Agent and Fire Chief and that the letters have been received. He noted that the Board had suggested holding a site review after the road information had been received, a drone flight/mapping of the road upgrades had been discussed, and the drainage around the cellar hole mentioned. For approval, they would need a permit for assembly from the Fire Chief. There had been a question about parking for the caterers; Steve Leighton said that he thought that they had agreed that the caterers would park away from the barn. Scott Whitehouse said that the plans have been approved. The Chairman noted that the Board was hoping for a plan/map of where improvements would be needed. Eric Rowe said that he thought that the Board had been asked if they needed a drone flight and that the Board had said no, and he said that he had had permission of the landowner at the time when he diverted drainage into the old cellarhole. Scott Whitehouse said that the request was for him and the Road Agent to walk the road and that the two of them had not felt that the drone was necessary. Mr. Rowe spoke about hiring the Messengers to do the road improvements, and then expressed his frustration with the process and left the room. Mr. Moreno said that he did not want to close out the application. Steve Leighton suggested that the Board table the application for the moment. Board members agreed to table the application by consensus and the Chairman called the next item on the agenda.

The first item of new business was the application of ROBERT and ELAINE WHITE/WHITEHOUSE EARLY LEARNING CENTER for Site Plan Review for an expansion of their day care/preschool facility located at their home at 352 Province Road (Tax Map 7, Lot 38). Ted and Elaine White were present; there were no abutters present. Chief Whitehouse was departing but advised Board members that the daycare/pre-school expansion will use parts of the White's home which have already been approved for use, and that he has only asked for one additional exit sign over a door. It was noted that the Fire Chief will need to sign off on applications to the State of New Hampshire. Ted White briefly presented their plans for expansion, advising the Board that there will be no changes except that they plan to widen/deepen the parking area to the right of their driveway to provide additional parking for residents/employees. They are applying to the Board for site plan review for expansion, as requested by the Board in 2010 when the Board last reviewed the daycare. The Chairman explained the site plan process, and explained that the Board is hoping to make the process more formal. He asked that the Whites make their presentation and then the meeting will be opened for questions. Following acceptance of the plan, the Board will hold a public hearing, after which the plan could be considered for approval.

Ted White explained the proposed changes to the parking area, noting that the area outlined in red on his drawing is the proposed new parking area. He said that cars in the yard yield to cars coming off the road in order to prevent traffic issues, and people in the lower yard yield to cars coming down the hill to the back side of the building. They have never had a problem, he noted. Currently they have seven parking spaces on the lower level behind the building and three spaces at the top of the driveway. They plan to use the upstairs part of the ell originally constructed for the daycare center to accommodate the new students. Lately they have been using only the downstairs section because it is more convenient to the outdoor play area on the lower level; with the expansion they would go back to using both the up and downstairs sections. They hope to increase by 12 children, going from 24 children to 36. He noted that they have a permanent waiting list, and that the other daycare center (Kindercampus) in Strafford is closing, and he noted that keeping a daycare facility in Strafford is a service to the community. The Whites advised that traffic concerns are at a minimum because children are dropped off and picked up over an hour or two, so not all the families arrive at once. They have a 6-bedroom septic system for the house and daycare, and they have the system pumped every year. They will now have a commercial well. They have a dumpster for trash and it is emptied every two weeks. It was noted that daycare centers are closely regulated by the state. Steve Leighton then departed, noting that the proposal has his support.

Don Clifford then began working through the site plan checklist. Donald Coker asked that the Whites provide copies of their state approvals for the files. In response to a question, Elaine White advised that the number of employees will be increasing by up to two more full-time persons if the state approves their application to expand.

Fire, health, and state reviews and inspections for approval would all follow the local zoning approval. The Chairman asked if they have a stormwater management plan or waiver request. Ted White advised that they are not making changes to the site, so would not impact stormwater. At this point, the Chairman addressed the Board and asked if Board members wanted to see a fully engineered plan for this project, stating that he wants to be consistent between the various site plan applicants. Ted White advised that if they need to submit a fully engineered plan, they cannot afford to go forward with the project. There followed a lengthy discussion on whether formal engineered plans are or should be required for Site Plan, noting that all Site Plan applications are processed under the Non-Residential Site Plan Review Regulations, even if the use is an approved land use under zoning. Ted White explained that they need to move forward with the application to the state in order to be ready for the beginning of the school year in the fall, because it can take several months for the state review.

Elaine White advised the Board that one problem that they are facing is that the state recently changed their requirements and now counts household members as well as children in daycare when assessing water supply, so that they would actually need to reduce the number of children that they serve. The alternative is to have their well approved as a public water supply/commercial well, which is costly. So they either need to shrink their business or expand. The news about the other daycare has also factored into their decision to try and expand. Discussion then returned to the technical aspects of the plans presented for this evening. The Chairman advised that he does not feel that the plans submitted meet the requirements. Donald Coker, noting that there are two questions, site plan and zoning, asked if the Board could sign off on the zoning question in order to allow the Whites to forward their application for expansion to the state. Board members looked at the zoning verification form and reviewed the language of Article 1.4.2 of the Zoning and Land Use Ordinances. Board members agreed that the proposal meets zoning requirements because it is one of the land uses allowed. It was agreed that Mr. Moreno could sign the verification form, and could leave blank the question regarding the number of children allowed or leave it up to the state. The Whites could then move forward with the application to the state and separately work through the site plan with the Board. Board members all agreed by consensus and the Chairman signed the verification form.

The next item of new business was the application of NICHOLAS & LINDSAY LANZER for the 2-lot subdivision of their 6.27 acre property located at 500 Pond Hill Road in both Strafford and Barrington (Tax Map 20, Lot 23; Barrington Tax Map 201, Lot 13). Daniel O'Lone of Berry Surveying and Engineering presented the plans. Charles Moreno stepped off the Board for this item. Terry Hyland served as acting chair. The Lanzers propose to create one new lot which will be wholly located in Barrington. Their existing home will be located on a smaller lot located in both towns (.82 acres in Strafford and 3.54 acres in Barrington). There is no proposed change to the part of the lot in Strafford and the new lot that includes the Strafford land would meet minimum lot size requirements for Strafford with 3.89 acres of contiguous uplands and well over 350 feet of frontage on Pond Hill Road. Because there are no proposed changes in Strafford, Board members agreed by consensus that they did not need to review the subdivision checklist for compliance with Strafford requirements. Don Clifford then made a motion to accept the plans as complete for consideration. There was no further discussion and the vote was unanimous in the affirmative. The public hearing on the application was then opened. There were no comments. The public hearing was closed. Donald Coker then made a motion, seconded by Don Clifford, to approve the plans for subdivision based on the fact that no change is proposed in Strafford and the Strafford land will continue to be part of a lot meeting Strafford zoning requirements. There was no further discussion and the vote was unanimous in the affirmative. Mr. O'Lone was directed to bring the final plans to the office for signatures and recording.

The Board then briefly turned to one item of informal business. Ren Evans has written to the Board regarding her proposal to open a part-time massage therapy business in her home located at 1283 Parker Mountain Road (Tax Map 11, Lot 100). Donald Coker stepped off the Board for this item. The massage therapy office will be located in finished space in the ell. There is adequate parking in the driveway with an additional space beside the existing barn and Ms. Evans suggests that there would only be two to three clients per day between 11AM and 4 PM, by appointment only. There would be no other employees. There is no waste, and the existing septic is rated for two full families so should be more than adequate. Any future signage will conform with requirements, and additional lighting should not be required, given the hours. Board members noted that working with one client at a time will minimize traffic and parking concerns. As presented, it was agreed that the proposal seems to qualify as a home business, as long as there is just one employee. It was agreed to send a letter regarding the Board's consensus.

The final order of formal business was the application of Robert and Jennifer Shone for Voluntary Merger under NH RSA 674:39-a of their two contiguous lots located on 293 Drake Hill Road (Tax Map 4, Lots 16 and 17); Lot 17 includes their home and Lot 16, located across Drake Hill Road, has historically formed part of the farm, and

would be considered contiguous under NH case law that suggests that land fronting a road includes half the roadway. The Shones have no mortgagees. There were no additional questions. Don Clifford then made a motion to accept and approve the request for voluntary merger of Lots 17 and 16 on Map 4. Donald Coker seconded the motion; there was no further discussion, and the motion passed by unanimous vote.

The Board then returned to the application of ERIC ROWE, tabled earlier in the evening. There was still nobody present for this item. The situation was briefly discussed and a motion was made and withdrawn. Board members agreed that they are willing to work with the applicant, and a motion was made by Terry Hyland to continue the application forward to next month. Charlie Moreno seconded the motion, there was no further discussion, and the motion passed by majority vote of the members present.

There being no further business before the Board, a motion to adjourn was made and seconded. There was no further discussion and the vote was unanimous in the affirmative and the meeting adjourned at 11:10 PM.