

**Ashland Planning Board
Amended Meeting Minutes
Wednesday, April 28, 2021**

CALL TO ORDER: Mardean Badger, Chair of the Planning Board, called the meeting to order at 6:30 PM. The meeting was conducted via Zoom video and teleconference.

MEMBERS PRESENT: Mardean Badger, Kathleen DeWolfe, Paula Hancock, Andrew Fitch, BOS representative and Susan MacLeod, Land Use Assistant

OTHERS PRESENT: Joseph Green of Haffners/Energy North Group, (owner) and Chris Bell, of All Phase Construction, (contractor) for Haffners/Energy North, for the proposed franchise of Sal's Pizza at the Mobil Station; Jon Kwiatkowski, High Life Building Company, Inc., owner of the property at the corner of Main Street and Winter Street; Liz Peoples, abutter of the Jon Kwiatkowski properties

RIGHT TO KNOW LAW: Due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically.

DISPOSITION OF MINUTES

Kathleen DeWolfe made a motion to accept the minutes from the Wednesday, March 24, Wednesday, April 7, and Wednesday, April 14, 2021 meetings as presented. Paula Hancock seconded the motion. With a 3-yes roll call vote and one abstention, the motion passed.

APPLICATION FOR VOLUNTARY MERGER APPROVAL

The Planning Board has received an Application for Voluntary Merger from Commerce Properties LLC. It is the property on Winter Street (T/M/L 017-005-008) and the unnumbered lot at the rear of the property recently purchased from the Town of Ashland. John Valpey is merging these two pieces of property into one lot. Mr. Valpey will be coming before the Planning Board with a Site Plan for some additions to the lot. Kathleen DeWolfe made a motion to accept the merger of parcel (T/M/L 017-005-008) and the unnumbered piece behind it pursuant to RSA 674:39. Andy Fitch seconded the motion. Roll call vote: Andy, yes, Paula yes, Kathleen, yes, Mardean, yes. The motion passed. Mardean will sign the Voluntary Merger Application as the chair of the Planning Board and send it to all appropriate parties.

FARNHAM TOWING AND RECOVERY FOLLOW UP ON CONDITIONS OF NOTICE OF DECISION

The Planning Board discussed Mr. Farnham's Towing and Recovery and the conditions contained in the Notice of Decision approved at our Wednesday, March 24, 2021 meeting. Mardean Badger reviewed/summarized the conditions approved for the Farnham business at the Wednesday, March 24, 2021 Planning Board meeting:

- The Planning Board granted a conditional approval for the Farnham Towing and Recovery to operate a towing business only at 6 Mill Street. There were precedent and subsequent conditions added to the conditional approval.
- The business was approved for towing only and all parts and activities related to any automobile salvage or automotive recycling were to cease and be removed immediately.

- Mr. Farnham was required to submit a plan to the Planning Board and the Building Inspector outlining a containment and remediation process for spillage of hazardous substances.
- Mr. Farnham was required to submit a plan for the approval of the Fire Chief and Building Inspector to address safety issues cited in the Report by the Department of Fire Safety.
- In the Notice of Decision, the Code Enforcement Officer was required to conduct an inspection within thirty days of the Notice of Decision.
- The Planning Board needs to direct the Building Inspector to conduct that inspection and provide the Planning Board and the Selectboard with a written report of his findings as indicated by the Notice of Decision.
- The Planning Board has received no paperwork or electronic documents from Mr. Farnham. Squam River LLC and the Building Inspector, in addition to Mr. Farnham, were each sent all communications to date as well as the agenda for tonight's meeting.

Mardean Badger made the following motion: To instruct the Building Inspector to conduct the inspection based on the Notice of Decision and the requirements within the Notice of Decision, to arrange with Mr. Farnham a time for that inspection, and communicate the findings to the Planning Board, Selectboard, Mr. Farnham and the property owner of Squam River LLC. Depending on the findings of the Building Inspection, determination will be made as to whether to allow this business to go forward or whether there will be a cease and desist order issued. The Cease and Desist Order will come from the Selectboard. Kathleen DeWolfe moved the motion. Paula Hancock seconded the motion. Roll call vote: three yes votes and one abstention (Fitch).

INFORMAL CONSULTATION JOSEPH GREEN, CHRIS BELL, HAFFNER'S/ENERGY NORTH GROUP (T/M/L/ 004-002-026)

Mr. Joseph Green came before the Planning Board for an informal consultation relative to the new proposed use of the site at the Mobil Station on Main Street in Ashland, NH. Haffner's Energy North has gone into partnership with Sal's Pizza of the North End of Boston as a new franchise operator. The franchise will open in the Food Service area of the Mobil Station building. A modular or a stick-built unit will contain a back entrance, a storage area and a walk-in refrigeration unit. An interior existing brick wall will be shortened to accommodate a wrap-around counter for customers. The modular/refrigeration unit will come out the rear of the existing building and will be placed between the rear exit and the existing oil tank on the property.

The modular unit will measure 8' x 16' if tied together and would stick out no more than 2' from the oil tank bump out on the property. If the modular unit were to become a stick-built unit, the modular unit described as very large and silver in color would be disguised with siding that matches the motif and color of the rest of the building. The stick-built unit would extend out to about as far as the curbing bump-out, an additional 10'.

The proposal calls for barrier posts (bollards) to be put up to protect everything. There will be no drive through facilities. Mr. Paul Hopkins will be in charge of the day to day operations of the franchise. He will work closely with Mr. Joe Green. Mr. Green will be the Director of Operations. There will be a manager for the franchise with Food Service certification; there will be a supervisor as well.

The Planning Board received the Application for a Waiver of a Full Site Plan Review just prior to the meeting. During this informal consultation, the following points were made:

- The Planning Board will consider a Waiver of a Full Site Plan Review because there have been at least three other food service businesses in that space.
- No expansion is being proposed at this time.
- The trash area is shielded and enclosed out of sight of the public view.

- A portion of the brick wall will remain between the food service area and the convenience store as a separation.
- The current walk through will remain between the convenience store and the food service area.
- The current hours of the gas station and convenience store business are 5 AM -11 PM weekdays and Sunday 6-10. The proposed hours of the pizza franchise will be 10-7 or later.

The Planning Board members had questions about a modular refrigeration unit as opposed to a stick-built unit. The modular unit is weather tight and is similar to the modular unit at the rear of the Dunkin Donuts building on Main Street. A stick-built surrounding wall would make the modular unit look more like the rest of the building structure by enclosing the unit in plywood/matching siding. The Mobil Station will use the same signage size as is currently being used.

The Planning Board will review the Application for a Waiver of a Full Site Plan Review with possible conditions at our next scheduled meeting on Wednesday, May 5, 2021. The Planning Board approval of a Waiver of a Full Site Plan Review gives approval/permission for the project to go forward. A copy of this approval will be forwarded to the Building Inspector. The Planning Board will request an as-built revised site plan when finished so as to be put on file.

The Planning Board advised the property owner that there is a sidewalk reconstruction project underway with DOT from West Street to the Shurfine Market which may cause possible disruptions in business through Memorial Day. The reconstruction is expected to take eight weeks to complete.

INFORMAL CONSULTATION JON KWIATKOWSKI, HIGH LIFE BUILDING COMPANY, INC. (T/M/L 017-005-011 AND T/M/L 017-005-012)

Jon Kwiatkowski, of High Life Building Company, Inc. came before the Planning Board to explain his present proposals for the property at the corner of Main Street and Winter Street which he recently purchased. Mr. Kwiatkowski came to discuss the preliminary drawing of the property and its setbacks. He would like to discuss any conflicts he might encounter during the project's completion. There is an easement issue between an abutter and Mr. Kwiatkowski and about its use. Mr. Kwiatkowski made the following points/questions:

- Zoning Ordinance says that new construction on the street side is 35' setback; in a Commercial Zone the setback can be the average of the adjacent building setbacks.
- Mr. Kwiatkowski would like to propose using Mr. Chaisson's average setbacks as his own (35').
- He referenced the Zoning Ordinance that he can have a conforming setback if it is agreed to by the Zoning Board or the Planning Board; the proposal would follow the same setback as Mr. Chaisson's to the property line.
- He has no building design as yet; when the survey is complete, he will proceed to the building design.

Mardean Badger made the following suggestions:

- The Site Plan for the proposed project needs to be approved before any permits can be issued.
- Final resolution of the easement issue between the Kwiatkowski and Peoples properties is a civil matter to be discussed/resolved between the affected abutters; the issue of easements does not come before the Planning Board for approval; when the easement has been agreed to it will be noted on the Site Plan.
- Before a Site Plan proposal, these two properties owned by the applicant might best become

merged properties; another option is to build on each individual property separately, however, this will increase setback issues.

- Susan MacLeod, Land Use Assistant, cited zoning Ordinance Section 2.3a: There shall be 35' between the edge of any rights of way and the building. On a corner lot the property owner has two rights of way to consider; access for a driveway on Main Street needs to be approved by the State; Winter Street is considered a town road.

Mr. Kwiatkowski cited 2.3c(e) of the Zoning Ordinance to ask if his building could use the same setbacks as the adjacent buildings to his property.

Susan advised that it depended on what the property owner intended to build on the property and the nature of the adjacent buildings. She continued the clause 2.3c(e) specifically says commercial buildings; if you are going to put in residences it may not apply in same way. The commercial clause was written to create business when they did not need setbacks; setbacks are set for residential use; what the property owner wants to build plays into this.

Susan MacLeod cited the Zoning Ordinance Section 2.3E in its entirety: "The commercial building need not be set back more than the average of the front setback of commercial buildings on the lots to either side. If a vacant lot exists on one side, the minimum front setback shall be required. The minimum side and rear setbacks may be reduced to conform with the side and rear setbacks of structures on adjoining properties at the discretion of the ZBA."

Mr. Kwiatkowski is considering a proposal for office space; for a coffee shop; mixed use situation; condos above businesses, with parking under the building structure.

Mardean Badger advised that if the property owner is going to do anything different than the required setbacks, he will need to go to the ZBA for a variance. The property owner will need to show what he wants for setbacks on each side of the building. The property owner will need to justify the change using proper portions of the Zoning Ordinance that are applicable. The Planning Board can't make decisions to vary setbacks. Susan MacLeod advised that this issue ends with the ZBA.

Mr. Kwiatkowski asked about residential setbacks in a mixed use zone. Susan MacLeod advised that the Peoples property adjacent to his would be considered commercial property as its past history was as a commercial property. She continued that if condos are being proposed it would still be considered commercial with the same parking requirements. Each dwelling needs two parking spaces and needs to be a minimum of 750 square feet in area. If the property owner wants to consider office space, the Zoning Ordinance has a definition of office space relative to traffic associated with various office spaces.

Mr. Kwiatkowski is proposing to clean/clear out all vegetation on his property except trees on his property line.

Kathleen DeWolfe advised that Mr. Kwiatkowski be aware that the lot is full of invasive vegetation: bittersweet, Japanese knotweed. The company that is hired to clear the land needs to follow best management procedures for dealing with invasive species disposal. Mr. Kwiatkowski advised that all vegetation will be dug up and sent to a facility that deals with all manner of vegetation and tree stumps.

Mardean Badger advised that there is quite a slope on that property; so be careful of neighbors affected by drainage from his lot to theirs. Mr. Kwiatkowski will not do any site work, remove any topsoil only the vegetation and the tree stumps.

Susan MacLeod brought up the mystery of the sign. It belongs to Mr. Kwiatkowski. The sign will be drawn in on the final Site Plan and a fee will be taken for businesses to advertise on it. It will be part of the reconstruction portion of the project.

Mardean Badger summarized the meeting with the following points:

- Before going to the ZBA. clarify the interpretation of Zoning Ordinances that are applicable.
- Any approval of changes in setbacks must go to ZBA. Until the approval is complete, no construction can be done on site.
- Construction on site will require a Site Plan.
- If the property owner wants to use lots together, he will need to merge the lots. Susan MacLeod, the Land Use Assistant, can provide the information for lot mergers.
- Two parking spaces are required per dwelling; the minimum size of each dwelling must be 750 square feet
- There is a height restriction on buildings in Ashland: 3 stories or 45'
- Any construction requires all appropriate permits.
- Be clear where all property lines are before construction
- Keep in touch with Susan MacLeod about any questions on process, proper regulations etc.

EXCAVATION REGULATIONS APPLICATION FORM

The Excavation Regulations Application Form was tabled for this meeting. It will be reviewed at our next regularly scheduled meeting.

UPDATES

- The Planning Board needs to discuss the latest PRLAC issues relative to overlays. Further discussion will be needed.
- The Planning Board will review the Sal's Pizza franchise at the Mobil Station. Review and decide on the Application for a Waiver of a Full Site Plan Review at our May 5 meeting. The modular box structure at the Mobil Station is not a permanent structure; we need to answer the question of do we approve the modular unit as is or do we approve it with the understanding that it will be disguised.
- The Planning Board discussed briefly the proliferation of signs along the edge of the ballpark and on up the street.
- At our May 5 meeting, we need to reorganize the Board and elect a Chair, Co-Chair and Secretary.

ADJOURNMENT

Mardean Badger made a motion to adjourn. Kathleen DeWolfe seconded the motion. The motion passed. The meeting adjourned at 8:07 PM.

Minutes submitted by Paula Hancock