

**CITY OF KEENE  
NEW HAMPSHIRE**

**PLANNING BOARD  
MEETING MINUTES**

Monday, May 23, 2016

6:30 PM

Council Chambers

Members Present

Gary Spykman, Chairman  
Nathaniel Stout, Vice-Chair  
Mayor Kendall Lane  
Douglas Barrett  
Andrew Bohannon  
Christine Weeks  
George Hansel  
Pamela Russell Slack

Staff:

Rhett Lamb, Planning Director  
Tara Kessler, Planner  
Michele Chalice, Planner

Members Not Present:

James Duffy  
Tammy Adams

**I. Call to order – Roll Call**

Chair Spykman called the meeting to order at 6:30 PM and a roll call was taken.

**II. Minutes of previous meeting – April 11, 2016 Special PB meeting and April 25, 2016**

Vice-Chair Stout offered the following corrections (April 11, 2016):

Page 5 – second paragraph down, “...raised by the applicant should be replaced by *raised by William Beauregard...*”

A motion was made by George Hansel to accept the April 11, 2016 minutes as amended. The motion was seconded by Pamela Russell Slack and was unanimously approved.

Vice-Chair Stout offered the following corrections (April 25, 2016):

Page 1 – third paragraph up, third line down “*restaurants*” not “restaurant”

A motion was made by George Hansel to accept the April 25, 2016 minutes as amended. The motion was seconded by Pamela Russell Slack and was unanimously approved.

**IV. Continued Public Hearing**

1. **S-03-16 – 347 Elm Street – Subdivision** – Applicant Wendy Pelletier on behalf of owner Lisa Fontaine proposes to subdivide the lot into 2 residential building lots. The existing home will be on a lot of .69 acres and the new lot will be .45 acres. The site is 1.14 acres in size and located in the Low Density Zoning District (TMP# 010-03-005).

A. Continued Public Hearing

Ms. Wendy Pelletier the applicant's representative stated after last month's hearing they had a wetland scientist evaluate this property and the only area he found to have a wetland was the eastern boundary where the existing house is located. The scientist performed borings and this is the only area he could locate where a wetland area existed.

Staff comments were next. Planner Tara Kessler stated as indicated the applicant did provide a drainage report and a soils study of the two lots. Based on this information, staff feels it is suitable for development to happen and does meet the zoning requirements in the low density district. Ms. Kessler stated staff has indicated the following language in their motion: *The Owner and the Owner's heirs, successors, and assigns agree that any future development of the .45acre lot be in a manner consistent with the Planning Board Development Standards 1(A) and 1(D) in that all drainage systems shall be designed so as to avoid changing surface water and groundwater levels on adjacent properties, unless specifically approved by the City Engineer and unless agreed to by mutual agreement of the affected property owner(s) through appropriate easement or other covenant intend to run with the affected lands.*

Vice-Chair Stout asked how the Board can make sure what would be constructed on the property and there won't be any confusion as to where that wetland exists. Ms. Kessler stated the motion is in reference to any development being proposed and any new development would have to adhere to the standards which indicate water will not drain onto adjoining properties or the city street. Vice-Chair Stout stated at the present time water is draining on to the adjacent property and felt any condition should take that into account, in that the natural flow of water as it exists today shouldn't have to be changed.

He further stated he was concerned about the lack of information and felt if the property is developed and the same flow occurs, that needs to be prevented from occurring. Ms. Kessler stated for any proposed development the City Engineer will be reviewing any impacts. She deferred to the Planning Director for additional information.

Mr. Lamb agreed with what Ms. Kessler had said in that a drainage study involves two conditions; an existing condition and a proposed condition and there is no way to tell the difference unless you have both. The proposed condition is what would be evaluated in terms of the change to the existing pattern. Nothing in the proposed pattern will be able to add to the speed or amount of water leaving the property; for this we rely on the judgment of the Engineer.

Chair Spykman asked how staff's recommendation came to be in this proposal. Ms. Kessler stated staff had looked at similar projects (Marshall Street) where there were concerns raised by abutting property owners who felt there might be issues with drainage conditions. In that case a similar condition was placed on the approval for subdivision. Ms. Kessler stated there was concern raised with this application with reference to drainage and that any other development might add to this problem. Ms. Kessler went on to say right now the Board is approving a subdivision of land and is not approving development that is not proposed. If development was to occur it is likely to be a one or two family home and that application will not come before the Board as the Board does not review one or two family homes just commercial development and multi-family uses. She indicated as a result staff felt the note being proposed would be the best option as it is likely a future development is not likely to come before the Board.

The Chair asked for public comment next.

Attorney JR Davis on behalf of the abutters addressed the Board. Mr. Davis stated at the last meeting he had submitted an Affidavit regarding standing water and flooding issues. He stated upon review of the wetland study and the cursory drainage analysis, his clients are not opposed to this application but have expressed concern the proposed condition of approval staff came up with is inadequate. He indicated he has before the Board two alternative conditions. The City Attorney has expressed concerns regarding the first condition based on the case Leme Development vs. The Town of Bartlett where in a town which did not have Site Plan Review, there was an attempt by the Selectmen to require additional conditions.

He went on to say his proposed Condition A would require before a building is located on the smaller lot, it would require a public hearing and certain factual findings by this Board. He noted his applicant could oppose this subdivision request as the drainage study indicates "its maybe sort of possible" a development could occur "maybe sort of somewhere" on this property. Attorney Davis stated it is unknown what size house someone is going to want to construct in the future.

Attorney Davis went on to say if the Board feels it could not require the owner of the smaller lot to come back before the Board, he requests the Board go with Condition B; administrative review, what they are requesting is abutters to be heard in a meaningful fashion and if the Board doesn't want an applicant to come before the Board, when a building permit is requested through the administrative process, abutters be notified and those interested abutters could in a timely fashion make comments on the drainage plan. He indicated his contention is that abutters be able to comment on any future building permit.

Chair Spykman stated he would readily admit he is not an attorney, but knows that the Planning Board has no jurisdiction to oversee single family residential development as requested by Condition A from Attorney Davis.

Vice-Chair Stout stated he could not see why this subdivision should be bound by any other restriction which other subdivisions which have come before the Board have not had to go through in the past. He stated there is an adequate drainage study which has been produced and did not see why this application required exceptional treatment from the Board when evaluating this subdivision.

Mayor Lane stated this Board has a long history of encouraging in-fill development and this is another one that is moving in that direction. These types of in-fill developments come with a variety of issues such as slopes, drainage, traffic etc. The Mayor stated the Board has visited this site and did not see anything here which requires the Board to treat this differently compared to any other in-fill development which has drainage problems. The Board has a set of standards it follows and needs to keep with that.

Ms. Weeks asked whether staff has any comments on either Proposal A or B. Ms. Kessler stated the applicant has completed a drainage report and done an investigation of the soils on site and it appears to meet the development standards as the proposal stands today. There is enough room to subdivide the lot; the .45 acre lot (the new lot) has 19,000 square feet which almost doubles the minimum lot size under the City's zoning requirements of 10,000 square feet for minimum lot size. There is also only a small portion of the surface water protection ordinance which would encroach upon the new lot and hence it is suitable for building.

Ms. Kessler stated the reason staff offered the condition is because of the concerns raised by the abutters. She felt this was the most recommended course of action.

Ms. Weeks asked whether the second condition proposed by staff will go along with a building plan which would then show the size of the house. Ms. Kessler answered in the affirmative and added at the time when the applicant applies for a building permit, the dimension of the house and drainage report would need to be submitted. The drainage report would be reviewed by the City Engineer. Ms. Weeks asked if a building permit was issued whether it would be displayed on the lot for a neighbor to review. Ms. Kessler stated it would be.

Chair Spykman stated the Planning Board takes its responsibilities seriously to oversee things like this. Once a subdivision is completed it leaves the hands of the Board unless a commercial development or a three or more family home is proposed. This type of development is not likely to occur in this instance and hence this is the only chance the Board has to do something with this. The condition being proposed is a compromise between what the abutters are requesting and what the Board's jurisdiction is. He indicated he was in support of condition 2 proposed by staff.

With no further comments, the Chair Spykman asked for a motion.

**B. Board Discussion and Action**

A motion was made by Mayor Kendall Lane that the Planning Board Approve S-03-16, as shown on the plan identified as "Proposed Conditions 2 Lot Subdivision, Map 010030050000, 347 Elm Street, Keene, NH 03431" prepared by Wendy S. Pelletier, dated November 23, 2015 and last revised on May 10, 2016 at a scale of 1" = 20' with the following conditions:

1. Owner's signature appears on plan prior to signing by Planning Board Chair.
2. A conditional note be added to the plan that reads as follows: "The Owner and the Owner's heirs, successors, and assigns agree that any future development of the .45acre lot be in a manner consistent with the Planning Board Development Standards 1(A) and 1(D) in that all drainage systems shall be designed so as to avoid changing surface water and groundwater levels on adjacent properties, unless specifically approved by the City Engineer and unless agreed to by mutual agreement of the affected property owner(s) through appropriate easement or other covenant intend to run with the affected lands. Prior to the issuance of a building permit, the Owner shall submit a drainage report prepared and sealed by a professional engineer and reviewed by the City Engineer that demonstrates compliance with these standards.

The motion was seconded by George Hansel and was unanimously approved.

**IV. Public Hearings**

1. **SPR-947, Modification #8 – Savings Bank of Walpole – Unit 6 – 817 Court St – Site Plan** – Applicant Savings Bank of Walpole, on behalf of owner Ashuelot Management & Services Inc., proposes a new bank branch. A proposed net-zero bank building of approximately 1,800 SF would replace two, previously approved, two-story, mixed-use buildings. A waiver is requested from Development Standard #10: Lighting; Hours of Operation. The site is 1.79 acres in size and located in the Commerce Zoning District (TMP#s 914-06-016.0610 & 914-06-016.0620).

A. Board Determination of Completeness.

Planner Michele Chalice recommended to the Board that Application SPR-972 was complete. A motion was made by Mayor Kendall Lane that the Board accept this application as complete. The motion was seconded by Pamela Russell-Slack and was unanimously approved.

B. Public Hearing

Mr. Jim Phippard on behalf of Savings Bank of Walpole stated he was before the Board regarding Modification #8. Unit 6 is a 1.79 acre lot, zoned commerce. The previous approval called for four mixed-used buildings on this one lot, with a shared parking area. Unit 6 has been constructed and has a dentist office and five residential units. This modification would modify the previous modification and utilize the front of the property. The prior modification had two multi-use buildings in this location (2,592 square feet each). These are now being replaced with a single structure, a bank branch. There will be a drive thru and a new parking area (where a prior building was proposed). The drive thru circulates to the left as you enter this site. Staff had asked why this building was not oriented to face Court Street. Mr. Phippard stated the applicant started with the entrance facing Court Street and the drive thru on the north side. This however, causes a short length for cars to back-up at the drive thru lane. Five cars stacking were causing the entrance to be blocked causing an unsafe situation. He indicated what is being proposed today is the only plan which provides for a ten-car stacking situation.

Mr. Phippard talked about the need to pull the building more to the right which caused the elimination of a row of parking spaces. However, there are nine more being created at the front of the building. The site will still end up with 71 spaces to serve all the businesses for (Unit 6); zoning calls for 58 spaces.

There is existing water and sewer. He referred to the gap in the landscaping and this is due to the two water stubs and an underground electrical stub which exists here.

Landscaping – there is extensive landscaping at the front of the site. The applicant was forced to remove five trees to accommodate the travel lane and those are being replaced; four along Court Street and one near the front of the building. There are also screen plantings (Junipers) being added to screen and parking and the travel lane. There will also be flowering shrubs added here as well.

Sidewalks are being extended through the site and connected to Court Street. The sidewalk which was eliminated to move the building will be reconstructed extended to the front of the bank and then all the way to Court Street. Mr. Phippard stated there was a request from staff at the main driveway to Stone Arch Village to extend the existing sidewalk and add in a crosswalk at that location. Mr. Phippard referred to a google image which shows the existence of this crosswalk already and hence did not feel this condition was necessary.

Mr. Phippard stated the second condition calls for the location of a bike rack, he noted to where this is located.

Mr. Phippard then addressed the erosion control fabric requested across the slope (on top of the page) as a condition. He explained this area is about 3.5 feet lower than the driveway in this location. The slope here is 2:1 and for any slope greater than 4:1 which has an elevation more than 2.5 feet, Code requires a guardrail, which will be located. He went on to say because this is a 2:1 slope they don't expect any drainage to pass across this area, and they don't expect any

erosion. There are also low growing shrubs being proposed for this area. The applicant as a result doesn't feel an erosion control fabric was necessary.

With reference to lighting, a light pole which now falls within the footprint of the building will be relocated to the other side of the drive thru. There is also another light pole closer to Court Street which will also be relocated. The fixtures will be changed to LED cutoff fixtures. These provide much lower light levels hence the light poles were lowered from 20 foot poles to 12 foot poles. This provides for more uniformity with the lighting. Mr. Phippard stated they have also requested a lighting waiver; this is a bank and customers can visit this site 24/7 (Inside and outside ATM, Drop Box) and because of this the bank would like to not reduce the lighting level for safety and security reasons. He noted the light levels are .63 foot candles which are less than one foot candles.

Mr. Phippard then went over the waiver criteria as follows:

a) *That granting the waiver will not be contrary to the spirit and intent of these Regulations;*  
The intent of the lighting standard is not to cause glare or light trespass onto other properties. The applicant feels the LED fixtures at their height will accomplish that.

b) *That granting the waiver will not increase the potential for creating adverse impacts to abutters, the community or the environment; and*

Mr. Phippard felt the impact on neighboring properties will not be to any degree.

c) *That granting the waiver has not been shown to diminish the property values of abutting properties.*

Mr. Phippard did not feel this waiver will hurt property values at all.

d) *Consideration will also be given to whether strict conformity with the regulations or Development Standards would pose an unnecessary hardship to the applicant.*

Mr. Phippard stated creating dark areas on the property creates a hazardous condition. Mr. Phippard talked about a lawsuit his company was involved in because of poor lighting. As a result he takes lighting very seriously.

Ms. Weeks asked whether it was his company which was involved in the lawsuit because of poor lighting or whether it was a client's company. The Chair clarified it was Mr. Phippard's company which was involved in the lawsuit.

With reference to traffic – Mr. Phippard stated the traffic report was reviewed by the Public Works Director who was satisfied with the report. He noted the roundabout on Court Street improved traffic on Court Street. In the morning PM hour they are looking at 22 trips coming into the property and during the PM peak hour they are looking at 44 trips coming into the property, many are pass by trips but some are new trips. The traffic engineer did look at the left turns as requested by the Public Works Director and noted to four cars in the queue and this is also the prediction for ten years into the future.

Councilor Hansel stated he did not notice any lights to the right of the building. Mr. Phippard stated the lights are existing and their proposal only looked at lights for Unit 6 not for the rest of the property and the ones which will be on all night would be the ones around the bank.

Ms. Weeks asked about the entrance and exit of vehicles. Mr. Phippard explained the circulation coming in and out would happen via the same route or through the Stone Arch Village exit.

Vice-Chair Stout stated he was under the impression because the perimeter of the other building area is already set is why the orientation of this building cannot be changed. Mr. Phippard stated the future building was previously approved and all they are doing now is shifting it slightly. Mr. Stout asked whether there was any consideration given to changing the orientation of the building before the Board today. Mr. Phippard stated the length needed by orienting the building would eliminate the future building. Even if the next building was going to be much smaller it would be awkward to drive around someone else's building to get to the drive thru. Mr. Stout stated he wanted to make sure all other options were considered as he felt the proposed orientation was a little odd. Mr. Phippard stated they did look at swapping the positions of the entrance. Mr. Phippard stated the other options don't provide for the 200 feet they need (10 car lengths).

Mr. Bohannon stated the elderly housing building is going to be looking down at the building and asked about the lighting which is going to be on all night. Mr. Phippard stated they are using cut off fixtures so the light will not shine up. They are seven feet higher than the bank. He didn't see light as being an issue for this complex.

Chair Spykman felt the traffic entering this site would be looking at the rear of this building (a blank wall). Mr. Phippard referred to an aerial map and noted when traffic pulls in, all they are going to be seeing is a glimpse of this building because of the angle of the roadway and because the building is set well back from the setback line. Ms. Russell Slack stated when she drives she usually does not pay attention to what a building looks like. She also clarified the Senior Housing building does not face Court Street. Mr. Phippard agreed it faces the parking lot. Ms. Weeks asked whether there will be a sign on Court Street. Mr. Phippard there will be a free standing sign with panels on it. Ms. Weeks asked whether there will be a sign at the back of the building. Mr. Phippard agreed and added there are small windows on that elevation with a small area above it and stated it might make sense to have a sign here. The only sign being proposed right now is at the front of the site. He indicated to locate a sign facing Court Street they would need a variance but there is a place holder in the area he referred to above the windows until the variance is approved by the Zoning Board.

Mr. Phippard then introduced their architect, Randall Walter. Mr. Walter started with an explanation about traffic entering the building and seeing the blank wall. He indicated traffic southbound is on the opposite side looking over cars on the opposite lane and when they pull in; it is a very brief view of this site. He indicated the buildings play against each other and added the applicant was not trying to celebrate this elevation and did not feel this is the take away the public is going to have of this building. He felt the elevation change makes this a non-issue.

Mr. Walter stated they focused their attention more on the south elevation. He noted Court Street bends more towards the west as it gets to this site. Mr. Walter shifted the map slightly to the right and stated as the street bends to the west the north is now on the top of the page. He stated for them to be able to create this kind of net zero building, they need southern exposure.

Mr. Walter stated the architecture for this building mimics a "barn style". He noted to the covered entry element. The electrical system will be hidden in plain view on the roof in a cut out area. On the public side it is tucked away behind the solar array.

Chair Spykman stated it was exciting to see a net zero building being constructed.

Ms. Weeks asked whether the clapboard element is carried around the building. Mr. Walter answered in the affirmative.

Vice-Chair Stout felt the windows were a massive amount of glass. Mr. Walter stated the most important thing is for these windows to be high performing, so they are all triple glazed. He added the windows are yet to be selected.

President of Savings Bank of Walpole, Greg Tewksbury stated Savings Bank recently celebrated its 140<sup>th</sup> year. He indicated the bank looks to serve the needs of this community and they are honored to be part of this community. At this point between the two branches on West Street and Marlboro Street they employ about 50 people. He stated the opening of this branch will relieve some of the traffic issues that exist at the West Street branch.

Vice-Chair Stout asked how many branches are there in total. Mr. Tewksbury stated they currently have four branches, two in Keene and two in Walpole; this would be the fifth branch.

Staff comments were next. Ms. Chalice apologized for her notation regarding the disconnected sidewalk. Ms. Chalice stated when the applicant performed their soil borings it measured at 18 feet which provides for some unusual drainage. Hence, the corrugated pipe provides for infiltration along the entire site connecting one catch basin to the other which will reduce the amount of stormwater flow in the City's municipal system. She noted this is to be commended as it meets the LID measures the City is encouraging.

With reference to the waiver for lighting – Ms. Chalice stated staff was concerned about this plan but the applicant has been very clear about the constraints on the site. Ms. Chalice stated she agrees they are at the lowest level for lighting the City calls for.

She went on to say the orientation being proposed is what was approved previously and noted staff is appreciative of the applicant's efforts to try to orient the building towards the street and stated as you travel north this site will have a very clear view as there will be nothing else blocking the building's view. However, because of the slope the view would be pretty limited.

Ms. Chalice stated the Planning Department does have the application for phase 3, which is not part of this application and there are no particularly dramatic increases in the anticipated traffic for the last building.

Ms. Chalice stated she would stand by her request for an erosion control fabric. She also added she doesn't recall a curb at the entrance to Stone Arch Village. Mr. Phippard stated there was one located here. Ms. Chalice stated this would still be a 2:1 slope, it is still sandy soils and there is still the possibility of erosion causing slick measures on this entrance drive into the drive thru. She felt the other two conditions could be removed.

Vice-Chair Stout asked Ms. Chalice to refer to the proposed pedestrian flow and how Ms. Chalice sees this working. Ms. Chalice stated she had asked for a sidewalk connecting the site from the northwest portion of the site to meet the intersection. She stated even though there is a solid connection which runs east/west there is no solid connection directly to the senior housing. She stated there is a north/south connection via Court Street which would meet staff's desire to



have a safe pedestrian access to the site. Mr. Phippard stated by shifting the future building which has not yet come before the Board there is a sidewalk along the south side of the driveway which leads to the crosswalk and to the bus stop across the street. Because of the proximity of the sidewalk to the building and the driveway it is being relocated to the other side of the driveway. This will connect to the housing which is located in the close vicinity as well as the housing further back on the property.

Ms. Russell Slack asked whether the sidewalk Mr. Phippard just referred to is located closer to Stone Arch Village. Mr. Phippard answered in the affirmative and noted their entrance is located at the top of the page on the map – he stated they could use this sidewalk and connect to Court Street.

Mayor Lane stated he was concerned about locating a crosswalk on that slope which is going to be used by elderly people and felt locating the crosswalk where the ground is level would be better.

Councilor Hansel with reference to condition 1 where staff was proposing loam and mulch stated he heard the petitioner refer to a low growing juniper and asked whether this would be comparable to the erosion control fabric. Ms. Chalice stated her concern is the time period before the plant starts growing their root system. She indicated junipers are an excellent choice overtime, but the issue is the time for plants to get settled. Ms. Weeks asked whether this condition was proposed before Ms. Chalice realized there was a curb at this location. Ms. Chalice agreed the curb would reduce the amount of flow but stated there have been instances when bark mulch has been seen flowing down sidewalks during heavy rain events. Ms. Weeks asked Mr. Phippard about a straw mat. Mr. Phippard stated he understood the condition until they noticed the curb. He stated the concern he has with the erosion control fabric is when this area is used as a planting area, the fabric would prevent the spreading of the plantings. Hence, the reason this fabric is often used for weed growth. He added they are willing to add more junipers. Ms. Chalice noted straw was biodegradable and does have to disagree with Mr. Phippard but stated the decision was now up to the Board.

The Chair asked for public comment. With no comment from the public the Chair Spykman closed the public hearing.

Ms. Weeks stated she likes the project and likes that the applicant is using a local architect who is proposing New England type architecture.

Mayor Lane stated he is excited about having bank in this neighborhood. The Mayor stated he would like more discussion on the issue with the straw mat. The Chair stated because this is such a small area he could vote either way. He felt Mr. Phippard's comments and Ms. Chalice's comments were compelling. Ms. Russell Stack stated she liked the proposal just the way it is; she indicated she is a gardener and could go either way with the straw mat. She felt this bank would be a great addition to this neighborhood. Councilor Hansel asked Ms. Russell Slack whether she would like the straw mat or whether she would prefer it without. Ms. Russell Slack stated she was fine without the mat. Vice-Chair Stout felt because of the curb he did not feel straw mat was necessary. Mr. Barrett stated his sense is, if there was an issue with mulch going down the sidewalk the bank would address that issue.

C. Board Discussion and Action

A motion was made by Mayor Kendall Lane that the Planning Board approve SPR-947, Modification 8 with a waiver request from Standard #10 Lighting as shown on the plan entitled “Savings Bank of Walpole”, TMP 914-06-0160610 & 914-06-0160620, 817 Court Street, dated and received April 15<sup>th</sup>, revised on May 4<sup>th</sup>, drawn by Brickstone Land Use Consultants, LLC at varying scales with the following conditions:

1. Prior to signature by Planning Board Chair, Owner’s signature on plan.
2. Prior to signature, submittal security for landscaping, erosion control and an “as-built” plan in a form and amount acceptable to the Planning Director and City Engineer.

The motion was seconded by Pamela Russell-Slack and was unanimously approved.

V. Planning Director Reports

Mr. Lamb stated he wanted to address the Talon’s project for which the Board gave a 90-day extension during the March meeting. Since that time they have been before the ZBA for a rehearing request which request was denied. They have since submitted a series of variances including one related to on-site parking with an attempt to convince the ZBA. They will be before the ZBA in June. There is likely going to be an appeal and the Planning Board is probably going to be asked to grant an extension. Ms. Weeks stated she noted Aroma Joe’s is gone and there is now a new restaurant. Mr. Lamb agreed and stated a change from a restaurant to a restaurant is an administrative issue – D’s Deli has opened a second location here.

VI. Upcoming dates of interest – June 2016

Planning Board Meeting – Monday, June 27, 6:30 PM

Planning Board Steering Committee – Tuesday, June 14, 5:30 PM

Joint PB/PLD – Monday, June 13, 6:30 PM

Planning Board Site Visits – Wednesday, June 22, 8:00 AM – to be confirmed

The meeting adjourned at 8:20 PM,

Respectfully submitted,

Krishni Pahl  
Minute Taker

Reviewed by: Rhett Lamb, Planning Director  
Edits, L. Langella