

PLANNING BOARD MINUTES

December 14, 2022

APPROVED: 2/8/23

AGENDA: 22ASP04– #228-005 – 545 PLEASANT ST. – HMC PRECISION MANUFACTURING, LLC
OFF PREMISE SIGNS PUBLIC HEARING
EXCAVATION INSTRUCTIONS

ATTENDING: Denice DeStefano (Chair), Randall Kelley (Vice Chair), David Shirley, Elizabeth Seeler, and Donald Milbrand (Select Board Representative)

ABSENT: John Miller (Alternate)

OTHER: Christina Goodwin (Interim Deputy Town Administrator) Joanne Bailey (Land Use Manager), Michelle McCaleb (Land Use Administrative Assistant), Christine (Fillmore) Johnson, Esq. (Town Attorney), Applicants, Abutters, and members of the public

Chair DeStefano called the meeting to order at 7:01 pm with a quorum present in person.

NEW BUSINESS:

22ASP04– #228-005 – 545 PLEASANT ST. – HMC PRECISION MANUFACTURING, LLC (HMC):

Chair DeStefano reviewed application materials and information for the record stating that the reasons for the Amended Site Plan application included a change from Retail Sales to Manufacturing. The applicants had come before the Board last month for a Preliminary Conceptual Consultation (PCC) and shared that they planned to use the space for a machine shop with no changes to parking and lighting and only minor changes to shipping/receiving area. Mrs. DeStefano noted that a storage container was shown on the plans and that this would require a Special Exception from the Zoning Board of Adjustment. Continuing with the application review, Mrs. DeStefano stated they received a response from the Water/Sewer Department asking the applicants to contact them for appropriate water service connection items. She also stated that Land Use had not yet heard from the Fire Department so this along with contact with the Water Department could be conditioned should the Board move to approve this Amended Site Plan. She added that Land Use Administrative Assistant, Michelle McCaleb would forward the Water Department comment to the applicants.

Chair DeStefano opened the floor for questions from the Board. Mr. Kelley stated the applicants covered all the bases. Mr. Milbrand asked the applicants if they planned any site work outside. Mr. Dupee responded that the only work outside would be putting up a sign and the overhead door changes in the plan. Chair DeStefano stated that the new signage would require a Sign Permit.

With no more questions or comments, Mr. Shirley moved to approve the plans for 22ASP04 to change from a Retail Sales to a Manufacturing use at 545 Pleasant Street with the conditions as follows:

- Applicant follows up with the Water Department for appropriate service connection items
- Applicant follows up with the Fire Department to comply if needed with any code requirements
- Applicant follows up with Land Use for Sign Permits
- Applicant follows up with the Zoning Board of Adjustment for storage container Special Exception

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22ASPO4– #228-005 – 545 PLEASANT ST. – HMC PRECISION MANUFACTURING, LLC (HMC):- continued

Mr. Milbrand seconded the motion. Mr. Shirley stated the reasons for the motion to approve as follows:

- There would be no additional impact to Town services or the neighborhood with change of use
- The use meets the zoning in the area and is a good use of a now empty building

The Motion carried 5-0-0. Chair DeStefano stated that applicants could expect paperwork and follow up information from Michelle McCaleb, Land Use Administrative Assistant in the following week.

NEW CHANGES TO STATE STATUTES FOR PLANNING BOARDS:

Attorney Johnson presented the variety of changes indicated on a handout titled *Planning Board – Legislative Changes from 2022*. She explained that most of the changes took affect in July or August.

She explained the change to RSA 673:16 requires Land Use Boards to publicly post fees. This has been done by the Bristol Land Use Office on bulletin boards in both lobbies and on the Town's website.

She stated that RSA 676:3,I requires written Findings of Fact for Board for decisions approval as well as denial and that this was a big change that is extremely important to comply with as a Board. This is new to most Boards, and she wanted to be sure that Bristol's Boards that are impacted by this change make the "reasons" for decisions part of the process and record to comply with this law. She added that failure to do this would be grounds for automatic reversal of the decision and grounds for appeal.

Attorney Johnson stated the next change was to RSA 677:20, which now allows the court to require Land Use Boards to cover attorney fees. The Court now has discretion to require a Town Land Use Board pay for attorney fees in cases of appeal and other court actions when it is determined that the Land Use Board acted with gross negligence, bad faith, or malice. The law also allows for the court to require the appealing party to pay the Town's attorney fees if it is determined that it acted in bad faith or with malice. Mr. Shirley asked if Board members are covered by error and omission insurance or if individuals could be sued. Attorney Johnson stated that anyone can be sued, in her experience, for the most part volunteers are covered by Town insurance but in this statute, it could be applied if grounds were found for acting with bad faith or malice.

Regarding RSA 674:17-a: governing automatic development bonuses for workforce housing, the change outlines two (2) phases. Phase I (Aug 23, 2022 – June 30, 2023) states that *IF* the municipality allows any land use incentives as outlined in the law for elderly housing it *MAY* allow the same incentive for Workforce Housing. Phase II beginning (July 1, 2023) provides that by July 1, any incentives established for elderly housing are now DEEMED to apply to workforce housing also. She stated what applies to one needs to apply to the other as well. There was some discussion of tax incentives, but Attorney Johnson stated that this statute addresses land use incentives only.

In discussing RSA 673:3-a, she stated this was completely re-written to allow for any member of Boards including alternates to get complete training offered by the NH Office of Planning and Development (OPD) and that OPD is now required to develop free "self-training" materials and tests for

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NEW CHANGES TO STATE STATUTES FOR PLANNING BOARDS: continued

Board members. Training is still optional for Board members, not mandated, but there will be free training made available through OPD. She encouraged members to take advantage of this.

Attorney Johnson stated that RSA 674:76 dealing with exemptions for religious purposes is new and it states, “no zoning ordinance or site plan review regulation shall prohibit, regulate or restrict the use of land or structures primarily used for religious purposes.” It goes on to qualify this by stating that such land or structures “may be subject to objective and definite regulations concerning the height of structures, yard sizes, lot area, setbacks, open space, and building coverage requirements” so long as those requirements apply equally to both religious and non-religious uses, and don’t “substantially burden” religious exercise. She stated that no one is entirely sure what this will end up meaning. Her goal is that Bristol is never a test case for this. She mentioned a federal statute that says you cannot discriminate against religion. Basically, as this statute reads, no zoning or site plan can regulate, prohibit, or restrict use for religious purposes and all they can be subject to is height of structures, yard sizes, lot area, setbacks, open space and building coverage requirements. There was discussion about what this statute does not list and any issues that could cause. She expects this to be tested. Her best advice right now is to call her if there is an application put forth that the Board may have questions on how this statute might apply. She stated many are concerned about the ramifications of this statute and she expected new legislation to address this so stay tuned.

RSA 676:4, I(f) and (c) was amended. Attorney Johnson stated that this now eliminates a Planning Board’s ability to request a 90-day extension of its 65-day period to act on an application from the Select Board. It now is amended to only allow an extension by applicant waiver of the statutory time period and both the applicant and Board must agree on the length of the extension. She said it further states that if the Planning Board does not act within the regulated time period and applicant does not waive the time period, the law now requires the governing body (Select Board) to approve the application. If the Select Board does not do this, then the applicant can appeal to Superior Court and the Court must act within 30 days and may order the Town to pay applicant’s reasonable costs including attorney fees. Her advice for this change is to continue to act within the regulatory time period, and if the Board and applicant agree to waiver, get it in writing, but if running out of time or more information is needed and there is no waiver, the Board could deny without prejudice which allows them to come back again at a future time.

OFF PREMISE SIGNS PUBLIC HEARING:

Chair DeStefano opened the hearing and explained the changes made to the current language to the Off Premise Signs regulations. Most of the changes were made to condense and clarify the language. Changes were reviewed and it was noted that the word advertising would be stricken from number three (3) paragraph (e) first sentence. Mr. Shaun Lagueux asked how these changes would impact signs on trees. Mrs. DeStefano stated that when the new Enforcement Officer starts these would be handled by removal and making contact to pick up at Town Offices. When picked up at the Land Use office, the staff will provide appropriate information to the individual about the sign ordinance. Mr. Lagueux asked about temporary construction signs when residents had roof repair or other work done. Mr. Kelley responded that these are permitted by Sign Ordinance. Ms. Goodwin added that these are temporarily allowed while construction is happening and for a specific period of time following completion.

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OFF PREMISE SIGNS PUBLIC HEARING: continued

Hearing no other questions from the public or Board, Chair DeStefano closed the hearing and asked for a motion. Mr. Kelley moved to approve the Off Premise Signs changes as amended and move this forward to the Ballot for 2023. Ms. Seeler seconded. The motion carried 5-0-0.

EXCAVATION INSTRUCTIONS:

Chair DeStefano stated that the Board has previously approved the Earth Excavation Application and Checklist. She explained that these are the instructions to go along with them. The Board reviewed the instructions. Mr. Kelley motioned to approve the Earth Excavation Instructions as written. Mr. Milbrand seconded. The motioned carried 5-0-0.

MINUTES:

The meeting minutes of November 9, 2022 were reviewed. Mr. Kelley motioned to accept the minutes as written. Mr. Shirley seconded. The motion carried 5-0-0.

COMMUNICATIONS:

Grafton County Federal Emergency Management Agency (FEMA) Mapping Updates

Ms. Goodwin presented the communication from FEMA. She explained that there has been a review and updates to the Flood Maps for Grafton County and the Pemigewasset river flood zone. The notice included a link to information and a process overview and timeline chart. The reason for bringing it to the Board tonight is that the 90-day appeal period is in place from October 12, 2022 to January 25, 2023. Ms. Goodwin went on to re-state what the appeal requirements were and stated she believed at this time that the Select Board would need to review these and provide recommendations when the appeals were submitted to FEMA. She let them know that an email went out to Conservation Commission members for their individual response about Bristol changes as they may impact any decisions.

Mr. Kelley stated that he was of the understanding that most of the maps of flood areas were reduced. Ms. Goodwin replied that some in town had been expanded. Some of the Board members discussed the control by dams and area history of flooding.

Ms. Goodwin asked the Board to take a look at the Town FEMA maps that have been updated and let Joanne know if there are any concerns.

Boundary Surveys

Ms. McCaleb shared information about survey maps received. She stated that the first map was the copy of survey for the Town and Ms. Bailey added that it was a plan showing a proposed right-of-way prepared for the Town of Bristol and LaValley Lumber. Ms. Goodwin explained that this finished up an agreement from a year ago.

Next was a boundary survey for the Paul and Karen Bemis Family Trust property located at 59 Castle Lane and then another boundary survey for the Pippard Family Trust property located at 50 Castle Lane.

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REPORTS:

HISTORIC DISTRICT COMMISSION – no meeting this month.

SELECT BOARD – Because he missed the last Select Board meeting, Mr. Milbrand deferred to Mr. Lagueux who was still present in the audience. The Board did not approve the Solar Exemption warrant article for the March ballot. Ms. Goodwin stated that a petitioned article could be submitted for this. Ms. Goodwin added that the Select Board approved regulations for a newly created Pemi-Path Sub-Committee, who will continue to finish the project connecting to Profile Falls.

CIP COMMITTEE – Mr. Milbrand is to finish up the presentation process with Budget Committee.

CONSERVATION COMMISSION – Ms. Bailey reported on a NH Department of Environmental Services violation notice for a property on Pemi Shores Road. She stated that the Conservation Commission is following through on this and is concerned with contractors doing work without permits. She stated they are considering ways to reduce this activity in the future with education. Ms. Goodwin explained all the potential violations to Shoreland, Wetlands, Pemi Overlay setbacks and other issues and conditions owners have to comply with. Ms. Goodwin continued the update to include the Commission's work on an application checklist as a tool and site visits to Conservation properties and wetlands locally.

LAND USE – Ms. Bailey stated she has been taking it all in and expressed her hat is off to the team. She stated that a contract was entered into with a firm, Resilience Planning and Design out of Plymouth, NH to provide an independent analysis of the survey data. She will be working with them and plans to have information and a report by the end of February. She stated that a new Land Use Officer will be starting January 4, 2023. Ms. Goodwin added that on January 25, the Board will be visited by Resilience Planning and Design company to talk about the Newfound Water Shed as part of their contract with the Newfound Lake Region Association.

Ms. Goodwin talked about her discussions with Shaun Lagueux in regard to the timbering project on North Main Street. Mr. Lagueux made her aware of some information regarding forestry/timber projects that are not within the authority of the Planning Board and Town. Driveway permits are within the jurisdiction of Land Use. Ms. Goodwin stated she verified this with the Town Attorney as well.

Ms. Goodwin updated the Board about the decision of the Zoning Board of Adjustment concerning the School Street variance for making one apartment into two. The finding was that no expansion was made to bedrooms and no impact was caused to parking or on Town services so no variance was required.

Mr. Shirley asked about his term expiring on the Planning Board. Ms. Goodwin explained his term was up in March and that if he wished to continue, he could submit his name for re-appointment. Mr. Shirley advised that as long as the Planning Board members still wanted him, he would continue his service.

NEXT MEETING: January 11, 2022

Chair DeStefano asked if there were applications for this meeting. Ms. McCaleb stated there was one PCC but Land Use would reach out to the applicant and determine if it could be moved, or his questions addressed by Land Use. Mrs. DeStefano stated she was headed back to Florida for the winter and that

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she will be in contact with Mr. Kelley for agendas etc. He will be Chair in her absence, if needed, and she plans to attend meetings from Florida via Zoom. The January meeting may be cancelled if the PCC can be rescheduled, or his questions answered without the need for a PCC.

ADJOURNMENT: With no other business before the Board, Ms. Seeler motioned to adjourn. Mr. Milbrand seconded. The motion carried 5-0-0 and the meeting adjourned at 8:40 pm.

Respectfully submitted,

Janet Cote
Land Use Associate