



Town of Hampden  
Planning Board Meeting  
Wednesday September 11, 2019

## Minutes

In Attendance:

Planning Board

Gene Weldon, Chairman  
Kelley Wiltbank  
Jake Armstrong  
Brent Wells  
Ladoiya Wells  
Richard Tinsman  
Peter Weatherbee

Staff

Karen Cullen, AICP, Town Planner

Public

Jim Kiser  
Jennifer Naross  
Steven Narauska  
Marcel Bonenfant

The meeting was called to order at 7:00 pm.

Chairman Weldon noted two regular members were absent (Tom Dorrity and Jennifer Austin) and he appointed alternates Ladoiya Wells and Richard Tinsman to sit in their places.

1. Administrative

- a. **Motion** by Member Wiltbank to approve the minutes of the August 14, 2019 regular meeting; second by Member Brent Wells; motion carried 7/0/0. **Motion** by Member Weatherbee to approve the minutes of the August 20, 2019 workshop meeting with the modification that Gene Weldon was not at that meeting; second by Member Wiltbank; motion carried 7/0/0.

2. Old Business

- a. Stanley & Sean MacMillan – Continuation of Public Hearing for Preliminary Subdivision plan for Stearns Farm.

Chairman Weldon opened the public hearing at 7:05pm

Jim Kiser addressed the board and said that the continuation of this application will depend on the proposed amendments to the Cluster development provisions. He mentioned that if the Cluster development provisions stay the same then they will have to go with a traditional development and lose several lots. He asked for a continuation for one more month to see what the changes will be, and how they will affect the project.

**Motion:** Member Weatherbee moved to continue the Stanley & Sean MacMillan public hearing for a Preliminary Subdivision Plan for Stearns Farm until the next meeting on October 9, 2019; second by Member Wiltbank; motion carried 7/0/0.

### 3. New Business

- a. Nate Wicklow – Final Subdivision for a minor subdivision to split a lot off a parcel on Monroe Road, Parcel 02-0-024. This property was divided within the last five years and thus requires approval by the Planning Board. The property is in the Rural district. *[Ed. note: this project involves two additional applications: a site plan and another subdivision which both follow this subdivision application.]*

Planner Karen Cullen addressed the Board:

- In May 2018 a building permit for a 24x24 foot garage was issued, to be located in the northeastern corner of the 10-acre parcel. Earth moving activity was necessary for the construction of the garage and as such is exempt from the provisions of §4.9, Filling and Grading of Land and Stockpiling of Materials (§4.9.2.2).
- The subdivision application to split a 2-acre lot off will create a non-buildable lot because that lot will not have the required 200 feet of frontage. This would not be an issue if the building permit had not been issued, however the earth moving activity would have then been subject to §4.9.
- The garage has not been constructed yet; the building permit will expire May 15, 2020, at which point the garage must be complete. If it isn't, then the site would be in violation of §4.9.
- In consultation with the Town's attorney we have determined the Planning Board cannot approve the subdivision to split off the 2-acre lot since it would be creating a lot with a building permit without the required frontage.

Planner Karen Cullen then went through possible options for the applicant to move forward with the development of the proposed 4-unit structure:

- Revise the site plan to include the entire 10-acre parcel. Eliminate the proposed lot lines, show the entire parcel, the entire wetland, and given the condition of the property, the areas where excavation has occurred and where it will occur, and where the stockpiles are.
- Also revise the second subdivision application to eliminate the proposed lot lines. Again, the entire 10-acre lot should be shown on the plan, with the entire wetland (to comply with statute approval criteria).

Jim Kiser, representing the applicant, suggested another alternative, to add a turn-around to the "right-of-way" to get 200' frontage, but not build a road.

After further discussion, it was determined that the board did not have enough comfort to move forward with this application.

**Motion:** Member Tinsman made a motion to table the application for the minor subdivision to have the applicant redesign and bring back to the board. Second by Member Weatherbee; motion carried 7/0/0.

- b. Nate Wicklow – Public Hearing for a Major Site Plan and Final Subdivision for a minor subdivision to construct a 4-unit multi-family building on a 2 acre portion of the property on Monroe Road, Parcel 02-0-024. This property is located in the Rural district.

Chairman Weldon opened the public hearing at 7:44pm.

Jim Kiser addressed the Board; mentioning that the first decision affects this part of the project, but still went on to explain the application.

- 4-unit single story building on 2-acre lot
- Access to Monroe road
- Single driveway from the road will split to serve each of the 4 apartments
- Parking is 1 space in garage and 1 space in driveway for each unit.
- Providing grading on site
- Two onsite wastewater disposal systems, the one on the Winterport side of the driveway is already installed (under a previous permit for a duplex)
- There is a 2 unit building on the abutting property (also owned by Nate Wicklow); occupancy available shortly
- Stormwater will run off most of the parking area and will drain back and around building to the wetland area.

Opposition/Questions/Concerns?

Marcel Bonenfant who works for Jennifer Naross of 168 Monroe Road addressed the Board.

- Recommended that the Board take a trip to visit the site because of the activity that has been going on.
- 4 unit building to be built right in front of Jennifer Naross's property
- This will create more traffic
- More drainage. Has a study been done?
- Will affect the Bog
- Will this affect her well? The Bog keeps the wells going and is concerned that 4 units with 16 people will impact the amount of groundwater available to the wells.
- Rental unit in front of property will affect property value
- Will this affect the springs?
- A 4 plex will not go with the neighborhood

Steve Narauska

- Did the applicant get approval for a gravel pit? Everyday gravel is being hauled out of there. There is a huge pile of gravel out there. They have destroyed a beautiful piece of land. Trucks have been in and out since last year, appears to be working as a gravel pit.

Jim Kiser addressed the abutters questions/concerns

- There are no numbers on the well quality or depth. Large portion of the land is mapped as a sand and gravel aquifer. Yields are such that the Water District looked at using this area as water source. They can get water quality by drilling. Ground water is quite prevalent and would be surprised if 4 families at a rate of 180 gallons a day would make a dent in available water in this area.
- The proposed building will be behind trees that are remaining on the property, doesn't think building will be visible. The trees on the Wicklow property will provide a good screening.

- No proposed culvert at driveway since there is no ditch along Monroe Rd. Stormwater will recharge the aquifer. DEP has looked at the site and required two permit-by-rule applications. The project only disturbs 9 tenths of an acre of land, net impervious of 3 tenths of an acre will not have a big impact on the land.
- The project will be 2 duplexes put together, not a multi-story multifamily development. It will match the new duplex next door.
- Traffic is extremely low for apartments 6 or 7 trips a day compared to single family at 10.
- Value of property is subjective, little evidence of property values affected subdivisions vs. multi-families.

Discussion:

Member Wiltbank asked how much land is disturbed. Jim Kiser said that it was over an acre of disturbed land but under the 5-acre DEP threshold. A permit had to be filed for stormwater within a year's period which included erosion control measures etc. Jim Kiser was unaware of how many acres was disturbed in the excavation area. To be able to put a garage out there a lot of material would have to be moved. Chair Weldon asked how many permits had been issued? Jim Kiser said he only knew of one permit for the stormwater. Planner Karen Cullen said DEP told her there were two permits by rule, both after the fact, one for stormwater and one for a wetland violation. There was about 5,000 sq. ft of wetland that was filled in by one of the stockpiles. Member Tinsman asked what kind of garage was it going to be? Jim Kiser wasn't aware of the type of garage to be built. Jim Kiser mentioned this was not part of the application in front of us. At this time we are looking at a 2 acre parcel out front, not the entire parcel.

The site plan is ready to go but can't go forward without the Subdivision approval to create the 2 acre parcel.

**Motion:** Member Tinsman moved to continue this public hearing to Oct. 9<sup>th</sup>, 2019 at 7:00pm; second by Member Wiltbank; motion carried 7/0/0.

- c. Public Hearing to consider proposed amendments to various sections of the Hampden Zoning Ordinance to clarify or correct language, add a new use category for "agricultural diversity uses", modify the cluster housing provisions, and add a new use category "private event venues" along with provisions to govern them.

Chairman Weldon opened the public hearing at 8:29pm.

Planner Karen Cullen went over the proposed revisions to the private event venue after discussing with a citizen at the August 20<sup>th</sup> Workshop meeting.

- Revised hours for smaller properties in the rural district.
- Revised footnote to require that all activities and attendees vacate the property by one hour after the closing time that is listed in the table in the proposed amendment.
- Don't count events that are held between 9am and 5pm (for example business/corporate meetings) against the limit that's in the table.

Public Comments:

Jim Kiser, 15 Constitution Ave:

- Commends the board for looking at the Cluster development provisions
- Questioned how we will measure the amount of space within the open space area used for utilities.
- Commented that the requirement that amenities must be provided in open space is increasing the developer's costs which get passed on to consumers, increasing the price of lots. Do we really want to do this in the town?
- Tract buffers – It will be expensive to plant buffers when you have a field. Would fencing or something like that be equal? Or if you have an abutter that agrees not to require a buffer then do you still need one? Possible to get a waiver from the property owner that would be on the land and would follow it on a deed?

[Ed. Note: Jim Kiser left the meeting at this point.]

Discussion:

- Member Tinsman mentioned applicants should calculate the open space area used for utilities themselves then bring it to the board. He surmised Jim Kiser is looking for more guidance. Planner Karen Cullen said with linear types of things including water/sewer lines, if there is easement involved then the entire area of the easement should be included. If there isn't an easement, just a pipe going across the open space, then it would probably be a 10 ft corridor centered over the pipe line. For stormwater facilities like a pond, it should be on outside edge of the facility.
- Cluster Development amenities – The idea is that with smaller private outdoor spaces (i.e. backyard) for each dwelling unit, there should be centralized outdoor spaces with amenities like playgrounds for the residents to use. Member Tinsman asked what type of amenities are we talking about? Chair Weldon and Planner Karen Cullen said walking trails, playgrounds, gazebos, a community garden, etc. Something that would be maintained for the enjoyment of the residents but not necessarily involving a building, but a community building would also be fine.
- Tract Buffer – The Board discussed the tract buffers in detail, specifically the idea of allowing a fence or other option instead of vegetation (trees and shrubs). Planner Karen Cullen mentioned including language in the ordinance that allows the Planning Board to waive a provision. It was decided to modify provision 4.6.5.6 to reduce the depths of the buffer or propose alternative material and reference 4.7.2.4.1. The last item to discuss would be to give an allowance for no buffers if an abutter waived the buffer requirement. Planner Karen Cullen suggested staying away from doing this because the owner of the land at this time should not make it so that a future abutter has no buffer. The Board's consensus is to leave that one alone.

Chairman Weldon closed the public hearing at 9:00pm.

**Motion:** Made by Member Wiltbank to review the minor changes done to the Zoning Ordinance amendments at the workshop next week prior to sending to Town Council for adoption. Seconded by Brent Wells; motion carried 7-0-0.

- d. Public Hearing to consider a proposal to repeal and replace the Hampden Shoreland Zoning Ordinance to eliminate inconsistencies with the Maine Department of Environmental Protection's Guidelines for Shoreland Zoning Ordinances.

Chairman Weldon opened the public hearing at 9:01 pm.

Chairman Weldon noted there was no one in the audience and closed the public hearing at 9:01 pm

Planner Karen Cullen said that nothing has changed since the last time the Planning Board looked at this. Her memo details all the changes. The most significant change is eliminating the need for Shoreland Zones for minor streams (also called local streams) including Sucker Brook, Reeds Brook, and a couple unnamed brooks. There are also several wetlands on the map that shouldn't have been included in the Shoreland Zone in the first place; those areas are covered under the Natural Resources Protection Act. The main reasons to rewrite this ordinance is to bring our Shoreland Zoning Ordinance into compliance with the State's 2015 guidelines and to no longer regulate areas that are listed as optional under those guidelines.

**Motion:** Made by Member Brent Wells to send the Shoreland Zoning Ordinance amendments to Town Council with a recommendation to repeal the current ordinance and adopt this proposed ordinance to replace it. Seconded by Member Ladoiya Wells; motion carried 7-0-0.

#### 4. Staff report

Two applications have been submitted for the October meeting:

- A ground mounted solar array at the H.O. Bouchard trucking property
- A 4-unit multi-family building on Old County Road on an existing parcel in the Residential B district on the Bangor end of the road.

The meeting next Tuesday (6:30pm) is a Workshop to continue our review of the proposed Subdivision Ordinance and modification of the Zoning Ordinance amendments as discussed tonight.

#### 5. Planning Board comment:

Chair Weldon mentioned that he appreciates everyone's patience tonight, it is never easy when we get information at the last minute. Everyone handled it well, and he appreciates everyone's help getting through it.

6. Adjournment: Upon **motion** by Member Weatherbee and second by Member Ladoiya Wells, the meeting was adjourned at 9:10pm.

Respectfully submitted by Jessica Albee,  
CED Administrative Asst.