

TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
Minutes of 2019

10/22/19

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2 The meeting was called to order at 6:30 p.m. by Planning Board Vice Chairman Mark
3 Suennen. Present were regular Board members David Litwinovich and Ed Carroll, Ex-Officio
4 Joe Constance and Alternate Board member Amy Sanders.

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6 Also present were Planning Coordinator Shannon Silver, Planning Board Assistant Na-
7 dine Scholes and Planning Consultant Mark Fougere.

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9 Absent was Planning Board Chairman Peter Hogan.

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11 Present in the audience for all or part of the meeting were Peter Shellenberger, Emily
12 Shellenberger, Thomas Carr and Benjamin Kibler.

13
14 **RAG REALITY, LLC (OWNER)**

15 **SHELLENBERGER, EMILY (APPLICANT)**

16 Submission of Application/Public Hearing/NRSPR/Retail Store

17 Location: 7 Byam Road

18 Tax Map/Lot #6/40-1

19 Small Scale Planned Commercial "COM" District

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21 Mark Suennen opened the Public Hearing and made Amy Sanders a full voting member.
22 He asked if all required application items had been submitted. The Planning Coordinator, Shan-
23 non Silver said yes.

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25 David Litwinovich **MOVED** that the proposed Site Plan for a Re-
26 tail Store would not have Regional Impact and to accept the appli-
27 cation as complete. Amy Sanders seconded the motion and it
28 **PASSED** unanimously.

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30 Emily Shellenberger noted that the flower farm she started a few years ago had grown
31 and she would like to expand her business from just selling out of the road side flower cart into
32 an existing barn on her property. She would like to keep the flower cart on the road, but the ex-
33 pansion would give the space to have climate storage to keep flowers fresh for larger orders and
34 space to meet clients. She explained that the barn would also be utilized as a workshop and
35 some retail but mostly would be for client interactions.

36
37 Mark Suennen clarified that the Board had allowed the applicant to submit a hand drawn
38 site plan even though the property was zoned commercial, it was Emily Shellenberger's resi-
39 dence. The Planning Coordinator, Shannon Silver noted that if the business were to expand
40 from what is being proposed in the future, then a professional site plan would be required.
41 Mark Suennen confirmed that the use could be considered as a home-based business as pre-
42 sented.

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RAG REALITY, LLC (OWNER)
SHELLENBERGER, EMILY (APPLICANT), cont.

Mark Suennen asked how the 3 parking spaces shown on the site plan would be delineated on the site. Emily Shellenberger replied that lines would be painted.

Joe Constance noted that he did not have any concerns with what was proposed, and he did not believe that there would be any impacts on traffic. He asked if there would be any signage. Emily Shellenberger said she was unsure if a sign would be needed at this time. Peter Shellenberger said that a sign may be beneficial in the future but currently did not think it would be necessary. The Planning Coordinator, Shannon Silver suggested that the applicants add a proposed sign location to the site plan now to prevent the need to come back to the Board to amend the site plan just to add the sign. Peter Shellenberger noted that the sign would be best on the right side of the driveway.

Mark Suennen noted the items that were missing on the site plan that will need to be added were the Locus Map, adding the lines for parking spaces and location for future signage. Mark Suennen asked if the barn had any exterior lighting. Peter Shellenberger replied that the barn does not have exterior lighting.

David Litwinovich suggested that the applicants increase the hours of operation. The applicants decided to change the hours of operation from 10am to 4pm to 8am to 4pm, Monday thru Sunday.

Ed Carroll asked if the Board should do a site walk. The Board decided that the site walk would not be necessary.

Mark Suennen opined that the site plan changes could be completed administratively. He asked the applicants how long would be needed to complete the conditions precedent and subsequent, then hold the compliance hearing to confirm that the subsequent conditions were completed. Peter Shellenberger asked if a compliance hearing would be necessary to confirm that the lines for the parking spaces are done or could the Building Inspector confirm this item. The Planning Coordinator, Shannon Silver said that the Board could waive the requirement for a compliance hearing based on the minor nature of the conditions and the office staff could confirm compliance. Mark Suennen noted that the applicant could request the waiver if they prefer to skip the compliance hearing process and ask that the confirmation be handled administratively. Peter Shellenberger requested that the compliance hearing be waived. Joe Constance noted that he preferred the Building Inspector conduct the site inspection to confirm that parking lines were painted.

Joe Constance **MOVED** to waive the requirement for a compliance hearing and the final inspection be handled administratively by the Building Inspector for adherence. Ed Carroll seconded the motion and it **PASSED** unanimously.

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RAG REALITY, LLC (OWNER)
SHELLENBERGER, EMILY (APPLICANT), cont.

Peter Shellenberger noted that the plan revisions and the lines for parking spaces could be done by October 31, 2019. Mark Suennen suggested that the conditions precedent deadline could be October 31, 2019 and the conditions subsequent deadline could be November 22, 2019. The applicants agreed.

There were no other issues.

David Litwinovich **MOVED** to approve the site plan, for Rag Reality, LLC, d/b/a Live Bee, or Die Farm, to operate a retail flower store from the existing barn, located on Tax Map/Lot #6/40-1, 7 Byam Road subject to:

CONDITIONS PRECEDENT:

1. Submission of a minimum of four (4) revised site plans that include all of the checklist corrections and any corrections as noted at this hearing;
2. Execution of a Site Review Agreement.

The deadline for complying with the conditions precedent shall be **OCTOBER 31, 2019**, the confirmation of which shall be an administrative act, not requiring further action by the Board. Should compliance not be confirmed by the deadline date, and a written request for extension is not submitted prior to that date; the applicant is hereby put on notice that the Planning Board may convene a hearing pursuant to RSA 676:4-a to revoke the approval.

CONDITIONS SUBSEQUENT:

1. All site improvements are to be completed as per the approved site plans.
2. The Town of New Boston Planning Department shall be notified by the applicant that all improvements have been completed and are ready for final inspection.
3. Any outstanding fees related to the site plan application compliance shall be submitted;
4. Compliance shall be determined administratively, prior to releasing the hold on the issuance of any Permit to Operate/Certificate of Occupancy, or both. It is the applicant's responsibility to apply to the Building Department for a Permit to Operate/Certificate of Occupancy. No occupancy/use shall be permitted until the site improvements as noted have been completed, and the site inspected to confirm compliance.

The deadline for complying with the Conditions Subsequent shall be **NOVEMBER 22, 2019**, the confirmation of which shall be determined administratively as described in item 4 above.

Joe Constance seconded the motion and it **PASSED** unanimously.

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Miscellaneous Business and correspondence for the meeting of October 22, 2019, including, but not limited to:

1. Approval of the September 24, 2019, meeting minutes, with or without changes. (distributed by email)

Joe Constance **MOVED** to approve the September 24, 2019, meeting minutes as amended. Ed Carroll seconded the motion and it **PASSED**.

2. Distribution of the October 8, 2019, meeting minutes, for approval at the November 12, 2019, meeting, with or without changes. (distributed by email)

3a. Endorsement of a Subdivision Plan, for David S. Kersting & Karen E. Morgan-Kersting, Tax Map/Lot #7/73, Old Coach Road, by the Planning Board Chairman & Secretary.

3b. Endorsement of a Notice of Decision Cover Sheet, for David S. Kersting & Karen E. Morgan-Kersting, Tax Map/Lot #7/73, Old Coach Road, by the Planning Board Chairman.

4a. Email received October 20, 2019, with attachments, from Thomas Carr, Meridian Land Services, Inc., re: changes to Conditional Use Permit, Tax Map/Lot #2/87, for the Board's review and discussion. (Thomas Carr & Benjamin Kibler to be present)

4b. Letter dated October 22, 2019, from Benjamin Kibler, re: request to extend Conditional Use Permit Conditions Subsequent deadline of November 9, 2019, to February 14, 2020, for the Board's action.

Items 4a and 4b discussed later in the meeting with Thomas Carr and Benjamin Kibler in attendance.

5. Amendment to the Non-Residential Site Plan of Sizemore Truck & Auto, Tax Map/Lot #5/29-1, 150 Weare Road, for Board's review and discussion with Planning Coordinator, Shannon Silver.

The Planning Coordinator, Shannon Silver presented the proposed amendment to the current site plan. She explained that the owner would like to add an additional 5k sq. ft. building to the site for the overflow from the existing shop to service heavy equipment. She asked if the Board would accept the amended site plan or should this be reviewed through the Public Hearing process. Mark Suennen opined that if the new building would need a foundation he preferred to go through the Public Hearing process. The Board agreed.

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Discussion, re: 2020 Zoning Ordinance / Building Code Amendments.

Mark Fougere noted that the first article would be to change Contractor's Yard and Day Care from allowed by Special Exception in the Small Scale Planned Commercial District 'COM' to Permitted Use. Mark Suennen questioned if this change stemmed from the NAPA Store being converted to Contractor's Yard earlier this year. The owner had to first go to the Zoning Board to change the use from a Retail Store to a Contractor's Yard and the property is currently zoned Commercial.

Amy Sanders said that she would have concerns with certain areas of Town that are zoned for Commercial use, i.e. Downtown, would not be appropriate for a Contractor's Yard. The Board explained that they would still have control with reviewing the site plan and which properties are appropriate for particular Commercial uses. Most of the properties that are zoned Commercial in the center of Town would not be able to support some of the Commercial operations allowed. The Board would still review and approve a site plan and be able to control the operation.

Mark Fougere noted that the second proposed article was the Zoning change presented by Paul Sizemore for Tax Map/Lot #5/29-1, that the Board had agreed to support.

Mark Suennen questioned if these are the only two proposed articles this year. The Planning Coordinator, Shannon Silver replied yes and noted that she had asked the Building Inspector, but he does not have any proposed amendments at this time.

The Board agreed that a Public Hearing for the amendments would be scheduled for December 10, 2019.

Miscellaneous Business and correspondence, continued.

- 4a. Email received October 20, 2019, with attachments, from Thomas Carr, Meridian Land Services, Inc., re: changes to Conditional Use Permit, Tax Map/Lot #2/87, for the Board's review and discussion. (Thomas Carr & Benjamin Kibler to be present)

Thomas Carr explained that the Conditional Use Permit had been approved by the Planning Board about a year ago to install 2 wetlands crossings for the construction of a driveway. At the time the CUP plan was being proposed, the Conservation Commission was involved and had proposed to install a 24" culvert at one crossing and a 30" culvert at the second and both of the culverts would be embedded 1'. The first crossing went in successfully without an issue but the second did not go in as planned. When the contractor started digging for the 30" culvert, that would replace the existing 12" culvert, he hit either a boulder or ledge. Instead of blasting and creating a mess, the contractor went ahead and installed a 24" culvert, not embedded. Thomas Carr noted that before he came to present this change to the Board, he discussed what this changed with the engineers. The cross-sectional area for the culvert installed actually increased from 3.08 sq. ft. to 3.14 sq. ft. with no restriction on stormwater flow in the area, the

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Miscellaneous Business and correspondence, cont.

culvert just could not be embedded as proposed. The 12" culvert that had existed before was at grade and is now a 24" culvert at grade, which would be considered an improvement. Meridian decided to present this change to the Board since it would function properly and ask if the changes could be accepted on an amended plan.

Mark Suennen confirmed that the 12" culvert at grade had been replaced by a 24" culvert still at grade. Thomas Carr agreed. Mark Suennen asked if the Conservation Commission had given a reason for why the culvert should be embedded. Thomas Carr said that the Conservation Commission typically preferred and always recommended that every culvert has some type of natural substrate surface at the bottom, so Meridian had initially designed the culverts embedded from the start. He said this was just one of those construction situations where a decision was made to not cause other problems. If the 30" culvert had been installed there would have been a hump across the driveway, like a speed bump, that could have caused more fill to run off into the wetland, which is not permitted per the State Wetland Bureau permit.

Mark Suennen asked what type of culvert was installed. Thomas Carr replied that it was still the same HDPE culvert, with a smooth interior that had been proposed originally, only the size had changed.

Joe Constance questioned if it could be guaranteed that if the ledge underneath were a boulder that it would not move over time. Thomas Carr said that the contractor believed it was a ledge, he tried moving it using heavy machinery and it would not budge.

Amy Sanders asked if NH DES had any comments regarding the culvert size or preferred install method. Thomas Carr noted that there were no hits when they did the Natural Heritage review, so DES would have approved any culvert at grade. There would be no impact to wetlands with the change that was made and what had been installed would be in compliance with the wetland permit. Mark Suennen asked to clarify that in compliance with DES permit meant that there would be equal impact or less of an impact with the change. Thomas Carr replied that it would be equal.

Mark Suennen questioned when in the process had the decision been made to install the smaller culvert. Thomas Carr noted that he was unsure exactly when the culvert was installed. Benjamin Kibler said that he believed the culvert was installed in the Spring. Meridian was not notified about the change and discovered that the culvert was smaller when completing the inspection for adherence.

Joe Constance asked Mark Suennen if he believed the smaller culvert would not move over time and would handle the stormwater flow. Mark Suennen replied that if the square footage area is larger than what the pipe would have been embedded, it would exceed the requirements and would handle the flow. In the terms of it moving that depends on if the culvert were installed properly but he does not believe it would ever sink. Amy Sanders agreed.

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Miscellaneous Business and correspondence, cont.

Mark Suennen asked what the grade of the flow through the culvert is. Thomas Carr said it was exactly as it was before and the same grade at the base of the wetland coming in as the seasonal runoff was going out. Mark Suennen asked since the culvert was installed earlier this year, if there was any sedimentation that flowed in and settled at the bottom. Thomas Carr said no it was completely smooth inside.

Amy Sanders questioned if the Conservation Commission should get the opportunity to provide feedback on the change made. Mark Suennen said the Conservation Commission could be alerted but they did not suggest that the Planning Board require that this specific culvert be installed. Joe Constance said that given the fact that the culvert should not sink, the flow and grade were the same and the owner had acted in good faith, he would be comfortable accepting the as built plans without alerting the Conservation Commission. David Litwinovich agreed. Mark Suennen asked if the area is now stabilized. Thomas Carr said yes, it looked great and was functioning properly. The Board's consensus would not require the applicant to present the changes to the Conservation Commission prior to making a decision. The Board agreed that as built plans would be accepted with the changes discussed.

Joe Constance **MOVED** to accept the changes to the wetlands crossing as presented and the applicant submit the as built plans.
David Litwinovich seconded the motion and it **PASSED** unanimously.

4b. Letter dated October 22, 2019, from Benjamin Kibler, re: request to extend Conditional Use Permit Conditions Subsequent deadline of November 9, 2019, to February 14, 2020, for the Board's action.

Mark Suennen stated all that would be needed is the As-Builts plans be submitted and the CUP adherence statement from the engineer.

David Litwinovich **MOVED** to grant the extension of the Conditions Subsequent deadline, for the Conditional Use Permit of November 9, 2019, to February 14, 2020. Ed Carroll seconded the motion and it **PASSED** unanimously.

Review of Final Draft Subdivision Regulations for Revisions.

Joe Constance mentioned that in general the formatting throughout the document is inconsistent and should be cleaned up. Mark Fougere said that he was currently working on cleaning up the formatting.

Mark Suennen asked the Planning Coordinator, Shannon Silver when the Public Hearing could be scheduled. She replied that would be up to the Board. Joe Constance asked Mark

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1 Fougere if he could be done cleaning up the formatting before the November 12, 2019, meeting.
2 Mark Fougere said yes.

3
4 Amy Sanders had some changes to suggest.

5
6 Pg 31, number 11., defines 'Stabilized' differently then DES and recommended that the
7 DES definition be used instead.

8
9 Pg 33, e., 1., a., & Pg 34, g., references the 'New Hampshire Stormwater Management
10 Manual' but she suggested the Rule Book, EMV-Wq-1500 should be referenced instead of the
11 manual.

12
13 Amy Sanders asked for the Board to consider adding additional requirements for drain-
14 age stabilization as follows, 'all drainage swales and ponds shall be stabilized prior to directing
15 any stormwater to them' and suggested that this be added to the plan note that is required in re-
16 gard to stormwater.

17
18 Mark Fougere asked Amy Sanders to send him her suggested changes and questioned if
19 the Board would like to review the language Amy Sanders suggested prior to the Public Hear-
20 ing. The Board agreed the new language should be reviewed before holding a Public Hearing.

21
22 The Planning Coordinator, Shannon Silver suggested that the Board go through the re-
23 vised Regulations thoroughly prior to the Public Hearing.

24
25 Mark Suennen mentioned that the Conservation Commission had indicated they would
26 like to present some suggested changes to include in the updated Regulations. The Planning
27 Coordinator, Shannon Silver noted that they had been emailed the items requested at the Octo-
28 ber 8, 2019, meeting but had not heard anything back yet.

29
30 Mark Suennen suggested the Public Hearing for the Subdivision Regulations could be
31 scheduled at the same meeting the Public Hearing will be held for the Zoning Ordinance and
32 Building Code amendments. The Board could review the changes discussed tonight at the No-
33 vember 12, 2019, meeting and incorporate any suggestions from the Conservation Commission
34 before the Public Hearing. Mark Suennen said that Amy Sanders would send Mark Fougere her
35 suggestions and the final draft with all formatting corrections and additions could be emailed to
36 the Board to review again at the meeting on November 12, 2019. Mark Fougere agreed.

37
38 Joe Constance **MOVED** to adjourn the meeting at 7:29 p.m.

39 Ed Carroll seconded the motion and it **PASSED** unanimously.

40
41 Respectfully submitted,
42 Nadine Scholes, Planning Board Assistant

Minutes Approved: 11/26/19