

Official

HOOKSETT PLANNING BOARD MEETING

**Hooksett Municipal Building
35 Main Street
Council Chambers, Room 105
Monday, October 5, 2020
6:00 PM**

MEETING CALLED TO ORDER AT 6:00 P.M.

PLEDGE OF ALLEGIANCE

INTRODUCE MEMBERS OF THE BOARD

PRESENT: Richard (Dick) Marshall (Chairman), Chris Stelmach, Paul Scarpetti, Matt Reed, and David Boutin (Town Council Representative)

ALTERNATES: Mike Somers (Alternate)

EXCUSED: Tom Walsh (Vice-Chairman) and Brett Scott

STAFF: None

D. Boutin stepped down.

APPROVAL OF MINUTES OF AUGUST 17, 2020

August 17, 2020 Meeting – *The August 17, 2020 meeting was tabled due to not enough members in attendance that were at that meeting.*

APPROVAL OF MINUTES OF SEPTEMBER 14, 2020

September 14, 2020 Meeting – *The September 14, 2020 meeting was tabled due to content needing to be added.*

COMPLETENESS REVIEW AND PUBLIC HEARING

- 1. APPLICANT: JAMES SMITH, ALLEN & MAJOR ASSOCIATES #2020-27
OWNERS: WOEHL & KOTLYARSKY
12 & 16 Bow Tie Lane, Map 20, Lot 17 & 18
Lot line adjustment**

James Smith (Allen & Major Associates): We are making a crooked line straight between the two neighbors. Parcel A is 1,120 sq. ft. and that is to go with Map 20, Lot 17 and Parcel B is 740 sq. ft. which is going to Lot 18. It was on a plan that was done earlier on in 2015. It was an interpretation of a boundary. The neighbors thought it would be a good idea to make it straight.

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49 D. Marshall: The plan was found complete by our Town Engineer.

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51 ***P. Scarpetti motioned to find the plan complete for a lot line adjustment for 12 & 16 Bow Tie Lane,***
52 ***Map 20, Lot 17 & 18. Seconded by C. Stelmach. Motion carried unanimously with a vote of 5-0.***

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54 Open public hearing.

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56 Open to public comments.

57 No public comments.

58 Close to public comments.

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60 Close public hearing.

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62 ***P. Scarpetti motioned to approve the lot line adjustment for 12 & 16 Bow Tie Lane, Map 20, Lot 17***
63 ***& 18. Seconded by M. Reed. Motion carried unanimously with a vote of 5-0.***

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65 D. Boutin returned.

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67 **CONCEPTUAL PLAN DISCUSSION**

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69 **2. CNC INVESTMENTS, LLC**
70 **1 Goonan Road, Map 37, Lot 30**
71 **2 lot subdivision**

72
73 D. Marshall: This has been sent to us by the ZBA. CNC appeared before the ZBA with an application
74 for a variance from Article 4 Section C. 1, of the Zoning Ordinance to permit: a two-lot subdivision
75 with the westerly lot approximately 45,328 sq. ft. of area where 87,120 sq. ft. is required, and the east-
76 erly lot having approximately 45,721 sq. ft. of area where 87,120 sq. ft. is required and approximately
77 119 feet of frontage where 200 feet is required.

78
79 Attorney Brett Allard (Bernstein Shur): We are proposing a two lot residential sub-division. The prop-
80 erty is currently vacant. An area has been cleared and there are still some trees and vegetation on the
81 northerly part of the existing lot which is a little over two acres. We were proposing 1.04 acres on one
82 lot and 1.05 acres on the other lot. We went to the ZBA for three variances, one for each of those lot
83 sizes and one for frontage on the easterly proposed lot. That was in August. At the ZBA some questions
84 arose with the members in terms of different ways to draw the lot line and if they could see something
85 else before they approve or don't approve the variances. We reconvened with Jacques and came up
86 with an alternative conceptual which we have for you where we are drawing the proposed lot line in an
87 easterly/westerly direction instead of a northly/southerly direction. We want to be mindful of the wet-
88 lands. In both instances it looks like we can get a house in that complies with all set-backs including
89 set-back buffer from that wetland. We wanted to come to this Board, as the ZBA recommended, to see
90 which one of these concepts you preferred, if you have any questions or comments on them, and to get
91 a sense of how this Board feels about them because if we get ZBA approval we would be here for sub-
92 division approval. The lots are on municipal water and private septic. I am told the water line comes in
93 from the condominium development onto Goonan Road. Either way we can get water to either of
94 these lots no matter how it is configured.

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D. Boutin: Is their sewer?

Attorney Allard: These would be on septic.

D. Boutin: I think the square lots are better than the bowing alley lots. It is more of a typical lot in Hooksett.

C. Stelmach: On the newer version, the top lot closest to Rt. 3A, what is the grade coming off 3A? Isn't that pretty steep on that side road?

Jacques Belanger (Surveyor of the plans): Yes it is but we can conform. There is a pretty wide right-of-way.

C. Stelmach: As far as the driveway, you wouldn't be coming onto that steep hill coming in?

J. Belanger: It is fairly flat because we are coming in by that wetland. There is a culvert crossing there. It is relatively uniform coming through. It is a sharp decent coming from Rt. 3A.

D. Boutin: What is that road?

J. Belanger: West Bank River Road.

D. Boutin: The driveway will come off of West Bank River Road?

J. Belanger: Yes.

Attorney Allard: With either proposal, the driveway could be on either Goonan Road or West River Bank Road.

P. Scarpetti: That road that comes down is a glorified driveway that comes off of 3A. It is dangerous coming through there and steep so it would be a blind driveway. My real question is I thought the ZBA wanted our opinion as far as this whole situation. Is that correct?

D. Marshall: Yes. We need to send a letter back to the ZBA with our opinion. We have no decision making on this matter.

P. Scarpetti: Let's back up. You are talking about LDR. We are looking for 2 acres and 200' of frontage. I looked at the research on everything and read the minutes from the ZBA. You mention the lots are less than an acre which is correct on the river. The smallest lot on this side of the road is .87 acres lot and from there they range from 1.3 acres all the way up to 1.6 acres. The frontage is good on those lots. They don't have wetlands where you have significant wetlands on that property. That is part of the equation. I then looked at a different avenue and thought that maybe you owned the land when zoning changed and it was a hardship that way. You purchased the lot at the the end of May this year for fair market value. I can't wrap my head around where there is any kind of a hardship.

141 Attorney Allard: The purpose of coming to this Board was essentially to say if the ZBA were to ap-
142 prove an application, and we were to come to you on sub-division approval, which plan would you ra-
143 ther us bring you.
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145 D. Marshall: The reason you are here is because the ZBA sent you here to get an opinion from us on
146 the variance. That is the extent of our involvement at this time. The options are not even an issue right
147 now. I am going to remind the Board that a Planning Board sets precedent. A ZBA does not. It is case
148 by case. The ZBA is asking us for an opinion. Are we going to send them an opinion that tells them to
149 violate the Zoning Ordinance? We cannot in good conscience recommend to the ZBA to create two
150 substandard lots under our regulations when we are not creating a hardship in the fact that lack of
151 granting those variances would still allow them to build a home on the lot. We are not denying the use
152 and the proper use of that land. The Planning Board does not grant violations of the Zoning Ordinance.
153 That is the ZBA's jurisdiction and we should not be supporting that. In doing that we are setting a pre-
154 cedent.
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156 D. Boutin: Then we should not advocate one way or another.
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158 D. Marshall: The ZBA has specifically asked us for an opinion. That opinion can be that we do not
159 condone violations of the Zoning Ordinance.
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161 D. Boutin: I don't think we should be doing that.
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163 D. Marshall: That is up to you.
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165 D. Boutin: They need to go back to the ZBA and make their case there. We should not be making the
166 case for the ZBA.
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168 Attorney Allard: We have not come to you to ask you if you would approve this if you were on the
169 ZBA or if you support this. We know that both concepts do not meet the two acre minimum. One con-
170 cept does not meet the frontage. We understand that at a minimum we need a variance from the lot size
171 requirement. If the ZBA finds that we have satisfied the criteria there is no violation of the Zoning Or-
172 dinance because we get the variances. We did not come here tonight asking if you would approve these,
173 if there is hardship, or if you were the ZBA what would do because we understand that is for the ZBA
174 and we need to satisfy the five criteria. I don't think it is helpful to not have an opinion from the Plan-
175 ning Board on which of these concepts you would prefer simply because we need variances from the
176 ZBA. We thought from a more technical standpoint we would be able to get feedback on which con-
177 cept you prefer.
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179 P. Scarpetti: By doing that we are condoning it and I personally won't do that.
180

181 Attorney Allard: I don't think that. I think we are just looking at two different concepts. I don't that it
182 was the ZBA's thoughts when they sent us here that it would come back stating that the Planning Board
183 does not support this because variances have not been issued yet. That doesn't give the ZBA any more
184 information than they had when the sent it here.
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186 D. Boutin: Why did they send you here?
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188 Attorney Allard: The ZBA asked if there was a different way we could do this such as drawing the lot
189 line a different way or engineering it differently. We came up with a second concept and thought we
190 would bring them both here to have a conversation about which one the Board likes better in general
191 terms. If the ZBA thought this Board was going to come back with no opinion because variances are
192 required I don't think that is helpful to either Board.

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194 D. Boutin: The ZBA does not interfere in our business nor do we interfere in their business. I think
195 you need to go back to the ZBA with your two concepts and let them know the Planning Board chose
196 to not render an opinion. They will have to make a decision based on their criteria. If they grant it we
197 will see you here.

198
199 D. Marshall: You are back to the ZBA.

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201 **BOARD DISCUSSION**

202

203 D. Boutin: There was a ZBA case in Manchester at the corner of Wellington Road and the road that
204 goes to Dartmouth Hitchcock. There was a use variance request for a gas station/convenience store. An
205 Alderman and a Planning Board member tweeted and went on social media opposing the project. The
206 ZBA turned it down. The applicant went to court and the judge sent it back to the ZBA specifically be-
207 cause of the involvement of the Planning Board member and the Alderman. I would suggest if you
208 want to go to the ZBA hearing and listen to the presentation about the industrial building be my guest,
209 but I would suggest that you not testify. If the ZBA turns it down and any of us testify, that could be
210 reason for the court to send it back and we do not want that to happen.

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212 D. Marshall: I don't think we have ever gone to the ZBA and testified specifically for that reason. We
213 have to live with whatever their decision is whether we agree or not.

214

215 M. Reed: The Town of Hooksett has acquired 40 pieces of land.

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217 D. Boutin: We should invite the Town Administrator to come in to discuss that.

218

219 D. Marshall: We should have a map showing where those lots are.

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221 *It was a Board consensus to have Andre Garron, Town Administrator, come to a Planning Board*
222 *meeting, at his earliest convenience, to discuss the 40 parcels of land owned by the Town of*
223 *Hooksett.*

224

225 Discussion ensued on warrant articles and the zoning of parcels.

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227 **OTHER BUSINESS**

228

229 None.

230

231 **ADJOURNMENT**

232

233 *D. Boutin motioned to adjourn at 6:37 pm. Seconded by M. Reed.*

234

235 **Motion carried unanimously with a vote of 6-0.**

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237 **The next meeting of the Planning Board will be held October 19, 2020 at 6:00 pm.**

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239 **Respectfully submitted by,**

240

241 **/s/ AnnMarie White**

242

243 **AnnMarie White**

244 **Recording Clerk**