



Town of Hopkinton Planning Department

330 Main Street, Hopkinton NH 03229-2627 - (603) 746-8243 – planzone@hopkinton-nh.gov

HOPKINTON PLANNING BOARD MINUTES SEPTEMBER 13, 2022

Members present: Chair Michael Wilkey, Vice-Chair Celeste Hemingson, Greg Sagris, James Fredyma, Kidder, and Rob Dapice. Members absent: Ex-Officio Thomas Lipoma, Jane Bradstreet, Rich Steele, and Timothy Britain. Staff present: Planning Director Karen Robertson.

- I. **Call to Order.** Chairman Wilkey called the meeting to order at 5:40 PM in the Hopkinton Town Hall, 330 Main Street, Hopkinton.
- II. **Roll Call.** Hemingson – present, Sagris – present, Fredyma – present, Dapice – present, and Wilkey – present.
- III. **Conceptual Consultations.**

Mike and Lucas Martin addressed the Board as owners of property located off Bound Tree Road in the B1 (commercial) district. The Martins presented a conceptual plan of a proposed eleven (11) unit residential complex. Each unit will have one bedroom and one garage. The number of units is limited to 11 based on the onsite sewage load. The property will have municipal water.

The Board thanked the Martins for presenting their proposal, noting that they look forward to their formal presentation.

Ralph Case of Briar Hill Road addressed the Board to explain that he has a 20-acre parcel that he is considering subdividing. Mr. Case did not present conceptual plans; however, Mrs. Robertson noted that a former owner once proposed a two (2) lot subdivision of the property. At the time, the Planning Board approved the subdivision subject to a Wetlands Permit from the NH Department of Environmental Services. Mrs. Robertson agreed to provide Mr. Case with copies of the file. Mr. Case thanked the Board.

IV. Applications/Public Hearings.

#2022-09 Cedar Street Townhomes, LLC Condominium conversion of Lot 35.1, Tax Map 102, 71 Cedar Street, VR1 District. A public hearing will immediately follow if the application is accepted as complete.

Surveyor Scott Frankiewicz of New Hampshire Land Consultants addressed the Planning Board representing the Applicant. Mr. Frankiewicz presented plans of the proposed condominium conversions involving Lots 35.1 and 35.2 at 71 and 73 Cedar Street.

Celeste Hemingson, seconded by Greg Sagris, moved to **ACCEPT** Application #2022-09 for consideration and as complete. Motion carried in the affirmative (Hemingson, Sagris, Fredyma, Dapice, and Wilkey).

Chairman Wilkey opened and closed the public hearing portion of the meeting as there was no public testimony.

Chairman Wilkey recommended that the Applicant's attorney provide a letter to the Board attesting that the Condominium Declaration and Bylaws are compliant rather than having the documents reviewed by Board's attorney. The Board and Applicant concurred.

Clarke Kidder joined the meeting.

Celeste Hemingson, seconded by Greg Sagris, moved to **APPROVE** Application #2022-09 as presented with the condition that the Applicant's attorney submits a State of Compliance concerning the Condominium Declaration and Bylaws. Motion carried in the affirmative (Hemingson, Sagris, Fredyma, Dapice, Kidder, and Wilkey).

#2022-10 Cedar Street Townhomes, LLC Condominium conversion of Lot 35.2, Tax Map 102, 73 Cedar Street, VR1 District. A public hearing will immediately follow if the application is accepted as complete.

Celeste Hemingson, seconded by Rob Dapice, moved to **ACCEPT** Application #2022-10 for consideration and as complete. Motion carried in the affirmative (Hemingson, Sagris, Fredyma, Dapice, Kidder, and Wilkey).

Chairman Wilkey opened and closed the public hearing portion of the meeting as there was no public testimony.

Rob Dapice, seconded by Clarke Kidder, moved to **APPROVE** Application #2022-09 as presented with the condition that the Applicant's attorney submits a State of Compliance concerning the Condominium Declaration and Bylaws. Motion carried in the affirmative (Hemingson, Sagris, Fredyma, Dapice, Kidder, and Wilkey).

#2022-11 Contoocook Holdings, LLC Site plan Review and Architectural Design Review of signage, parking modifications, and outdoor dining and entertainment, 14 Park Avenue, Tax Map 101, Lot 71, VB1 District. A public hearing will immediately follow if the application is accepted as complete.

Mrs. Robertson noted a conflict in the Ordinance concerning "entertainment." While restaurants are permitted, and entertainment is permitted as an accessory use, restaurants are also defined as a "place of entertainment" requiring a Special Exception. Therefore, she believed that the stricter provision must apply when there is a conflict.

Mr. Sagris disagreed, noting that when revising the terms of the Ordinance and the uses permitted, the intent was to permit "entertainment" as an accessory use. He asked that the Board determine that the Applicant's proposed request is a permitted use under the accessory category of the Table of Uses. Mrs. Robertson noted that determining provisions of the Ordinance is not a statutory authority given to the Planning Board but rather that of the Zoning Board of Adjustment. The Applicant can appeal the interpretation as an Administrative Appeal, apply for a Special Exception as a "place of entertainment," or wait to see if the Voters revise the language in March.

Following a lengthy discussion, at Mrs. Robertson's suggestion, the Board will seek an opinion from their attorney.

Steve Lux of Contoocook Holdings, LLC, addressed the Board, explaining that the restaurant (Dimitri's Pizza) was purchased in March. The proposal is to expand the outdoor seating from 16 to 50 seats. In addition, they would like to relocate the sign to improve sight distance and install a building sign. At this time, he is not seeking permission for entertainment.

Mrs. Hemingson inquired about the lighting of the signs. Mr. Lux noted that the signs would have lights directed downward.

Celeste Hemingson, seconded by James Fredyma, moved to **ACCEPT** Application #2022-11 for consideration and as complete. Motion carried in the affirmative (Hemingson, Sagris, Fredyma, Dapice, Kidder, and Wilkey).

Chairman Wilkey opened the public hearing portion of the meeting for public comment.

Bonnie Christie of 302 Smithfield Road spoke in favor of the changes proposed.

With no further comments, Chairman Wilkey closed public testimony.

Since the building and landscaping exist with no changes proposed, Mr. Lux requested waivers from site plan requirements:

- 4.1(f)(8) existing and proposed easements;
- 4.1(f)(10) buildings setbacks;
- 4.1(F)(16) right-of-way lines of adjoining streets;
- 4.1(f)(19) 100-year flood elevation line, and
- 4.1(h) providing a landscape plan.

Chairman Wilkey inquired about safety barriers surrounding the seating area in the parking lot. Mr. Lux indicated that they are aware they will need safety barriers, but presently it is a split rail fence with large flower pots.

Mr. Wilkey recommended that Mr. Lux review whether modifications made to the restaurant will require ADA compliance. In response, Mr. Lux noted that the deck is currently ADA-compliant and that there are no interior changes to the restaurant proposed.

Mr. Sagris questioned whether the barriers would be required seasonally only. Mrs. Robertson replied yes.

Celeste Hemingson, seconded by James Fredyma, moved to **APPROVE** the requested waivers and Application #2022-11, except for entertainment. Motion carried in the affirmative (Hemingson, Sagris, Fredyma, Dapice, Kidder, and Wilkey).

Mr. Sagris recused himself from reviewing Application #2022-12 Cedar Street Holdings, LLC.

#2022-12 Cedar Street Holdings, LLC Site plan Review and Architectural Design Review of restaurant and parking modifications, signage, and outdoor dining and entertainment, 16 Cedar Street, Tax Map 101, Lot 18, VB1 District. A public hearing will immediately follow if the application is accepted as complete.

Surveyor Dan Higginson of Higginson Land Services and owner, Brian Cressy, presented a site plan and architectural plans showing the building's interior along with the proposed site modifications.

Mr. Higginson noted the withdrawal of the Applicant's request for entertainment.

The Applicant received a Shoreland Permit for constructing the proposed deck and patio. The deck will provide 80 additional seats. Based on the requested total seats of 175, the Ordinance requires 35 parking spaces. The Applicant is requesting permission to utilize 24 unassigned public parking spaces. Mr. Higginson provided a breakdown of the number of downtown center parking spaces, including spaces in the two municipal lots.

Mr. Kidder suggested that when the restaurant is busiest, the other businesses downtown will be closed, leaving public parking available for restaurant customers.

Mr. Higginson indicated that the Applicant would be back before the Board to address signage as it has yet to be finalized.

Mrs. Robertson informed the Board of meetings held with various Town departments and Mr. Cressy to review the proposal. Discussions included:

- At the Applicant's expense, "no parking" signs will be erected along Cedar Street in front of the restaurant.
- The building, including the basement, will be sprinkled and alarmed. Sprinkler plans are to be reviewed and approved by the Fire Chief or Fire Marshal's Office.
- The architectural plans are to be stamped by a licensed architect.

Mrs. Robertson also noted the Zoning Board of Adjustment's approval of a Variance on August 8, 2022.

Mr. Higginson informed the Board of a drafting error at the location of the bulkhead that will be corrected.

The following waivers from the Site Plan Review Regulations and Zoning Ordinance were requested:

- Section 6.3 Off-site parking for 24 spaces.
- Section 7.6 Landscaped buffer around the building.
- 7.6 Screening of the parking area.
- 7.3 Screening of the trash storage area.

A representative from Charles Hoyt Designs, the architectural firm that prepared the architectural plans, discussed the outdoor lighting. It was represented that the lighting would project onto Cedar Street but not onto abutting properties.

Mr. Higginson explained that a vinyl fence would shield the trash receptacle. He also noted the various plantings in front of the parking lot shown on the site plan.

A brief discussion ensued concerning the use of the second floor of the building. It was understood that using the second floor (Phase II) would require Planning Board approval.

Celeste Hemingson, seconded by Clarke Kidder, moved to **ACCEPT** Application #2022-12 for consideration and as complete. Motion carried in the affirmative (Hemingson, Sagris, Fredyma, Dapice, Kidder, and Wilkey).

Chairman Wilkey discussed traffic and safety concerns with the downtown, noting that traffic at the end of Cedar Street exits on the right, which is a blind spot. He suggested that the Town should look at improvements to the infrastructure of the downtown.

Chairman Wilkey opened the public hearing portion of the meeting for public comment.

Chairman Wilkey noted that the Board received letters of support from three businesses, Darrin Brown Law Office, PLLC, Witching Hour Provisions, and Hashtag Art Studio.

Chairman Wilkey asked about the number of employees when fully staffed. Mr. Cressy responded, 20 people.

Meredith Lee, an owner of Maple Street Mercantile, spoke in favor of the proposal. She also advised that the owners of Indigo Blue, Leanne and Mike Vance, are also in favor.

Mrs. Lee stated that the restaurant is a vital part of the community and is significant to her business plan. While Mrs. Lee has been operating her business in downtown, she has not heard complaints about parking. She advised that the Economic Development Committee is aware of the problems with the infrastructure and is working on addressing the issues.

Abutters Katherine Mitchell and Scott Clay of 1677 Bound Tree Road addressed the Board by stating that they are not opposed to the restaurant but have concerns with the scale of the project. Ms. Mitchell and Mr. Clay have residential and commercial tenants in their building at 905 Main Street. Their concern is with those residents that have bedrooms on the restaurant side of the building and the restaurant having a "last call" at 1:00 AM. Previously, the restaurant closed at 10:30 PM. The potential for seven nights of outdoor entertainment, associated restaurant noise, and the impact of lighting on the residential tenants is a concern.

While Ms. Mitchell and Mr. Clay have eight onsite parking spaces, four of their tenants rely on municipal parking. Ms. Mitchell expressed concern about parking availability, especially the overnight parking spaces, during the winter.

In rebuttal, Mr. Cressy stated that while the restaurant will be open late at night, the kitchen will close at 9:00 PM. Currently, there are 88 public parking spaces available downtown. Mr. Cressy's partner, Greg Sagris, noted that the outdoor seating, 80 seats, will be removed during the winter, requiring less parking.

Glenn Smart of 81 Cedar Street expressed concern about the traffic due to additional seating availability. He noted that Fountain Square has one of the highest incident rates.

Steve Lux, an owner of Riverside Pizza, spoke in favor of the proposal. Mr. Lux stated that the outdoor seating would give restaurants more options. It does not necessarily mean that there will be an increase in people at any given time.

Abutter Scott Crathern addressed the Board in favor of the application. Mr. Crathern owns property across the street from the restaurant, noting that his tenants have never

complained about the noise. He believes that the restaurant will bring jobs to the Town.

With no further comments, Chairman Wilkey declared public testimony closed.

The Board discussed the traffic and parking in the downtown area and recognized that infrastructure concerns need to be addressed by proper authorities, not the Planning Board.

Celeste Hemingson, seconded by James Fredyma, moved to **APPROVE** the requested waivers. Motion carried in the affirmative (Hemingson, Sagris, Fredyma, Dapice, Kidder, and Wilkey).

Clarke Kidder, seconded by Celeste Hemingson, moved to **APPROVE** Application #2022-12, except for entertainment, with the following conditions:

- (a) The site plan is to be corrected to show the handicapped lift, remove flood lighting, and redesign the bulkhead dog house.
- (b) There shall be no use of the second floor, including overnight stay, without review and approval by the Planning Board, and
- (c) The Planning Board must approve all signs before installation.

Motion carried in the affirmative (Hemingson, Sagris, Fredyma, Dapice, Kidder, and Wilkey).

Mr. Sagris joined the Board for the remainder of the meeting.

V. Review Meeting Minutes and Decisions of July 12 and August 9, 2022.

The Board deferred review of the Minutes and Notices of Decisions to the October 18, 2022, meeting.

VI. Other Business.

- a) Rules of Procedure (Draft) – Review deferred to the October 18, 2022, meeting.
- b) Wetlands Overlay Ordinance (Update) – Chairman Wilkey explained that the Working Group had met and is discussing the enforcement mechanism for requiring a wetland buffer.
- c) Zoning Amendments 2023 – Mrs. Robertson noted that the Board's initial work session would be on October 18, 2022.

VII. Adjournment. Chairman Wilkey declared the meeting adjourned at 8:40 PM. The next scheduled meeting is 5:30 PM on Tuesday, October 18, 2022.

Karen Robertson
Planning Director