



Town of Hopkinton

Planning Department

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HOPKINTON PLANNING BOARD

MINUTES

APRIL 11, 2023

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

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- I. **Call to Order/Roll Call.** Chair Wilkey called the meeting to order at 5:30 PM in the Hopkinton Town Hall, 330 Main Street, Hopkinton.

With the Roll Call of the Planning Board, Chair Wilkey announced that Alternates Rich Steele and Rob Dapice would serve as voting members, and Alternate Emily Bouchard would participate but not vote.

- II. **Approval of Minutes and Notice of Decision.**

MOTION Celeste Hemingson, seconded by Greg Sagris, to approve the Minutes of **March 21, 2023**, with a correction to the title to reflect "Minutes/Decision." Motion carried in the affirmative (Hemingson, Lipoma, Fredyma, Sagris, Steele, Dapice, and Wilkey).

- III. **Conceptual Consultations.**

Peter Holden of Holden Engineering and Bryan Pellerin, representing the owners of 879 Maple Street, LLC, presented a conceptual plan showing a subdivision and site plan of the possibilities for development off Mill Road and Maple Street, near Exit 6. Discussion centered around the construction of storage units off Mill Road. Access would be via the current driveway, a right-of-way NHDOT had reserved when constructing the highway. Currently, the access road serves the wood operation on the furthest lot. While the storage units would have access via the right-of-way off Mill Road, the lot would not have frontage along Mill Road but rather on I-89. Members of the Board expressed concern with the lack of frontage on Mill Road, noting that they did not believe that frontage along a limited access highway would be permitted.

Mr. Holden noted that the storage units would have no electricity and therefore be unheated. Access to the individual units will be by way of garage doors. The Technical Review Advisory Committee reviewed the proposal with comments from the Fire Chief concerning sprinklers and the Public Works Director requesting that Mill Road be paved. Mr. Holden noted that the owners would need to discuss further their proposal with the Fire Chief and Public Works Director as they intend first to construct half of the storage units. If the units are used, the owner will complete the remainder of the project.

Subject to review and approval.

Ex-Officio Lipoma noted that he had recently served on a Class VI roads committee. When researching the status of roads, the Committee could not determine the legal location of Mill Road and whether the road is Class V. Mr. Lipoma suggested that the road may be Class VI. A brief discussion ensued concerning changing the classification of a road should it be determined that Mill Road is a Class VI road. Following the discussion, Mr. Pellerin, as agent for the owners, gave the Planning Board permission to walk the property.

There being no further discussion, Chair Wilkey thanked Mr. Pellerin and Mr. Holden for consulting with the Board.

IV. Applications/Public Hearings.

Planning Board member Greg Sagris recused himself from reviewing the applications.

CONTOOCOOK HOLDINGS LLC, 14 Park Ave (Tax Map 101, Lot 71), VB1 District:
Site Plan Review to host live entertainment (music) as an accessory use to the permitted restaurant (Riverside Pizza) at property owned by MMK, LLC.

Steve Lux, an owner of Riverside Pizza, previously known as Dimitris, explained their purchase of Dimitris and intentions to make minor enhancements to the business, such as expanding the outdoor seating, which the Planning Board previously approved, and hosting live music one or two times per week. The music will take place on the existing deck.

MOTION Celeste Hemingson, seconded by James Freydma, to accept the application for consideration and as complete. Motion carried in the affirmative (Hemingson, Lipoma, Fredyma, Sagris, Steele, Dapice, and Wilkey).

Mrs. Hemingson asked Mr. Lux if he had intentions of hosting live music indoors. In response, Mr. Lux noted that it would be difficult as space would not be available when the restaurant is busy.

Chair Wilkey opened and closed the public hearing portion of the meeting as there was no public comment.

Discussion ensued with the Applicant concerning hours of music and the Noise Ordinance, which limits a noise source to 65 decibels at the property line of the noise source.

MOTION Celeste Hemingson, seconded by James Fredyma, to determine that the application is not a Development of Regional Impact. Motion carried in the affirmative (Hemingson, Lipoma, Fredyma, Sagris, Steele, Dapice, and Wilkey).

MOTION Celeste Hemingson to approve the application for indoor/outdoor music with the following conditions:

- a) Live music is not to be amplified.
- b) Live music is permitted with a maximum of three musicians for three evenings per week for a total of 15 hours per week with the understanding that if cited as a violation of the Noise Ordinance, the Applicant is to return to the Board to discuss sound mitigation efforts.

In discussing the motion, Board members agreed that a condition concerning amplification was unnecessary as the Noise Ordinance dictates the level of noise produced. Furthermore, members agreed that a condition concerning the citation of a violation of the Noise Ordinance is not a matter to come before the Planning but rather an issue to be addressed by the Select Board. Following discussions, Mrs. Hemingson **WITHDREW** her motion.

MOTION Rob Dapice to approve the application to host live music as an accessory use with the conditions that there be a maximum of three musicians for a period not to exceed three evenings per week, beginning no earlier than 8:30 AM and ending no later than 9:00 PM.

Mrs. Hemingson amended the motion by changing the hours to no earlier than 10:00 AM and ending no later than 9:00 PM. Mr. Dapice accepted the amendment to the motion. Mr. Steele then seconded the amended motion.

The amended motion reads as follows: **MOTION** Rob Dapice, seconded by Rich Steele, to approve the application to host live music as an accessory use with the conditions that there be a maximum of three musicians for a period not to exceed three evenings per week, beginning no earlier than 10:00 AM and ending no later than 9:00 PM. With seven members voting, six voted in the affirmative (Hemingson, Fredyma, Sagris, Steele, Dapice, and Wilkey), and one voted in opposition (Lipoma). The Board's decision was based on the following findings:

- Entertainment is an accessory activity referenced in Section II and permitted in Table of Uses 3.6.H.11 of the Zoning Ordinance.
- Entertainment as an accessory activity shall not occur more than fifty (50) percent of the time when the restaurant is open.
- The conditions are intended to ensure that entertainment is an accessory activity.
- The application meets the Site Plan Review Regulations based on the information submitted and representations made.

Mr. Lux questioned why having live music at his business is limited when the Farmer's Market has musicians playing as early as 9:00 AM every Saturday during the summer. Board members were unaware of the musicians playing at the Market, assuming that because the activity takes place on Town property, the Gazebo, permission would be from the Recreation Department or Select Board.

CEDAR STREET HOLDINGS, LLC, 16 Cedar St (Tax Map 101, Lot 18), VB1 District: Site Plan Review to host live entertainment (music) as an accessory use to the permitted restaurant.

Greg Sagris addressed the Planning Board, explaining that the property owner, Cedar Street Holdings, LLC, is separate from the restaurant owners. Mr. Sagris introduced the restaurant owners, Brian Cressy and Michael Marchand.

Mr. Sagris explained their intentions to have a violinist or small band play music on the rear deck or patio, understanding that the Police Chief has requested that outdoor music end at 9:00 PM. However, it is anticipated that live music indoors may take place up to closing, 12:45 AM. He then noted that live entertainment may not be limited to music. Entertainment may include karaoke, comedian, and trivia.

Chair Wilkey reminded the Applicant that entertainment is an activity that must be incidental and subordinate to the principal use, the restaurant. The accessory use shall not occur more than fifty (50) percent of the time when the restaurant is open.

MOTION Celeste Hemingson, seconded by Rich Steele, to accept the application for consideration and as complete. Motion carried in the affirmative (Hemingson, Lipoma, Fredyma, Sagris, Steele, Dapice, and Wilkey).

MOTION Celeste Hemingson, seconded by Rich Steele, to determine that the application is not a Development of Regional Impact. Motion carried in the affirmative (Hemingson, Lipoma, Fredyma, Sagris, Steele, Dapice, and Wilkey).

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

Abutter Katherine Mitchell addressed the Board as an owner of the property at 905 Main Street. The property consists of retail on the first floor and residential units on the second floor. Ms. Mitchell expressed concern about the outdoor music and how it might affect her residential tenants. Ms. Mitchell then spoke of her family's experience with music, again expressing concern with the noise created, especially when a musician uses a base guitar with a subwoofer. In response, Mr. Sagris anticipated that outdoor music would occur primarily on Friday and Saturday evenings. Ms. Mitchell noted that the Noise Ordinance limits the decibels to 65. Due to the proximity of the deck, patio, and her residential units, the noise level allowed is very limited.

Abutter Scott Clay, an owner of 905 Main Street, agreed with Ms. Mitchell, stating that the A-weighted noise level produced de-emphasizes the low frequency.

There being no further discussion, Chair Wilkey declared public testimony closed.

MOTION Rich Steele, seconded by James Fredyma, to approve the application as presented. With seven members voting, six voted in the affirmative (Lipoma, Fredyma, Sagris, Steele, Dapice, and Wilkey), and one voted in opposition (Hemingson). The Board's decision was based on the following findings:

- Entertainment is an accessory activity referenced in Section II and permitted in Table of Uses 3.6.H.11 of the Zoning Ordinance that shall not occur more than fifty (50) percent of the time when the restaurant is open.
- The application meets the Site Plan Review Regulations based on the information submitted and representations made.

V. Other Business.

Planning Board member Greg Sagris rejoined the Board for the remainder of the meeting.

- a) Housing Committee – Ex-Officio Lipoma noted that the first meeting of the Housing Committee is scheduled for Thursday, May 4, 2023, at 4:00 PM, at the Town Hall.
- b) Economic Development Committee (EDC) Recommended Zoning Amendments – Mr. Sagris and Mr. Fredyma, on behalf of the EDC, noted that the EDC would like to meet with the Planning Board at the May 9, 2023 meeting to solicit input from the Board concerning amendments to the Zoning Ordinance. Suggested amendments will include the expansion of the Commerce and Community Overlay District (CCOD) over the B1 district in West Hopkinton and the M1 district near Exit 6. Within a couple of years, it is anticipated that municipal water and sewer will be available in the Exit 6 area.

A brief discussion ensued concerning the undeveloped properties off Maple Street near Exit 6. The area includes property discussed early in the evening with Peter Holden and Bryan Pellerin. At that time, plans presented showed extensive wetlands.

The discussion concluded with the Planning Board looking forward to discussions with the EDC at the May 9, 2023, meeting.

- c) Amendments to the Subdivision Regulations – Planning Director Karen Robertson recommended amending the Subdivision Regulations by omitting subsection 1.3, Jurisdiction, which contains an older version of the Planning Board's Rules of Procedure. Mrs. Robertson noted that on February 14, 2023, the Planning Board adopted new Rules of Procedure, which will remain a stand-alone document rather than part of the Subdivision Regulations.

Following a brief discussion, the Planning Board agreed to hold a public hearing on Tuesday, May 9, 2023.

VI. Adjournment.

MOTION Celeste Hemingson, seconded by Greg Sagris, to adjourn the meeting at 7:35 PM. The next scheduled meeting is at 5:30 PM on Tuesday, May 9, 2023.

Karen Robertson
Planning Director