

MINUTES  
PLANNING BOARD  
February 8, 2023 6:00pm  
In-person/Zoom

**Present:** Deirdre Daley (Chair), Josh Muhonen (Vice Chair), Shawn Talbot (Ex-Officio) - in person, Lou Guarino, Craig Smeeth- recused himself for the Silver Scone Hearing as he attended as a citizen/abutter, Tim Somero, Jennifer Minckler.

**Citizens in attendance** – Sam Benedict- in person Jane Elwell- in person, Ray Holmes-in person, Robin Blackburn-Eilis-in person, Kathleen Sheldon- in person, Robert A. Fasanella (Representative for Silver Scone)- in person, Christopher Allen- in person, Jim Feldhusen-in person, Nancy Cark (Attorney for abutters) – in person, Chris O’Leary- in person, Stan Sabierek-in person, Ann Marie Fournier-in person, Robert Fournier-in person, Abigail Fasanella –in person, Adrienne Marshall-via Zoom, Louise Delpapa-via Zoom, Shelly and Bob Zinsmeister-via Zoom, Dennis and Eloise Quadros-via Zoom Judith and Raymond Holms-via Zoom, Sharon Smeeth-via Zoom, Savanna Elwell-via Zoom

**6:00- Public Hearing –Site Plan Review for Accura Construction, Map 11 Lot 6-4 & 6-5, 670 Turnpike Road-** to be continued to a date certain March, 1, 2023 at 7:15pm. **Submissions must be received 7 days prior to the March 1, 2023 hearing**

**Selectmen/Chair/Land Use Report-** Selectman Talbot reported yesterday there was a meeting at the land fill regarding the potential timber harvest. It was a great meeting. The idea of public access for a walking trail or snowmobile trails were discussed. This will be discussed at a future Planning Board meeting as part of the master plan. Solar was another idea for use of the land. There is gravel and sand that will assist with more resources in town. Peter will test the sand and gravel. There will be approximately \$10,000.00 in value of timber from the harvesting. The Deliberative session was last night for discussion of the proposed 2023 budget and went fairly smooth. It took approximately two hours. Voting will be at Mascenic on March 14, 2023 from 7am -7pm

The Land Use Clerk suggested increasing storage for Dropbox. She also mentioned that Dropbox and Zoom are currently under the Board of Selectman budget and should be under the Planning Board as they are the only ones using both. Selectman Talbot says there is no push to have it under the Planning Board at this time. A suggestion was made to increase from 2GB at \$14.99/month of Dropbox to 3T \$16.58 with a difference in cost of 1.59. The Land use Clerk mentioned the upcoming trainings and the need for those interested to let her know who would like to be enrolled.

Chair Deidre did request that all utilize the training as there is funding for the classes. She would like them to review the calendar and provide the Land Use clerk with that list but suggested discussion to be continued at a future meeting. Selectman Talbot asked that all take advantage of the training for the Selectmen went out on a limb to add training to the budget.

Chair Deidre mentioned the maintenance budget for the roads from the deliberative last night. The road maintenance budget is not budgeted for. It is just a block grant. Selectman Talbot confirmed the money is raised and is reimbursed through the block grant. The majority of the block grant is for paving, gravel and culverts. Discussion continued about the budgeting of roads.

Chair Deirdre asked to show google maps to view the transfer station area and what part of the area we are able to use. There is approximately 134 acres and borders Route 123 and 124. The backside borders Sharon, NH with a lot of wetland. Chair Deidre would like everyone to think about what our recommendation would be. The sand and gravel is the side as you enter the dump before you go to down the hill. To the left is where the harvest is to be done. Lou asked about gravel and the need for crushed stone for the road repair. He pointed out the need for a crusher to complete that. Selectman Talbot advised that in the past, it has gone out to bid for a company to do so. A crusher could also be rented, if we had a full DPW staff to run it. Chair Deidre reviewed the GIS map of the dump and the Sharon side is all wetlands running on either side and are pretty significant.

Chair Deidre advised the Selectmen are making that area a priority. Solar power was discussed but it will cost. Discussion continued on the usage of this land. Selectman Talbot did confirm that the dump is capped.

**Minutes of January 18, 2023-** Motion to accept the minutes by Josh. Seconded by Tim. Roll call vote. Motion carries.

**Minutes of Site Walk- February 6, 2023- Motion** to accept the minutes by Josh. Seconded by Tim. 1 abstention. Craig Smeeth recused himself. Roll call vote. Motion carries

**Break from 7:15 to 7:30**

**7:30- Public Hearing- Site Plan Review for Silver Scone-Jane Elwell, Map 11 Lot 128 99 River Road, New Ipswich NH 03071-** Chair Deidre advised that Craig Smeeth has recused himself. She introduced Jennifer Minckler as the Land Use Clerk. The Planning Board went around and introduced themselves. Chair Deidre went over the normal process of a hearing. She advised we have a procedural difference this evening but normally the application would be introduced, we would review application for completeness, using a checklist and if the application was determined to be complete, we would discuss the application and then open to the public for any discussion, we then would continue to debate. Chair Deidre stated that there are a number of objections. Chair Deidre asked Nancy Clark, Esq. if she intended the complete Board to weigh in on this and Nancy Clark, Esq. was in agreement. Nancy Clark, Esq. provided copies of the objection as it was received today and not yet in Dropbox. Chair Deidre read the procedural difference submitted earlier today by Nancy Clark, Esq. which stated:

*The purpose of this letter is to object to the Town of New Ipswich Planning Board's consideration of an Application for Site Plan Review for Silver Scone Teas, LLC on February 8, 2023. First, NH RSA 676:4, I (b) and Section III (1) of the Town of New Ipswich Site Plan Review Regulations requires that the applicant file the application and all materials with the Planning Board at least 21 days prior to the meeting at which the application will be accepted, provided that the Planning Board may specify a shorter period of time in its rules of procedure. No such shorter period is specified in Town of New Ipswich Planning Board procedures. In this case, the applicant first submitted documents to the Planning Board in late December 2022 and continued to supply documents to the Planning Board through at least February 3, 2023. Given this, any hearing to accept the application and consider it should take place at least twenty-one (21) days from the last received document. If the last document was received on February 3, 2023, then the hearing should be scheduled for February 24, 2023 or later.*

*Second, H-Star Engineering, LLC has made recommendations to the Town of New Ipswich Planning Board and signed off on all submitted documents for the Silver Scone Teas, LLC Application for Site Plan Review. H-Star Engineering, LLC does not hold a business license by the State of New Hampshire and cannot transact business in the State. As such, all documents referencing H-Star Engineering or H-Star Engineering, LLC by way of stamp, letterhead or otherwise are null and void.*

*Third, Bernard Hamill, Manager of H-Star Engineering, LLC as listed on documents filed with the Commonwealth of Massachusetts Secretary of State is known to have a friendly, personal relationship with Jane Elwell, the applicant. It is our assertion that he cannot serve in an independent and objective capacity to make recommendations concerning her proposed business and property. As such, I respectfully request that an independent third-party licensed engineer be required to evaluate the application and the 99 River Road property. In addition, Bernard Hamill failed to make a recommendation regarding whether the proposed gravel surface for the parking lot will satisfy the requirements for a parking lot that must be "surfaced for year round use and graded to carry off all surface water" as required by Article XIII (G)(4) of the New Ipswich Zoning Ordinance.*

Chair Deidre suggested that this is where we begin and that we should start with paragraph 2, 3 and 4 of the procedural document first.

The second item, Bert Hamill has been our Consulting Engineer since August or September and has been acting since January of last year. We did review him holding a license in the State of New Hampshire and he is a sole proprietor. H-Star Engineering is his sole proprietorship. Lou Guarino commented on item 1 that H-Star Engineering, LLC does not hold a business license by the State of New Hampshire. Lou advised that we use H-Star Engineering for engineering review and is an engineer in the State of New Hampshire and is a professional engineer. Selectman Talbot questioned whether or not an Engineer needs additional licensing from the State to

transact business. It was confirmed that Bert Hamill is a licensed engineer in the State of New Hampshire. Nancy Clark, Esq. stated the argument is not if he is a licensed engineer in the State of New Hampshire but that he does not hold a business license either under the name of H-Star Engineering or as a sole proprietor. You cannot conduct yourself as H-Star Engineering on letter head, cannot use a stamp, cannot use in any capacity unless you are licensed with the Secretary of State and hold a business license. Lou questioned Nancy that she feels Bert is useless in her view point, that of his professional engineering credentials? Nancy Clark, Esq. responded that he is free to stamp any of those documents with his professional engineer stamp only but cannot use H-Star Engineering. Lou questioned that he can stamp as an individual? Nancy Clark, Esq. agreed and advised that H-Star engineering, LLC cannot be used as a letterhead. Chair Deidre confirmed if it is a letterhead issue and we can receive those documents with a different letterhead than with H-Star Engineering, LLC. She also advised that the Planning Board Attorney guided us that as long as the engineer is licensed in New Hampshire, there are no facts to suggest a bias regarding the engineer and the reports are not null and void. We can ask for a correction but our Attorney feels the documents are okay. The corrections will need to be made immediately. It appears the business name is the only issue as advised by Chair Deidre. **Lou questioned item 3 regarding a waiting period of 21 days and if that required us to not consider the application based on the last submission. Chair Deidre suggested going into executive session to review information from legal counsel that was received today.**

At 7:45pm, Chair Deidre requested we go into executive session to review legal counsel (Non-Public session) RSA 91:A 3, II (I). Tim made the motion to go into executive session (Non-Public session) RSA 91:A 3, II (I). Josh seconded the motion. At 8:35pm, Josh made a motion to return to public session. Tim seconded the motion. Motion Carried.

Chair Deidre stated the easiest way to handle the objections is to note any document received reflecting H-Star Engineering, LLC was probably an error in omission and we will work to have those corrected. The stamp does not indicate anything other than the Engineer name, so that is not an issue. Item 2 regarding a personal relationship, there is no formal or business relationship that would create conflict. The Engineer actually asked the Planning Board if there was any objection prior to reviewing the documents and the Planning Board found no objection to him representing for in a town this size someone is going to know someone.

Regarding the gravel surface for the parking lot, there are updated reports and we will ask for confirmation that the recommendation does satisfy the technical requirements of the Zoning Ordinance. The Planning Board will make the final decision.

Chair Deidre reviewed Item 3 which is that the Planning Board accepted the application with payment on 1/17/2023. The Planning Board application does include an option once individuals consult with the Engineer that they may modify their submissions. The Planning Board is not sure that all items are received because we have not done a full completeness check as a group. At this point, we will read the application for completeness which will also respect the new law requiring the applicant's right to have application reviewed within 30 days and the last submission was Monday, **February 6, 2023** so we will continue the hearing to a date certain March 1, 2023 to allow the public to review the information in Dropbox based on the intent of the public notice.

Chair Deidre notified all in attendance that Mr. Fasanella is going to complete the introduction of the application. Robert Fasanella, who is a 35 year experienced attorney in the State of Massachusetts but is representing Jane Elwell as a consultant. He is not a licensed New Hampshire Attorney. He asked the Planning Board to not delay the hearing and have a second hearing in February. Chair Deidre advised the Planning Board made the decision to not hold a second meeting in February, prior to this hearing for a variety of reasons which includes efforts to ensure a quorum and is not amenable to schedule changes at this time. Mr. Fasanella reviewed the application stating that this is an application of a site plan review with two waivers being requested, one is requiring a formal engineers plan stamped by a PE or surveyor. The second waiver is a need for a structural plan for there is no plan to do any structural modifications of the residence. The only structure being considered is the parking lot. It is a simple modification of an existing parking lot that is not going to require a detailed engineering plan. He advised that Bert Hamill did review the application and recommended these two waivers be granted by the Planning Board. Mr. Fasanella went over the documents that were submitted with the application to include the wetlands in distance to the parking lot, the septic design and an amended septic design in case of failure of the existing septic. Aerial photographs were provided, the driveway permit was

provided, a letter of Scenic roads from Bob Boynton, Conservation commission Chairman, two letters from Monadnock Conservancy approving the driveway and parking area as well as a power point presentation from Robert Fasanella of the interior rooms of the residency, lighting for the parking lot and the specifications.

The Planning Board began the review of the check list of the application. Josh read aloud waiver # 1 as submitted by the applicant to the Planning Board. Chair Deidre mentioned that we have been advised from NHMA that if the full intent of the specific engineering requirements of size etc. were a barrier for a citizen submission that we needed to work with the applicant and the planning board has working with that understanding across several applications recently. Chair Deidre read aloud under the site plan regulations under II. Procedures item 8 which states:

*The Planning Board will grant a waiver to a provision of these regulations only if the Board finds, by majority vote, that 1) strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; or 2) specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations*

Motion to waive item number 2 under Existing Data and Information on the checklist which is waiver #1 from the applicant by Josh. Tim seconded. No further discussion. Roll Call vote. Motion carries with one abstention.

Josh read waiver #2 as submitted by the applicant to the Planning Board which is Proposed Development item 6 on the checklist. Motion to adopt this waiver by Josh. Seconded by Tim. Roll Call vote motion carries.

The Planning Board reviewed the checklist completed by Bert Hamill. The initial review began with Exhibit 3 which is the plan from Meridian, then each item on the check list was reviewed. Chair Deirdre read item 8 which states: use of abutting properties and approximate location of structures thereon, including access road. Chair Deirdre questioned where that could be found in the documents provided. It is reflected on Exhibit 1 which is Property Map sheet #11. Item 9 is provided from Exhibit 1, the septic design from Monadnock Septic Design and the map with color (exhibit 12) provided does show the lights that are to be added and the Planning Board also saw them during site walk. Under proposed development item 3, a more recent plan was submitted to reflect the required information under item 3 and is part of the Engineer's review dated January 22, 2023. Chair Deidre advised under item 6 of the Proposed Development that the signage can go before the Board of Selectmen. In regards to item 8, Co-Chair Josh pointed out that on Exhibit 12A it states: Existing parking lot approximately 7600 sq. ft (graveled) 14 x (10x20) parking spaces =2800.00 sq. ft= 4800 sq. ft maneuvering room. Item 10, Chair Deidre advised that the Planning Board usually requires when slopes are over 10% so does not believe temporary erosion control locations and details shown is necessary.

Chair Deidre asked the Board if there is information necessary to address or is the information provided would allow the Board to review the application for content. Lou questioned the need for the Fire department recommendations as part of this. Chair Deidre and Co-Chair Josh both confirmed would be a condition consistent with other applications. Chair asked if we have enough to hear, understanding that we can ask for more information as part of the analysis. It is a requirement from the ZBA that this must go through a certificate of compliance. Chair Deidre advised that the materials were received but some materials we had to look at that were provided more recently. Chair Deidre made a motion that the application is incomplete based on the late submission of documents for the application on 2/6/2023. Co-Chair Josh seconded the motion. Roll Call vote motion carries. Chair Dee made a motion to continue the public hearing for Silver Scone-Jane Elwell, Map 11 Lot 128 99 River Road, New Ipswich NH 03071 at 7:45 pm. Tim Seconded. Roll Call vote. Motion carries.

Josh motioned to adjourn. Lou seconded it.  
Adjourn 9:40

Respectfully submitted,  
Jennifer Minckler  
Land Use Administrator