

**Town of Northwood
Planning Board Meeting
August 24, 2023**

Cases heard at this meeting:

RSA 674:41: Kenneth & Georgianne Elsen, 59 Lower Camp Rd. Map 125; Lot 57.

CASE: 23-12: Woods Grill, Heigis Family Revocable Trust, 284 First NH Turnpike, Map 231; Lot 6.

CASE: 23-14: LSF, Inc., 268 Jenness Pond Road, Map 203; Lot 19.

CASE: 23-15: Diane E. Bishop, 33 Yeaton Drive, Map 205; Lots 2 & 3.

CASE: 23-16: Jones & Beach Engineers on behalf of Barker Properties, 8 Rochester Road, Map 234; Lot 7-2.

Chairman Jandebaur called the meeting to order at 6:31 p.m.

Present: Chair Tim Jandebaur, Vice-Chair Judi Anthony, Selectman Representative Hal Kreider, Members Betty Smith, Karen Robinson, David Copeland, and Don Manter.

Voting Designation: Chair Tim Jandebaur, Vice-Chair Judi Anthony, Selectman Representative Hal Kreider, Members Betty Smith, Karen Robinson, David Copeland, and Don Manter.

Town Staff Present: Town Planner Mark Davie, Land Use Specialist Linda Smith, and Land Use Administrative Assistant Lisa Fellows-Weaver.

Minutes

July 27, 2023

On a motion made by Ms. B. Smith, and seconded by Mr. Copeland, the Board voted unanimously to approve the minutes of July 27, 2023, as written.

August 10, 2023

On a motion made by Ms. B. Smith, and seconded by Mr. Copeland, the Board voted to approve the minutes of August 10, as written. Motion passed; 6/0/1.

Ms. Robinson abstained as she was not at the meeting.

INTERNAL BUSINESS:

RSA 674:41: Kenneth & Georgianne Elsen, 59 Lower Camp Rd. Map 125; Lot 57.

Atty. Brett Allard of Shaughnessy Raiche represented the application.

Ms. L. Smith explained she had provided a list of standard items the Board typically comments on for a private road that is not up to the Town standards. The Board provides comments based on the statute for access only and this will be provided to the building inspector who is given the authority to issue the permit. She added that this is the requirement of the statute that the Planning Board does have the ability to comment.

Atty. Allard stated that the property is on the corner of Upper Camp and Lower Camp roads, southwesterly corner of the intersection. It was noted that the map included in the packet is an old plan and it is referenced as Lot 29, which does not coincide with the current Town tax maps.

Chair Jandebaur stated that the Board can only recommend, and any comments will be forwarded to the Building Inspector and Selectboard.

Items listed by Ms. L. Smith were read by Chair Jandebaur and discussion was held as follows:

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The road widths are not to fire department/emergency response standards, or the standards for private roads in the zoning ordinance. Owners should consider contacting the Board of Selectmen to determine what road improvements can be made to improve access.

Ms. Anthony stated that the road between Upper Camp and Lower Camp is almost impassable, especially during the winter. There are currently large ruts in the ground.

Chair Jandebeur stated that the road is a concern; it is always important that emergency services are able to access the area.

Existing road maintenance agreements for lots in this development are non-binding, non-mandatory and not tied to the deed of this property. The Board recommends Applicants work with others to create a recorded road maintenance agreement or establish a Village District for road maintenance.

Chair Jandebeur stated that this is a real and constant problem in Town. There is consternation around Town as there are no road maintenance agreements.

Mr. Manter asked if the existing residences are seasonal and/or year-round. Atty. Allard replied that there are at least 25 year-round homes beyond the Elsen's property. Mr. Manter commented that access is still mandatory for the area. Atty. Allard stated that this proposal is for seasonal use only.

Chair Jandebeur stated that the Board has no say in this; all that can be done is to provide comments.

Mr. Kreider suggested the formation of a village district be considered for this area. He asked if that could be an alternative. Ms. L. Smith stated that this comment is based on the existing road maintenance and there is nothing tied to this deed at this time, and none that are mandatory; there is no village district.

Chair Jandebeur stated that creating a district could be a recommendation. He commented that districts are great and do work very well; however, all must pay their share.

Attempts to access this lot met with varying degrees of difficulty and we would recommend this application not move forward until reliable year-round access is established.

Ms. B. Smith stated that the areas are not safe and there needs to be some kind of agreement for attention to these roads.

Chair Jandebeur stated that he really agrees with this comment, many times this area is impassable in the winter. He added that all this Board can do is advise the Selectboard and Building Inspector.

On a motion made by Ms. B. Smith, and seconded by Mr. Kreider, the Board voted unanimously to forward the recommendations to the Building Inspector.

CONTINUED CASES:

CASE: 23-12: Woods Grill, Heigis Family Revocable Trust, 284 First NH Turnpike, Map 231/6. Applicants seek Major Site Plan Review for mixed use to include

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restaurant with indoor and seasonal outdoor seating, real estate, and accessory use – meeting room. (*Application accepted as complete May 25, 2023; Continued from July 27. Continued to September 28.*) Letter - Request to Withdraw-Received 8/9/23.

Peter Heigis was present and read his statement requesting to withdraw the application, without prejudice. He noted that he would also like to have a preliminary discussion with the Board regarding the minimal impact application he plans to submit for the next meeting.

Mr. Kreider commented that this is the Applicant's request, and the Board should honor that request.

On a motion made by Ms. B. Smith, and seconded by Mr. Copeland, the Board voted unanimously to accept the Applicant's request to withdraw Case 23-12, without prejudice.

With regards to the preliminary consultation, Chair Jandebaur stated that Mr. Heigis is welcome to speak to the Board.

Ms. L. Smith recommended the Board vote allowing Mr. Heigis an opportunity to speak as this item is not on the agenda. She provided the Board with their regulations relative to Preliminary Conceptual Consultations (PCC) and suggested that even though this was not planned to be on the agenda, to consider this consultation with the sole purpose of allowing Mr. Heigis to present to the Board what he intends to do. She cautioned the Board not to discuss any details to the case or to the process. Any of those questions should be directed to Staff between now and the time the application is submitted. This is a consultation for Mr. Heigis to tell the Board his plans but not to answer any questions regarding details of the proposal because an application has not been presented, and this is not a public hearing. She added that this is a non-binding discussion for the Board and the Applicant.

The Board agreed to grant Mr. Heigis time to speak and explain what he will be doing next.

Mr. Kreider expressed concern and stated that even though this is a non-binding discussion, it is heard, and everyone thinks about it. He added that “consultation” implies a give and take. He does not feel that the Board should be acting or doing anything. He stated that he would prefer to allow Mr. Heigis to talk, and the Board listens. He is worried this could continue to perpetuate the issues and previous problems. He would like to make sure that the Applicant can begin with a clean slate, with no prejudice; the Board should just listen.

Chair Jandebaur stated that when an application has been submitted, that will be the time for the Board to do their job. This time is for Mr. Heigis to tell the Board what he wants and what the plans are.

Mr. Heigis stated that he looked at the Board's regulations and it states that the first thing to do for any application is to have a preliminary discussion. He is not sure as to why he is not able to have any discussion. He explained that he would like to have this discussion with the Board to try to avoid the same things that happened to his last application and to see if there are any glaring objectives to what he will propose.

Mr. Heigis stated that he will be proposing to add two additional parking spaces. He referred to a plan he provided. He explained that the existing signed site plan has 25

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permitted parking spaces, permitted in 2016 and 2021. In order to meet the minimal site plan regulations, he needs to be below 10%; therefore, he is asking for two additional parking spaces. There will be a change of use for the grass area to become a permanent outdoor seating area. He read through Section IV - Applicability, of the site plan requirements to identify that he feels his request does not have anything to do with a major or minor site plan. He added that he hoped to have discussions per the process and regulations.

Mr. Kreider stated that he did not want to hear any discussions; this is already an extension of what was agreed to tonight, and it is upsetting. He stated that the Board was going to come in and approve the request to withdraw, which was completed. At this time, he feels that the Board is being chastised for doing something that is beyond what was requested; he notes that he is bothered by this.

Ms. L. Smith explained the process of an application and what would be accepted by the Board. She stated an application is received and reviewed by the Planner who determines the category of the application. The planner then makes recommendations. She suggested Mr. Heigis work with the staff. She offered to have staff meet with him to discuss the process and suggested that the Planner meet with him as well if necessary. The Board does not respond to what type of application a proposal is as that is outside the authority of the Board at this time.

Mr. Heigis stated that he was only trying to identify any glaring issues with his proposal; he is trying to follow the rules. This is a public meeting.

Chair Jandebaur stated that the plan is illegible and added that materials need to be provided.

Ms. L. Smith stated that staff will meet with Mr. Heigis to review the application process. She added that when a PCC is added to the agenda it allows the Board time to review the proposal and give it some thought. She noted that the Board has a 10-day rule and there has not been anything provided for review.

Mr. Heigis stated that he was looking for comments from the Board to advise him, per the proposal. He has provided a diagram identifying the area and why this proposal should be a minimal application. He added that this is where there was some disagreement with a prior submission. He wanted to explain that and was hoping that there would be some dialogue and an explanation.

Ms. L. Smith stated that the Planning Board cannot make a decision as to a type of application; there is no application submitted to review. She added that the decision of an application is not made by the Board at a consultation; it is made after review of an application by Staff and the Planner, and then a recommendation is made to the Board.

Mr. Heigis stated that he was looking to this opportunity as an advisory time to make sure he is going down the correct path. He noted that this discussion must also take place at a meeting.

Mr. Kreider stated that a consultation was not scheduled tonight and that is his objection.

Ms. L. Smith stated that there are certain steps that need to be taken and in a specific order. If feedback is requested on an application and applicability, then a time can be

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set up to meet with Staff. She added that is not something that the Planning Board does at a PCC; it is a discussion of a development that the Board knows nothing about, a general explanation.

CASE: 23-14: LSF, Inc., 268 Jenness Pond Road, Map 203; Lot 19.

Applicant seeks a Major Subdivision of 115 acres to create three new lots: 5.77 acres, 3.48 acres, 3.49 acres, and the parent lot will become 103.26 acres with only 103.97' of frontage. The three new lots will all have 150' of frontage. (*Application accepted as complete June 22; Continued from July 27.*)

Mr. Kreider recused himself for this case.

No one was present to represent this application.

Ms. L. Smith stated that there is an application that will be presented to the ZBA; that will need to occur before the Planning Board can take any action. She suggested that, as a courtesy, the Board grant a continuance to the September 28, 2023, meeting.

On a motion made by Ms. B. Smith, and seconded by Ms. Robinson, the Board voted unanimously to continue Case 23-14 to September 28, 2023.

CASE: 23-15: Diane E. Bishop, 33 Yeaton Drive, Map 205; Lots 2 & 3. Applicant seeks a Lot Line Adjustment to transfer 3.24 acres from Lot 2 to Lot 3. After the transfer, Lot 2 will go from 16.33 acres to 13.09 acres, and Lot 3 will go from 13.00 acres to 16.24 acres. (*Application accepted as complete July 27; Continued from July 27.*)

Mr. Kreider recused himself for this case.

Ray Bisson from Stonewall Surveying was present along with the Applicant, Diane Bishop.

Mr. Bisson noted that the NHDOT approval has been obtained. He provided the maintenance agreement to the Board for review.

Mr. Bisson stated that at the July 27 meeting, it was determined that the status of the shared driveway vs private road needed to be determined. He stated that he did provide information at the site walk and to staff. With regard to the status of the driveway, NHDOT issued a permit in 1998 for a common drive servicing two lots. At the August 28, 2014 Planning Board meeting, Case 14-13, the Board approved a shared driveway and Yeaton Drive was a part of that approval. He referenced a letter from Bill Wormell, LLS, dated August 5, 2023, clarifying the status of the shared driveway from 2014 and 2016. He stated that he received an approval today from NHDOT for the additional residence to use Yeaton Drive, recognizing this as a shared driveway. This was the permit provided tonight. He stated that it is their opinion that these facts clarify that Yeaton Drive is not a private road and is deemed to be a shared driveway. Another item noted at the last meeting was a driveway maintenance agreement, which was submitted. Waivers have also been updated per the Board's requirements.

Ms. L. Smith suggested the Board consider the waiver requests and then address the easements. She added that typically the Board would send out any new easements relative to a subdivision plan for review by Town Counsel.

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Mr. Bisson stated there are two easements proposed, an agricultural easement along with a proposed recreation and driveway easement, plus the maintenance agreement letter, which is not an easement. The maintenance agreement is a formal agreement for the parties of the maintenance and repair of the driveway, which has been expanded on.

Ms. Smith stated that the Board has these reviewed by Town Counsel for the Town's benefit. Mr. Bisson stated that the easements have not changed and should have been reviewed during this past month. Ms. L. Smith stated that the Board did not direct staff to have the easement reviewed and they were waiting to get feedback on the requested waivers.

Chair Jandebaur stated that the driveway maintenance was not presented at the last meeting. Mr. Bisson stated that the driveway maintenance was a request at the last meeting. Chair Jandebaur stated that the Board will discuss sending this on to Town Counsel for review. Mr. Bisson stated that is why he had emailed this previously to Staff. Chair Jandebaur stated that Staff cannot move forward without having direction from the Board.

Chair Jandebaur thanked Mr. Bisson for doing a thorough job on the waiver requests.

Waivers

Lot Shape & Characteristics: Section 3.01(F):

Chair Jandebaur read a statement provided by Mr. Bisson as follows:

A waiver is being requested from the Subdivision Regulations to allow for the proposed reconfigured parcels to not be rectangular in shape. The existing 13 acre lot, Map 205; Lot 3 was created by a prior lot line adjustment in 2014. The existing 16.33 acre lot, Map 205; Lot 2 was created by a subdivision in 2016.

Chair Jandebaur stated that the lots are currently not rectangular in shape. He added that he would support the waiver as the proposal is not making the existing situation worse; it is no odder than what it began with.

Chair Jandebaur opened the public comment portion.

Abutter Hal Kreider spoke in favor of granting the waiver. He stated that not having the driveway go through the pasture makes it better; therefore, the waivers would be favorable. He stated that granting this waiver does not make the lots worse. He asked the Board to think about how to maintain this as a pasture in the future.

Chair Jandebaur asked if the Board has any purview regarding the future of the pasture. He stated that saving the pasture now is admirable. Ms. L. Smith replied no, as that would be up to the property owners.

Mr. Manter stated that there is so much acreage so there really is no problem with the odd shape for large lots.

On a motion made by Ms. B. Smith, and seconded by Ms. Anthony, the Board voted unanimously to grant the request for a waiver to Section 3.01(F), for an oddly shaped lot.

Sidewalks: Section 3.05:

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Chair Jandebeur read a statement provided by Mr. Bisson as follows:

A waiver is being requested from the Subdivision Regulations Section 3.05 pertaining to Pedestrian and Bicycle Amenities. This is an existing gravel private shared driveway. The proposed lot line adjustment would allow the third existing lot to use the driveway. Since this is only a private driveway with adequate width for travel and sight distance, we are asking for a waiver against the need to install sidewalks along the gravel edge.

On a motion made by Mr. Copeland, and seconded by Ms. Robinson, the Board voted unanimously to grant the request for a waiver to Section 3.05, relative to sidewalks.

Shared Driveways: Section 3.03(B)(1):

Chair Jandebeur stated the Board has always obtained legal opinions for maintenance agreements. He stated that this has been done in the past and the Board should agree to do the same for this case.

Mr. Bisson stated that this is an existing maintenance agreement in the deeds probably pushed from prior Planning Board approvals. Chair Jandebeur stated that it is the job of the Board to be consistent and have the easements reviewed.

Ms. L. Smith stated that the maintenance agreement and the two new easements should go to Town Counsel for review.

Ms. B. Smith made a motion, seconded by Mr. Manter, to send the declaration of maintenance and the two new easements to Town Counsel for review. Motion passed; 5/1. Mr. Copeland was opposed.

A discussion was held regarding the cost and payment of Town Counsel reviews. Mr. Bisson stated that an attorney drafted the document, and it could have been recorded as easements do not need to be approved by the Board. Ms. L. Smith stated that a quote for the review is obtained prior to the actual review and an escrow account is established with the applicant's funds. Should the Applicant not wish to pay for the review of the documents, then the Board can vote on the lack of information. She stated that this is the practice of the Planning Board, and it is also a part of the Board's regulations. She stated that a peer review is also a standard practice and at that point the Applicant would pay for that as well. Mr. Bisson stated that it is unnecessary for what is being requested and this is a very detailed agreement, more than what others typically would provide. Chair Jandebeur stated that this is a common occurrence. Ms. L. Smith stated that she believes that this is the Town's first request for three residences on a shared driveway.

Mr. Copeland asked if the Board were to vote on the shared driveway and if it did not pass, what would happen. Ms. L. Smith stated that the Applicant would need to access the lot via the existing frontage on Catamount Road.

On a motion made by Ms. B. Smith, and seconded by Ms. Robinson, the Board voted unanimously to continue Case 23-15 to September 23, 2023.

Chair Jandebeur called for a recess at 7:43 p.m. Session resumed at 7:46 p.m.

Mr. Kreider returned as a voting member.

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NEW CASES:

CASE: 23-16: Jones & Beach Engineers on behalf of Barker Properties, 8 Rochester Road, Map 234; Lot 7-2. Applicant seeks Minimal Impact Review Application to change the use from of 8,000 SF commercial to become light manufacturing; no additional site changes are proposed.

Paige Libbey of Jones & Beach Engineers represented the application along with the Applicant Tom Barker.

Mr. Davie commented that the only item of concern noted was the NHDOT driveway permit. Although it is a less intense use, a new permit from NHDOT may be required due to the change of use.

Ms. Libbey replied that they planned to contact NHDOT and obtain a new permit if deemed necessary.

On a motion made by Ms. B. Smith, and seconded by Mr. Kreider, the Board voted unanimously to determine the application complete and open the public hearing.

Chair Jandebeur thanked Ms. Libbey and the Applicant for a thorough and complete application that was easy to review.

On a motion made by Ms. B. Smith, and seconded by Mr. Kreider, the Board voted unanimously to determine there is no Development of Regional Impact for this project.

Paige Libby, of Jones and Beach Engineers, provided an overview of the application. She explained that the proposal is a minimal impact site plan application for the former Family Dollar retail store. She stated that currently the 8,000 sq. ft. building is empty and has been for some time. There is already a commercial use. The proposal will be for a less intense use for a packaging and distribution business, Mixtips USA. They package mixing and dispensing tools. Currently operating in Fremont, they are planning to relocate the business; they have already relocated their residence to Northwood. She stated that this is a less intense use of the site. They propose having a total of five employees. The new business will use less sewerage for the septic system, less water, and an overall less impact; no changes are proposed to the existing site plan including no site changes. Ms. Libbey stated that based on their review this meets all the criteria for a minimal impact application; it follows all the performance criteria. She stated that the closest use they found was non-manufacturing; this is more of a warehouse type use.

Mr. Kreider asked if they considered keeping the previous application vs to the proposal, specifically for the number of employees. He explained that if the business should grow and employees increase or the hours of operation change, it may be to the businesses advantage to consider changing these items now and not having to resubmit a revised application later.

Mr. Barker explained that there may be growth, but it would only increase to five employees. He stated that he is confident that adding one more employee, for a total of five, would be sufficient as they have been running this way for seven years.

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Mr. Manter asked if during the course of packaging if the glue would escape their packaging. Mr. Barker explained that the primary business is selling equipment that dispenses and stores glues, disposable plastics.

Chair Jandebaur opened the public hearing.

Abutter Chris Meyer expressed concern with changing the architecture and motif of the building. He explained that there was a lot of work with the former owner to have the building fit in with the Town's motif of this area. He added that he believes that there are no environmental issues.

Mr. Barker stated they are not planning to change the exterior of the building. He explained they would be making some interior changes.

With no further comments, Chair Jandebaur closed the public comment portion for this case.

On a motion made by Ms. B. Smith, and seconded by Mr. Kreider, the Board voted unanimously, to grant Minimal Impact Review Site Plan approval, as follows:

The Planning Board conducted findings of fact as follows:

1. The Planning Board accepted testimony at its August 24, 2023 meeting.
2. Applicant has sought approval for all required federal, state, and local permits.
3. The proposed use is a less intensive use than the previous use.

The Planning Board has rendered a decision as outlined below:

Approved the application subject to the following conditions of approval:

Prior to the signing of plans:

1. Applicant will acquire and provide copies of all necessary federal, state, and local permits or written confirmation that no such permit is necessary. This includes but is not limited to: NHDOT driveway permit.
2. Deliver three signed and stamped copies to the Town for signature.

Prior to occupancy:

3. The Chair will sign the plans indicating final approval by the Board.

INTERNAL BUSINESS

Master Plan Subcommittee - Update

Chair Jandebaur stated that the next meeting is September 5th at 9 a.m.

CIP Committee - Update

Mr. Copeland stated that the CIP has continued to meet weekly. All projects have been submitted and the spreadsheet is being completed, and everything is on schedule.

Ordinance Follow-Up

Ordinances will be discussed at the September 14 work session.

Meeting Change - Thanksgiving

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On a motion made by Ms. B. Smith, and seconded by Mr. Copeland, the Board voted unanimously to change the November 23, 2023, meeting to November 30, 2023.

ADJOURNMENT

On a motion made by Mr. Kreider, and seconded by Ms. B. Smith, the Board voted unanimously to adjourn at 8:07 p.m.

A TRUE RECORD ATTEST:

Lisa Fellows-Weaver,



Land Use Administrative Assistant