

**PLANNING BOARD
ZONING BOARD**

**JULY 18, 2019
JOINT MEETING**

MEMORIAL BUILDING

7:00 P.M.

The following are to be considered draft minutes until approved by the Board.

Kevin Lee called the meeting to order at 7:00 p.m. Board members introduced themselves.

Planning Present: Chairman, Kevin Lee; Mike Howard, Ken Jacques, Darrin Patten, Ex-Officio George McCusker; and Bryan O'Day Planning and Zoning Member. Absent: Peter Keene and Alternate Sue Abair.
Zoning Present: Cody Patten, Justin Hastings, Bryan O'Day and Alternate, Tanner Jacques.
Absent: Chair, Susan Chiarella, and Peter Abair.

Others Present: See attached last page.

Minutes of June 20, 2019: The date needed correcting on several pages. Motion by Bryan to approve as amended, seconded by Darrin. 5 voted in favor, 1 abstention (Mike).

Literature and Correspondence: Governing Magazine. Wetlands Application for dam repair at Palazzi Pond Dam.

7:05 p.m. Continued from June 20, 2019 concerning a request by Peter LaCaillade, d/b/a MCNE Masons.
Peter was not present. The Board will continue hearing later Pete if he shows up.

Kevin asked if there was anyone in the audience who had anything specific to discuss with the Planning Board since it was too early to begin the 7:10 advertised hearing. Wayne Smith stated he would like clarification of Zoning Ordinance Article 6.1 Obnoxious Use. His question is who in the town of Springfield is obligated to follow the ordinance and can the Zoning Board absolve someone from following that ordinance? Kevin stated the enforcement is in the hands of the BOS. If an applicant asks for relief of Zoning Ordinance that is handled by ZBA. Something more than a home business, would require Zoning and Planning approvals. Wayne stated he knows that home occupations and businesses fall under the ordinance but wondered if all residents of the Town of Springfield must fall under the obnoxious use ordinance. Steve Schneider stated the use is the residence. Kevin stated disturbing the peace is a different law from obnoxious use. Disturbing the peace falls under state regulations, not the town. The Planning Board would not be the ones to determine if someone is violating that. Wayne asked if the zoning board would pass an exception to allow someone not to adhere to 6.1 such as making smoke or noise. Is there a way to get around that Ordinance. Darrin asked if his concern is from someone doing this as a business. Wayne stated he is not asking about a business he is asking about who is liable. Bryan stated a Special Exception is required if it is a business but if just residential there is nothing to come before the ZBA for. Wayne stated so a resident does not have to abide by the zoning laws that are in place. Bryan stated the ordinance is for a business or something like that. Wayne stated he reads it as anybody in the Town of Springfield must abide by this ordinance which includes residents. Mike stated having a residence is completely permitted. You wouldn't come to the Zoning Board for anything to do with a normal residence. Residents would not have to come before the ZBA residential use is allowed. Kevin stated under general provisions you can't have a use, such as a business, that may be obnoxious. The Board asked if there was something taking place in his neighborhood. Wayne stated he is here because of barking dogs at 5:00 in the morning. His take on the ordinance no one in the Town of Springfield can make smoke, or noise or anything found to be obnoxious. Mike asked if it is one dog or is someone running a business. Wayne reported there is a long history of abuse of the zoning ordinance and he is trying to find out if these people must adhere to the zoning ordinance. Wayne was told the enforcement falls on the Board of Selectmen. Kevin stated if

there is an unpermitted business they need to go before the ZBA and Planning. Wayne stated they came before the Boards for approval to run a business and were denied. They said they were not going to run a business but were going to have their own dogs. They are running a business. They have a website that advertises they train and board dogs. Kevin stated if that is the case, they are in violation of running a business that is not allowed. The Selectmen, not the ZBA or PB would enforce. Mike said if they have been told they can't run a business and they are continuing to do so they are not in keeping with the character of the neighborhood. If they are violating that by continuing to run a business this becomes an enforcement issue that needs to be brought to the attention of the Select Board. Wayne stated his question is, does a residence have to follow the zoning ordinance? Kevin stated if the noise is obnoxious there are rules that govern disturbing the peace and handled through the police department. The definitions of 6.1 are for a use that is otherwise not permitted. The Planning Board and Zoning Board is involved when it pertains to a business, but not to the enforcement. Steve Schneider stated the residence is the use. The ordinance is not the tool to prohibit neighbors from doing things unrelated to business activities on their property. Mike Howard recalled that Tim has gone up there in the past and has said there needs to be a certain decibel level for a specific amount of time for him to enforce. He was never able to get to that level when he was there. If the owners have been told they can't run a business there, and if they are running a business, there is a lot more leverage on that basis then disturbing the peace. George McCusker stated Mr. Smith has the right to go to the Select Board to file a complaint. The issue of the dogs was denied by the Zoning Board. These Boards are not the enforcing arm, a police matter is the police department. Any approvals passed by the Boards is enforced by the Selectmen. Wayne stated that he would try again. George said he does not recall that Wayne had ever come to the Selectmen to make a complaint about the noise. Wayne said he could call the police when the noise takes place. Kevin told him if he wants to file a complaint that the zoning ordinance is being violated, then he should go to the Selectmen.

At 7:20 p.m. Kevin opened the hearing continued from June 20, 2019 concerning a request by Cory Swenson for Site Plan Review: Darrin stepped down. Cory was not present. Janet reported that the ZBA dismissed the case since the trust had not signed the Special Exception Application and the family was not in agreement of the application as submitted. Claudia Swenson, Trustee, was present. Claudia stated she was not sure where everything stood right now. Cory has not met with the trust. The Site Plan application has only been signed by Cory but includes the logging equipment which the trust is not in agreement with. The Board discussed whether to continue the hearing. The case before the ZBA has been dismissed. The trust would need to reapply for Special Exception. Claudia would need to sign the application for the Site Plan to continue. Claudia stated she does not mind signing but would want to amend the application. Zoning Board members stated Susan Chiarella was advised by NHMA Legal counsel not to move forward until they have an appropriately signed application. Mike Howard suggested the Planning Board stay in step with the Zoning Board and dismiss the application until Cory and the Trust have worked out the details. Mike made a motion to dismiss the Site Plan Application as it is incomplete and there has been no follow-up. The motion was seconded by Ken and unanimously approved. Kevin noted in the event the parties go forward they will need to re-apply and hearings will be noticed.

At 7:30 p.m. Kevin opened the hearing for Timothy Bray for a Lot Line Adjustment and Annexation. Darrin stepped back in. Tim stated he is adjusting the line from his 5.21 acre parcel to 3.21 acres and annexing 2 acres to Mason Wheeler. He has obtained state subdivision approval. Topo lines, existing septic, proposed septic and all the radii have been included on the annexation plan. Tim provided documents for soils data and State Subdivision Approval. The Board reviewed the checklist. Building and septic setbacks are not shown on the map. The surveyor included the whole area where a new septic could be located. Wet areas are shown on the Plan. Whit reported no designated wetlands on the property. The Board agreed to waive the requirement for building and septic setbacks being shown on the plan. Mike moved to accept the application as complete, (waiver noted). The motion was seconded by Bryan and unanimously approved. The Board had further

discussion on the plan submitted. Darrin moved to approve the annexation, seconded by Mike. The motion was unanimously approved, and the hearing was closed. Mylar and paper copies were signed.

At 7:45 p.m. Joint Hearing concerning a request by Tim Fraser d/b/a Protectworth Brewing, LLC for Site Plan Review and Special Exception began. Kevin turned the hearing over to the Zoning Board. Bryan chaired the hearing in Susan's absence. Alternate, Tanner Jacques was asked to step for Peter Abair. Bryan informed Tim of the need for three members to vote in favor of his application for it to pass. As there are only four members present, Tim was given the option to reschedule his hearing. Tim agreed to continue. Tim presented his plan and stated he is applying for a Site Plan and Special Exception to run a Nano Brewery. He is working with the Federal Government and the State of NH. The State requires town approval. Tim stated his plan is for this to be a side business. He can only make 30 gallons at a time with the equipment he has. He proposes a tasting room, which he expects may be open once a month, if that. He has gotten accounts at local stores to take most of what he produces. There will be no trucks delivering his product. He will be making the deliveries. He has been brewing for 5 years on a personal level. The Nano Brewery will not be much different as far as the equipment and material used. The boil is fired with propane, there is no noise, and no smoke. He must be inspected by fire and health and the State will come in as well. Bryan asked if there were questions from the Board. Justin asked about traffic, signage, and lighting. Tim stated he would have a sign on the side of the garage, not on the street. He may have employees but right now he is not anticipating that. If he were to grow that big, he would find another location. Very little waste product is produced and what is can be composted on site or given to local farms. Tim stated he is not looking to create a "party scene", he is raising his family there. There may be outdoor seating. If so, he would have it near the front door. At 7:55 Bryan formally opened the Special Exception Hearing. Public notice requirements were met. There were no abutters or neighbors present. Zoning Board members had no further questions. Justin moved to accept the application, seconded by Tanner. The motion was unanimously approved. (Yes – Justin, Bryan, Cody, and Tanner). Bryan reviewed the five criteria. The Board agreed the criteria details are answered in the application. The character of the neighborhood will not be changing. There will be no increased traffic, no obnoxious odors. Nothing is changing on the exterior of the building. There will be no impact to the neighborhood. The location is in a low traffic relatively secluded area. Tim has been brewing beer there for 5 years. There are no known objections. The Board had no further questions or comments. There were no questions from the public. Justin moved to **grant** the Special Exception for Tim Fraser d/b/a/ Protectworth Brewing, LLC to operate a Nano Brewery on property at 117 Cemetery Road (Map 29, Lot 133-209). Motion seconded by Tanner. The Special Exception is granted as written and stated in the application presented on July 18, 2019. The motion was unanimously approved. (Yes – Justin, Cody, Tanner and Bryan.)

At 8:05 p.m. Kevin opened the Site Plan Hearing for Tim Fraser. The checklist was reviewed. Off-street parking and emergency access were addressed. Parking needs to be shown on the plan. Tim stated there won't be much additional need for parking. The tasting room will only be open on Friday and Saturday 12 noon to 6 pm. He anticipates it will be open only one weekend a month but does not want to limit more weekends as an option. The average might be 12 hours per week. Kevin noted things the Planning Board will want to see on the site plan which will also offer him protection for his operation. The Board told Tim the plan needs to be to scale and the parking area should be delineated on the plan. Angled parking spaces (10' x 20' ea.) should be shown as well as showing access for emergency vehicles. The parking area can remain grass. Tim stated there will be limited seating. Sampling is all regulated by State and Federal regulations. He can only pour 4 ounces of each of the samples he has on tap. People won't just be hanging out. Mike suggested Tim show the scale of the operation, how many people will be coming to the tasting room, the number of gallons he can produce and include plans for where he thinks the business could be in 5 years. Businesses often outgrow their site plan, so the Board likes to see plans for growth. Tim stated a Nano Brewery has specific regulations from the State. He is limited by what he has available to him. If he were to grow, he would do it at a different location. Deliveries will not increase over what he currently gets. The Board would like to see Tim show access to the building and the area inside the

building for the tasting room. Planned entrances and exits should be shown. Following review of the checklist, a motion was made by Darrin that the application was incomplete and to continue the hearing on August 15. Mike seconded the motion. George addressed concerns with State and Fire Department safety issues. Tim stated brewing is like boiling sap. The State of NH regulates those requirements. The motion passed unanimously.

At 8:30 p.m. There being no further business before the Zoning Board, Kevin dismissed the members. Cody and Tanner left.

At 8:30 p.m. Kevin reopened the hearing continued from June 20 concerning a request by Peter LaCaillade, d/b/a MCNE Masons for Site Plan Review. Pete presented his revised plan. The Board agreed information was still missing. The name of the street needs to be labeled. The proposed building is shown as only 33'6 feet from the property line, where a minimum of 35' is required. More details are needed to show the dimensions of the existing house, the location of the well and septic and proposed location for septic for the new building. The dimensions of the proposed building need to be shown. Proposed lighting and location of the buffering need to be shown. Details are needed for what appears to be a circular drive, an area for parking and snow removal. The Board recommended the plan be to scale and provide details of his baseline plans and plans for future growth. Mike moved to continue the hearing on August 15, seconded by Ken and unanimously approved.

Keith Cutting – Consultation. Keith reported he talked with Whit to determine if he needed a Zoning Permit to construct a high tunnel. Whit suggested he come before the Planning Board for a determination of whether a high tunnel is a structure or not. Keith stated there are State Statutes regarding high tunnels versus greenhouses. A high tunnel is installed over plants growing in the ground. It is constructed on a steel or PVC frame. Plastic can be left up, but quite often is taken off in the winter to extend its life. The Board discussed the differences at length. Bryan and Mike stated they each have a greenhouse and obtained a zoning permit for them. Keith noted the State considers a greenhouse a structure. The difference with a high tunnel is vegetables are grown in the ground. The State definition of a high tunnel is very clear. Board members were not able to locate the specific RSA at the meeting and agreed to table further discussion. They will get back to Keith. Whit questioned whether the use is a Home Occupation, Home Business or a Farm. Keith asked if a Site Plan is required for a farm. The Board stated a farm is not exempt from a site plan. Keith stated he does not grow vegetables for sale. He has a sugar house and a sugar orchard and keeps some bees. Bryan O'Day read the definition in the Zoning Ordinance regarding structures. Kevin read from USDA information regarding high tunnels. Kevin told Keith the Board would get back to him when they had information from the RSA.

Ryan Peterson – Consultation. Ryan would like to seek approval for his plumbing and heating business. Most of his business is conducted off site. He does store some stuff at home, in his 24' x 32' garage and a storage container. He has no employees, and no heavy equipment. He does have a tractor, but he does not use it for business. He has a maximum of 3 deliveries per day. When the roads are posted he makes alternative arrangements for his deliveries to be made elsewhere. He runs the business from his residence. He uses a large utility truck. He does some fabrication at his property but there is no advertising, no lighting and customers do not come to his location. Whit stated it would appear Ryan falls into the Home Business use. Darrin suggested Ryan consider including plans for future growth and apply for a Special Exception now for the future and to forestall issues with potential neighbors. Ryan was not certain if he would go before the ZBA at this time. He would like for the business to grow but could still be a Home Business with 2 non-resident employees and less than 1,000 s.f. of area in use. Ryan stated he would consider his options.

At 9:00 p.m. Kevin opened the Hearing regarding proposed amendments to the Planning Board Rules of Procedure (scheduled for 8:00 p.m.). Kevin stated using the template from the Office of Strategic Initiatives “The Planning Board in New Hampshire Handbook” he drafted an update to the Rules of Procedure which to his knowledge had not been formally updated since 1987. Specifically updating the order of business for joint meetings. Not all Board members had reviewed the draft that was previously sent to them. Due to the meeting running so late, a motion was made by Darrin to continue the public hearing to August 15, seconded by Mike and unanimously approved.

Whit stated he is not expecting to schedule any more hearings for August since so many others have been continued.

At 9:10 p.m. the Board voted unanimously to enter non-public session per RSA 91-A:3 personnel.

At 9:35 p.m. the Board entered back into public session. Motion by Darrin to seal the non-public minutes, seconded by Ken, with all the Board members voting yes.

The meeting adjourned at 9:35 p.m.

Submitted by,

Janet Roberts,
Administrative Assistant.