FINAL

LEBANON PLANNING BOARD
Regular Session
Monday, September 11, 2023, 6:30 PM
Council Chambers, City Hall
or Remote Via Microsoft Teams
LebanonNH.gov/Live

MEMBERS PRESENT: Matthew Hall (Chair), Jeremy Rutter (Vice Chair), Karen Zook (City Council Rep), Andrew Faunce, Bruce Garland, Patrick Kennelly, Kathie Romano

MEMBERS ABSENT: Kim Chewning, Laurel Stavis

STAFF PRESENT: Nathan Reichert (Planning Director), Tim Corwin (Deputy Planning Director), Brian Vincent (City Engineer)

---

1. Call to Order

Chair Hall called the meeting to order at 6:30 PM.

2. Notice of Regional Impact

The following applications were received by the Planning and Development Department on or before September 11, 2023:

Vincent & Tarah Cantore, 121 Slayton Hill Road (Tax Map 134, Lot 10), zoned RL-2: Request for approval of a proposed three (3)-lot Minor Subdivision. **PB2023-13-MIN**

SPNH Lebanon North, LLC, 402 & 392 Mount Support Road (Tax Map 24, Lots 9 & 10), zoned R-1: Pursuant to Section 9.1 of the Site Plan Review Regulations, a request for a modification to a previously approved Site Plan (PB2021-33-SPR) for a 204-unit multi-family development. Applicant proposes to construct 3, 4-story multi-family dwellings and a community amenity building in place of the 4, 3-story multi-family dwellings currently approved, together with related modifications to parking, utilities, landscaping, access, and other site improvements. **PB2023-34-SPR**

Mr. Corwin stated that the above applications have no potential for regional impact.

A MOTION by Bruce Garland that the submitted applications have no potential for regional impact. The motion was seconded by Jeremy Rutter.
****The MOTION was approved (7-0).***

3. Public Hearing Items

A. MG Holdings, LLC, 200 Hanover Street Ext (Tax Map 48, Lot 7), zoned R-3: Request for a Minor Subdivision of the subject property into three (3) lots. **PB2023-29-MIN**

Mr. Corwin stated that the application is complete enough for the Planning Board to accept jurisdiction and commence review.

A MOTION by Jeremy Rutter that the application of **MG Holdings, LLC, 200 Hanover Street Ext (Tax Map 48, Lot 7), zoned R-3, is complete enough for the Planning Board to accept jurisdiction and commence review.**

The motion was seconded by Bruce Garland.
The MOTION was approved (7-0).

Surveyor Wayne McCutcheon representing the application. Property owner Mike Gallo of Gallo Realty appeared online.

Mr. McCutcheon provided a description of the proposed subdivision.

Mr. Corwin stated that it is a straightforward application and noted the conditions of approval. There is a minor issue of a shed that needs to be relocated or removed.

Chair Hall invited public comment.

David Kroger, 194 Hanover Street, who is next door to the location, spoke regarding the applicaiton. Mr. Kroger inquired about the drainage and sewage for the project. Mr. McCutcheon stated that they are aware of the features of the property and addressed the concerns. Chair Hall noted that those issues are not related to the subdivision decision. Mr. McCutcheon noted the location of a proposed building and the plans for avoiding the wetlands.

Chair Hall closed the Public Hearing.

A MOTION by Jeremy Rutter that the Lebanon Planning Board **APPROVE** the application of **NBKS, LLC, for a proposed three (3)-lot Minor Subdivision of 200 Hanover Street (Tax Map 48, Lot 7), PB2023-29-MIN**, as shown on a plat titled “Minor Subdivision Plan of Land Owned by MG Holdings, LLC,” prepared by Wayne McCutcheon Associates, Inc., dated July 5, 2023, project no: 1673223, including any and all supplemental submissions and testimony provided during the public hearing.

In support of its decision, the Board finds that the applicant has submitted plans, testimony, and technical data prepared by a licensed land surveyor that together satisfactorily demonstrate compliance with the applicable requirements of the Subdivision Regulations except as may reasonably be addressed through the imposition of certain conditions of approval, set forth below.

This approval is subject to the following conditions:

<u>Conditions to be Satisfied Prior to the Signing and Recording of the Plat</u>

1. The applicant shall provide a revised plat depicting the following changes to the satisfaction of the Planning and Development Department:
    a. Contact the Assessing Department to obtain the tax map/lot numbers for the new lots and add to the plat.
    b. Contact the Police Department to obtain the street addresses for each new lot and add to the plat.
    c. Add a note indicating that the plat was approved pursuant to the City of Lebanon Subdivision Regulations last revised June 28, 2021.
    d. Add Planning Board number (PB2023-29-MIN).
    e. Identify acreage and square footage of existing lot.

f. Depict the names and mailing addresses of the holders of any easements or other restrictions. (Section 9.5.A.2)
g. Identify date of the completion of the field survey. (9.5.A.5)
h. Add statement required by Section 7.11 of the Subdivision Regulations.
i. Provide the date and description of the plat revisions. (9.5.A.1)

2. The applicant shall provide a digital record drawing (Cad .dwg format using NH State Plane Coordinate system or an alternative approved by the City's GIS Coordinator).

3. Remove the existing shed from Lot 1 and obtain a demolition permit from the Planning and Development Department, if required. If relocating the shed to Lot 2, obtain a Building Permit.

General Conditions

4. Future development on the new lots shall be subject to City of Lebanon Impact Fees, pursuant to Section 213 of the Zoning Ordinance. The Impact Fee shall be calculated at the time of Building Permit issuance based on the Impact Fee Schedule adopted on October 12, 2021, and such fees shall be due and payable at the time of issuance of a Certificate of Occupancy. In accordance with RSA 674:39, the approved site plan shall be exempt from any future changes in impact fees and methodology for five years from the date of approval; however, any building permits which are issued after the end of that five-year period shall be fully subject to whatever impact fees and methodology are in effect at the time of building permit issuance.

5. All future construction shall substantially conform with and shall be subject to the requirements and specifications of the recorded plat (Section 7.9.A.2), except that the proposed curb cut for Lot 3 and the gravel drives for Lots 1 and 2 may be relocated if approved by the Department of Public Works in connection with an application for a Driveway Permit.

The motion was seconded by Patrick Kennelly.
****The motion was approved (7-0).***

A MOTION by Jeremy Rutter that the Lebanon Planning Board authorizes the Chair to sign the Minor Subdivision plat of MG Holdings, LLC, PB2023-29-MIN, titled "Minor Subdivision Plan of Land Owned by MG Holdings, LLC," prepared by Wayne McCutcheon Associates, Inc., dated July 5, 2023, as revised per the Planning Board's conditions of approval.

The motion was seconded by Bruce Garland.
****The MOTION was approved (7-0).***

B. XYZ Dairy, LLC, River Park Drive (Tax Map 44, Lots 3 & 7, and Tax Map 44, Lots 21-30), zoned CBD, IND-L and R-3: Request to amend the conditions of approval for the River Park development, approved by the Planning Board pursuant to Notices of Action dated September 9, 2019 for PB2018-34-and October 12, 2012 for PB2021-29-EXT. **PB2023-22-SPA - Continued from August 14, 2023**

Kathie Romano recused herself from this application.

Chet Clem and David Clem of Lyme Properties appeared in support of the application.

Chet Clem stated that they submitted information to the Planning Department in response to a Staff Memo of September 8, 2023, and David Clem distributed information to the Board members. Mr. Chet Clem alleged that many statements in the memo are false and noted the setbacks they have faced over many years.

Chair Hall expressed his views on the issues presented by Mr. Clem and particularly that of vesting.

Mr. David Clem stated that the concerns raised by Staff are not well founded. Mr. Clem addressed the elements related to vesting.

Mr. Garland inquired about several items related to the project and the conditions of approval. Mr. David Clem clarified the previous parking requirements and how they were met. Mr. Chet Clem noted that the 2019 phasing plan outlined the provisions for parking. Mr. David Clem stated that the lending of funds is dependent upon the completion of infrastructure, which is outlined in the 2019 phasing.

Mr. Corwin provided an explanation of Staff's understanding of the phasing and security requirements. Mr. Chet Clem expressed concern over changes in future phase decisions.

Mr. Garland noted that there are three sections for the development and asked for confirmation that lots could be transferred once the infrastructure or security is provided for the related phase. Mr. Chet Clem explained the security required for each phase.

Mr. Garland inquired about the Notice of Restriction. Mr. Corwin explained Sections 7.11 and 7.12 require security before construction. Municipalities require that a developer puts up an amount equal to the costs of construction, and it is a standard policy.

Chair Hall invited public comment.

Henry Bromberg, Ward 1, spoke in support of the project and the generosity of XYZ Dairy. He stated that an apology is due to the developer by City Staff and asked that common sense should prevail.

Kathie Romano, Ward 1, stated that there are several important points, but the assurance that infrastructure is secured would be necessary to attract investors. Ms. Romano inquired about who sets the figure for security. Mr. Corwin stated that the City Engineer determines the amount of security based up on estimates provided by the developer.

Chair Hall invited other Board members to ask questions.

Mr. Garland inquired about a way of breaking down the security by phases. Mr. David Clem provided an explanation for the request for securing individual portions of the project. Mr. Clem also explained the reasons for requesting vesting at this time.

Chair Hall closed the Public Hearing.

Mr. Garland stated that he is in favor of rescinding the Notice of Restriction and supporting the efforts to date.
Mr. Rutter expressed his agreement with Mr. Garland and the impression of the abundance of testimony that supports the uniqueness of the project and the need for trust and would support both requests.

Chair Hall stated that he would want the project to succeed, but he cannot support the request, which must be based upon the City regulations.
Mr. Kennelly stated that the requirements for vesting need to be followed, and he agreed with Mr. Hall.
Mr. Faunce expressed his view that there is a need to expedite the development and to find a way to accommodate this commercial project.
Ms. Zook expressed frustration with the situation and the potential for further issues.

Chair Hall stated that it appears the majority of the Board members are opposed to approval.

A MOTION by Jeremy Rutter to continue the hearing to October 9, 2023, at 6:30 PM.
The motion was seconded by Patrick Kennelly.
****The MOTION was approved (6-0).***

C. XYZ Dairy, LLC, River Park Drive (Tax Map 44, Lots 3 & 7, and Tax Map 44, Lots 21-30), zoned CBD, IND-L and R-3: Appeal of administrative decision to require Minor Site Plan Review per Section 3.1.C of the Site Plan Review Regulations for a proposed restaurant use. **PB2023-23-AAD - Continued from August 14, 2023**

Kathie Romano recused herself for this hearing.

Mr. Chet Clem asked for clarification as to what work was done that was without approval. Mr. Corwin noted several items that were constructed without approval. Mr. Clem stated that the items in the picture were temporary and not a site plan violation. The food truck, a temporary diner, and a Hootenanny event did not require Minor Site Plan review. Mr. Corwin noted that they used City sewer and water.

Mr. Clem stated their prior approvals allowed for the uses under the site plan approvals under Phase 1B regarding the sewer and water connections they had already installed.

Mr. Corwin stated that they offered minor site plan review to approve the work that was already done to bring it into compliance. The Planning Board can decide that there was no violation and no need for Minor Site Plan review. The property must be used in the way the original approval permitted. It is a new commercial use that does require review. Mr. Clem stated that they did not believe the review would happen in time for the event to happen. Mr. Corwin noted that the a Minor Site Plan review would have allowed the event to happen as scheduled.

Mr. Faunce noted that the timeline was the issue.

Mr. David Clem stated that they will remove the items from the property by the end of the month and formally withdrew the appeal.

The Board members will review the Minor Site Plan requirements.

Kathie Romano returned to the meeting

D. Quail I, LP, 69 Lily Lane (Tax Map 8, Lot 2, Plot 200), zoned R-3: Request for Site Plan Review to renew a previously approved Site Plan Approval (PB2019-13-SPR) to construct a new 32-unit, 50,000 square foot building for senior housing, together with associated site improvements, to be operated as part of the existing Quail Hollow Senior Living Community. **PB2023-30-SPR - Application to be postponed to September 25, 2023**

A MOTION by Bruce Garland to postpone the hearing until September 25, 2023, at 6:30PM.
The motion was seconded by Kathie Romano.
****The MOTION was approved (7-0).***

4. Other Business

Mr. Rutter inquired about the items that were to be on the August 28th agenda. Mr. Corwin stated that they will be scheduled for the September work session.

Chair Hall stated that he has been reviewing literature regarding impact fees as a barrier to housing and added that he believes there needs to be a conversation regarding the increase in impact fees voted several years ago. Ms. Romano noted that the Board members need to be educated on the issue of impact fees. Chair Hall suggested the October work session for a discussion of the issue.

A MOTION by Kathie Romano to extend the meeting to 9:45PM.
The motion was seconded by Jeremy Rutter.
****The MOTION was approved (6-1). Bruce Garland voted against.***

Mr. Reichert stated that it would be a good time to discuss this with the help of a consultant. There are also other issues that are changing for the Zoning Board that need to be considered by the Planning Board. The Associate Planner position is still open, and applications are being sought.

5. Approval of Minutes

A. July 24, 2023, and August 14, 2023

A MOTION by Karen Zook to approve the Planning Board Minutes of July 24, 2023 and August 14, 2023, as presented.
The motion was seconded by Andrew Faunce.
****The MOTION was approved (7-0).***

6. Adjournment

A MOTION by Bruce Garland to adjourn the meeting.
The motion was seconded by Andrew Faunce.
****The MOTION was approved (7-0).***

The meeting was adjourned at 9:34 PM.

Respectfully submitted,

Holly Howes
Recording Secretary