

Meeting Minutes for
Public Meeting/Public Hearing
October 15, 2024
KG, DS, TC, JA, KM, RO, MG, RC, AB

PLANNING BOARD
RINDGE, NEW HAMPSHIRE
October 15, 2024

DATE: October 15, 2024,
TIME 7:00 pm

TYPE: Public Meeting

APPROVED: 11/12/2024

CALL TO ORDER: 7:00 pm

ROLL CALL MEMBERS: Roberta Oeser, Joel Aho, Tom Coneys, Doug Seppala. Max Geesey,

ROLL CALL ALTERNATES: Kelen Geiger

ABSENT: Kim McCummings, Robert Chamberlain

EX OFFICIO: Tom Coneys

PLANNING DIRECTOR: Al Bump

APPOINTMENT OF ALTERNATES: Kelen Geiger for Kim McCummings

OTHERS PRESENT: Emily Gusse, Tess Kohanski, Rob Martel, Courtney Ball, Esq.,

Call to order and Pledge of Allegiance

Chairman Roberta Oeser announced that this meeting is being recorded for minute taking purposes as well as live streamed by a citizen (not an official Town of Rindge recording).

Roll call by Chairperson

Appointment of alternates, if necessary

Announcements and Communications

Approval of Minutes:

October 1, 2024

Kelen Geiger requested an amendment to the minutes under Announcements and Communications. In the second paragraph, first sentence, add the word “produced” between “citizen” and “for transparency”.

MOTION: Joel Aho moved to approve the minutes as corrected. Tom Coneys seconded the motion. **Vote: 5-0-1** Doug Seppala abstained.

Old Business/Continued Public Hearings

1. Discussion: Phased Development Ordinance

Chairman Roberta Oeser suggested to the Board that this discussion take place later in the meeting so that we can move right into the Public Hearings. There were no objections from the Board.

New Business/Public Hearings

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1. **Continued from October 1, 2024: CONSIDERATION OF** an application for a Minor Site Plan submitted by Granite Trust, 3 Blair Road, Ipswich, MA 01938 for property located at Tax Map 31, Lot 4 at 1162 NH Route 119 in the Gateway East Zoning District. The applicant is seeking approval for a screen printing and embroidery for various promotional products (hats, bags, jackets, etc.) as well as auto repair and associated use.

Planning Director Al Bump to read the following into record from the Planning Dept. Memo:

Background Information:

- 1) Verdantas, PLLC on behalf of Granite Trust has submitted for approval of a Minor Site Plan of Tax Map 31 Lot 4 located at 1162 Route 119.
- 2) The subject parcel, Map 31 Lot 4, the former Sunoco station, is currently vacant.
- 3) The applicant is seeking to waive the requirement from Section VI, Number 2A, from the Site Plan Regulations: “New Hampshire Department of Environmental Services (NHDES) septic design approval where applicable; or letter of certification by a licensed septic designer that an existing septic system is adequate to meet the needs of the proposed use, if applicable”.
- 4) Planning Director Almyr L. Bump conducted a completeness review and determined that the applicant has provided the Planning Board with the information necessary to make an informed decision on this application.

Chairman Roberta Oeser said that since our last meeting, the applicant has provided us with an inspection report by Norway Hill Home Inspections for the septic system. Rob Martel said the leach field and the tank are about ten years old.

Chairman Roberta Oeser asked the applicant to amend their plan to show the location of the leach field so that large trucks do not drive over this.

MOTION: Roberta Oeser moved to accept the Site Plan application for Tax Map 31, Lot 4 as substantially complete as presented and grant the waiver from Section VI, Number 2A from the Site Plan Regulations. Max Geesey seconded the motion. **Vote: 6-0-0**

Chairman Roberta Oeser asked the applicant for a brief explanation of what they would like to do for this property. Rob Martel provided the Board with pictures of the building as it was last month. The pictures also show the auto lift that they will be using. Mr. Martel said many people have stopped by and are happy to see this building in use again. The state has been to this site and remediated the soil and carted it away. Contactors from Rindge have provided the materials to refill these holes. This site is on its way to being deemed clean.

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Mr. Martel said he was getting up to 8 or 9 calls per week from people looking to rent this building. Some of those uses included Antique Shops, Landscape Centers, Tree workers, Landscape Business, Auto uses.

Chairman Roberta Oeser opened the public hearing.

Chairman Roberta Oeser said this application is for a specific building and perhaps the applicant would like to amend that to a mixed use for uses permitted in Gateway East. Roberta provided the list of Uses Permitted in the Zoning Ordinance under Article XI-Section A. (Gateway East) Rob Martel said that would be better than for a specific use.

Tom Coneys asked if the parking spaces shown allow for setbacks. Roberta said they meet the setbacks for parking.

Roberta said that all signage must comply with the Sign Ordinance and that Gas Stations always had to get a variance to have them higher. Roberta said the canopy is existing, but it is over 10 feet and needs to be reviewed by Planning Director Al Bump or the Zoning Officer.

Kelen Geiger asked if the abutters had been notified of this hearing. Roberta said they were for the October 1 meeting. Kelen asked if we had heard from any abutters. Roberta said we had not. Roberta asked Al if ConCom had responded to this notice. Planning Director Al Bump said he had not heard back from the Conservation Commission.

Chairman Roberta Oeser closed the public hearing.

Chairman Roberta Oeser provided the following conditions of approval:

I recommend approval of this Site Plan subject to the following three (3) conditions:

- 1) All signage shall comply with the Town of Rindge Sign Ordinance.
- 2) Prior, during and after recording of the decision, the applicant shall be made aware that any conditions placed on this Site Plan through other governmental or permitting agencies are hereby included in this approval.
- 3) The applicant or applicant's agent shall provide the Planning Office with an electronic copy of all approved plans.

MOTION: Max Geesey moved to grant approval of this Site Plan of Tax Map 31, Lot 4 as presented with the three aforementioned conditions.. Doug Seppala seconded the motion. **Vote: 6-0-0**

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Continued from October 1, 2024: CONSIDERATION OF an application for a Conditional Use Permit submitted by Granite Trust, 3 Blair Road, Ipswich, MA 01938 for property located at Tax Map 31, Lot 4 at 1162 NH Route 119 in the Gateway East Zoning District. The applicant is seeking approval for auto repair and associated use

MOTION: Joel Aho moved to accept the Conditional Use Permit application for Tax Map 31, Lot 4 as substantially complete as presented. Max Geesey seconded the motion. **Vote: 6-0-0**

Chairman Roberta Oeser said that when a Conditional Use Permit is required the applicant must meet the following criteria:

- 1) Applicant's property must conform to the area and setback requirements of the Zoning Ordinance and the proposed use must be consistent with the Master Plan.
- 2) The proposed use meets the spirit, intent, and purposes of the Zoning Ordinance.
- 3) There will be no adverse impacts from the proposed use upon the public health, safety and general welfare of the neighborhood and the Town of Rindge.
- 4) The proposed use will not produce excessive noise, fumes, or vibration and will not diminish the value of the surrounding property.
- 5) The proposed use will not adversely affect wetlands or the groundwater resources of the Town of Rindge.

Rob Martel said he is looking to use this property for auto repair.

Tom Coneys referred the Board to the definitions in the Zoning Ordinance. There was some discussion about the difference between service stations, motor vehicle repair and auto repair. This application would be for motor vehicle repair as outlined in the Zoning Ordinance, Article XX, Definitions, #26.

Chairman Roberta Oeser opened the public hearing. There were no public comments. Chairman Roberta Oeser closed the public hearing.

MOTION: Max Geesey moved to grant approval of this Conditional Use Permit of Tax Map 31, Lot 4 as presented. **Vote 6-0-0**

Rob Martel said that he wanted to be clear on what he is approved for. He said he has received approval for the Conditional Use Permit for the Motor Vehicle Repair as well as the uses permitted on the Site Plan review application. Roberta said he cannot do a Service Station, but his Site Plan is approved for him to use the property with uses that fall in the other categories. Atty. Courtney Ball asked if this would come via a recordable Notice of Decision. Roberta Oeser said the decision will be recorded but the plan will not be. Decisions are normally not filed with the Cheshire County Registry of Deeds until after the 30-day appeal period.

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Planning Office Report

Chairman Roberta Oeser asked what the status was on the Saybrook Drive project. Map 2 Lot 46-1-1

Planning Director Al Bump said he is waiting for several documents.

Old Business/Continued Public Hearings

1. Discussion: Phased Development Ordinance

Chairman Roberta Oeser said that since the Planning Board has the authority to adjust the phasing schedule, she has concerns about making changes. At this time, it might make sense, but she said we do not know what the future holds. It would be harder to bring this back. The impact on Police, Fire and Public Safety on large developments could be substantial. Planning Director Al Bump said we are expecting an application for a large development from Jamie Van Dyke and there may be others. Better to have the ordinance and not need it, then to need it and not have it.

A discussion took place amongst the members weighing the pros and cons of this ordinance such as

- the impact on the builder
- the impact on the Town's infrastructure
- the earliest occupants living in a construction zone.
- Phasing by buildings and not by dwelling units
- Handling this on a case-by-case basis and not changing the ordinance.
- Changing the ordinance to eliminate the 4-6 units and start with 7-9 units
- Not changing the ordinance
- Exemption for 55 and older to be looked at

Planning Director Al Bump said that the length of these discussions shows that the ordinance is not clear as it is written. Al Bump said that he would like to see a proposal that clarifies the ordinance.

Chairman Roberta Oeser will write something up for the Board to vote on.

Discussion on potential ordinance changes

Chairman Roberta Oeser distributed some suggested changes and said that the Phased Development Ordinance will be added onto this list.

The first handout is a proposed change to the Zoning Ordinance, Article III S which, if accepted, will read as follows:

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| <i>S. Short Term Rentals: The rental of all or any portion of a Single-Family Dwelling, Two- Family Dwelling, or Multi-Unit Dwelling, with the exception of Accessory Dwelling Units, by the property owner thereof, to any other person or group for periods of less than 30 days is a permitted</i> |
|---|

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commercial use provided that: Short Term Rentals shall require Site Plan approval, issuance of a Conditional Use Permit by the Planning Board and be in compliance with all local ordinances, regulations and applicable state laws and rules. Issuance of a Conditional Use Permit shall take into consideration adequate septic, water supply, adequate parking, maximum occupancy, life safety inspections and other items deemed appropriate to protect public health and safety.

Roberta Oeser said that the Zoning Subcommittee (Short Term Rentals) has said that the Planning Board can only deal with the Land Use portion of this and the Board of Selectmen must deal with the regulation portion.

Emily Gusse and Tess Kohanski of 34 Jowders Cove were in the audience and asked to address the Board at this time. Tess said that in 2020 they purchased a cabin on Jowders Cove which the family uses, and they also rent out as a short term rental. Tess said that without the ability to rent this out, they could not afford to have it and would be forced to sell their house. Emily said that they are part of an Association that is looking to ban the Airbnb, and this is a concern for them.

Emily Gusse said that in reviewing this proposed change, the term “commercial use” is of concern for her. Can this term be removed? Roberta Oeser said that the Supreme Court has ruled on this several times and most recently when referring to Airbnbs as like a hotel or motel and therefore a commercial use that would be subject to the State of NH Rooms and Meals tax.

Tess Kohanski spoke to a deed restriction on properties in her neighborhood regarding commercial uses. Planning Director Al Bump said that the Town does not have control over deed restrictions. Tom Coneys said that short term rentals in the State of NH are a commercial use. Tom said we cannot argue with the State’s definitions.

Planning Director Al Bump and Chairman Roberta Oeser said that, when we have our own legal review, we can ask Gary Kinyon about the use of the words “nonresidential use” or “commercial use”.

Board members weighed in on the concerns presented by Emily and Tess.

Emily Gusse and Tess Kohanski thanked the Board for hearing their concerns.

Continued discussion on potential ordinance changes

Chairman Roberta Oeser provided the board with a draft of the proposed warrant amendments which will need to go to Public Hearing and then reviewed by Town Counsel.

Changes were suggested to the Zoning Ordinance and the Accessory Dwelling Unit ordinance:

- Article III A for clarity
- ADU Ordinance Section 2 for clarity
- Article III N for clarity
- Article III S (short term rentals)

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- Article XX II Amend dwelling unit definition
- Article XX new definition for Short Term Rentals and Transient Occupancy

Planning Director Al Bump asked about the Site Plan Review process and what that would be for Short Term Rentals. Chairman Roberta Oeser said the Board can add a section for Conditional Use Permit.

Planning Director Al Bump said he supports all the proposed changes except for the STR (short term rentals). He said he would like to see the Site Plan Regulation amendment with the CUP (Conditional Use Permit) addressed. He also said that the BOS (Board of Selectmen) would need to provide a Town Noise/Nuisance Ordinance, or some means to enforce the CUP requirements.

Planning Director Al Bump said that with all the work that needs to be done on the STR, it may not be ready to go before the voters in March 2025. Chairman Roberta Oeser said that she is pushing this, and we still have time to get it done. Al Bump said that if Town Counsel gives it an approval, it will be good to go.

Board members discussed Amendments One and Two as written:

Are you in favor of the adoption of Amendment number _One to the Town of Rindge Zoning Ordinance as proposed by the Planning Board and generally described as follows:
To amend Article III, A by adding the words “no building, structure, or land shall be used except for the purposes permitted in the district as specified in this ordinance. Any use not listed shall be construed as prohibited.” To read:
After passage of this ordinance, *no building, structure, or land shall be used except for the purposes permitted in the district as specified in this ordinance. Any use not listed shall be construed as prohibited.*

Are you in favor of the adoption of Amendment number Two_ to the Town of Rindge Zoning Ordinance as proposed by the Planning Board and generally described as follows:
To amend the Accessory Dwelling Unit Ordinance, Section 2 by adding ‘existing’ to the first sentence to read: For the purpose of providing expanded housing opportunities and flexibility in household arrangements to accommodate family members or non-related people of a permitted, *existing* owner-occupied, single-family dwelling, while maintaining aesthetics and residential use compatible with homes in the neighborhood.
(Recommended by the Planning Board _ in favor, _ opposed.)

MOTION: Roberta Oeser asked if the Board was in favor of moving Amendment Numbers One and Two to public hearing at a date to be determined by the calendar. Tom Coneys seconded the motion.

After some discussion, no vote was taken. A decision was made to wait and move all the amendments to public hearing at the same time.

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It was determined to have the next meeting on November 12th as the 5th of November is the election day.

Adjourned at 9:30 pm

Respectfully submitted, Planning office staff