

**LONDONDERRY, NH PLANNING BOARD
MINUTES OF THE MEETING OF JANUARY 3, 2024
AT THE MOOSE HILL COUNCIL CHAMBERS**

Meeting Link: <http://173.166.17.35/CablecastPublicSite/show/12480?channel=4>

Members Present: Art Rugg, Chair; Al Sypek, Vice Chair; Jake Butler, Secretary; Lynn Wiles, Assistant Secretary; Ann Chiampa, member; Jeff Penta, member; Giovanni Verani, ex-officio; Ted Combes, Town Council ex-officio; Tony DeFrancesco, alternate member

Also Present: Kellie Caron, Assistant Town Manager/Director of Economic Development; John Trottier, Director of Engineering & Environmental Services

I. CALL TO ORDER

Chair Rugg called the meeting to order at 7:00 p.m., explained the exit and emergency procedures, and began with the Pledge of Allegiance.

II. ADMINISTRATIVE BOARD WORK

A. APPROVAL OF MINUTES

Member A. Sypek made a motion to approve the minutes of December 6, 2023, as presented.

J. Butler seconded the motion.

The motion was granted, 7-0-1, with G. Verani abstaining. The Chair voted in the affirmative.

Member A. Sypek made a motion to approve the non-public minutes of December 6, 2023, as presented.

J. Butler seconded the motion.

The motion was granted, 8-0-0. The Chair voted in the affirmative.

Member A. Sypek made a motion to approve the minutes of December 13, 2023, as presented.

J. Butler seconded the motion.

The motion was granted, 7-0-1, with A. Sypek abstaining. The Chair voted in the affirmative.

49 **B. REGIONAL IMPACT DETERMINATIONS**

50
51 There were no developments of regional impact.

52
53 **C. DISCUSSION WITH TOWN STAFF**

54
55 K. Caron informed the Board of an extension request for the Outdoor Pride
56 site plan, Map 17, Lot 5 on Kitty Hawk, to June 2, 2024.

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58 **Member A. Sypek moved to grant an extension request to**
59 **Outdoor Pride to June 2, 2024.**

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61 **J. Butler seconded the motion.**

62
63 **The motion was granted, 8-0-0. The Chair voted in the**
64 **affirmative.**

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66 **III. OLD BUSINESS**

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68 **IV. NEW PLANS/CONCEPTUAL PLANS**

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70 A. Public Hearing for a request to rezone 105 Hillside Ave (Map 10, Lot 92)
71 Windham Realty, LLC/William DeLuca (owner/applicant) from AR-1
72 (Agricultural Residential) to C-II (Commercial II).

73
74 Kevin Smith, representing owners Bill and Steve DeLuca, appeared
75 before the Board. He explained the owners' wish to develop an enclosed
76 indoor vehicle and boat storage facility. This use is less intensive than
77 previously approved residential developments. Discussions with direct
78 residential abutters have been favorable, as high-density residential use
79 is not appealing to the residents. The Town of Derry has raised no
80 objections regarding the proposed zone change. He noted that if the
81 zoning change is not approved, the owners intend to develop the
82 property as residential. A request for a variance to utilize the property for
83 overflow parking from the Auto Auction was denied; abutters expressed
84 concern regarding the number of cars accessing the area.

85
86 Chair Rugg asked for Staff comment.

87
88 K. Caron said K. Smith's presentation is an accurate reflection of previous
89 proposals for the property. She reiterated that this is a 16.5-acre parcel
90 of vacant land zoned residential. The surrounding zoning is AR-1 and C-
91 II, so this request is consistent with zoning and current use of the
92 abutting properties, as well as the Master Plan.

93
94 Chair Rugg asked for Board comment.

95
96 A. Sypek asked about the plans for the property. S. DeLuca said the

initial plan is to erect and fill two storage buildings, one at a time.

L. Wiles asked why the owners did not request a variance, and then ask for a zoning change if the variance was not granted. K. Smith said they felt the rezoning request is more consistent with the surrounding zoning and provides greater certainty for the abutters. L. Wiles asked about the buffers. K. Caron said if this is rezoned to C-II, in addition to the standard setback, an additional 50-foot buffer would be required along property lines shared with the residentially zoned properties. The maximum building height would be 50 feet.

L. Wiles expressed concern over the aesthetics of the building and not having a plan to consider. He suggested applying for a variance first. K. Smith noted the ZBA found that the previously proposed parking lot did not fit in with the area, but they unanimously approved workforce housing.

T. DeFrancesco noted the land is very steep, so a 50-foot building would not be that obtrusive.

A. Chiampa asked if they could provide written support from abutters. K. Smith said no, but abutters were present at this meeting. She suggested they should provide information on the topography and wetlands. She asked about egress and S. DeLuca said they intend to access the property via Hillside Avenue. The Fire Department requested gated access onto Beacon Street when consulted earlier about the parking lot. A. Chiampa said Hillside Avenue is only 18 feet wide, so would need to be widened for truck access. Chair Rugg noted the owners will need to meet site plan requirements. She asked if the house on the property across Hillside Avenue will remain and S. DeLuca said it would.

A. Sypek asked if the proposed storage facility would be open 24 hours. S. DeLuca said it will be designed for seasonal boat and car storage. Chair Rugg noted hours of operation will be established during site plan review.

A. Chiampa asked if there will be loading docks and bay doors. S. DeLuca said there is usually one door, with cars and boats parked on the side. A. Chiampa verified it would be a one-story building.

Chair Rugg asked for public comment.

Bob Holden, 6 Holmes Street, said the part of the property that abuts the C-II zoned property is wetlands, so any development will be on the residential side. He said abutters were shown a conceptual plan consisting of a single building near the residential side of the property. He is concerned that, with no current plans, an industrial building could be erected. He does not support this request.

Susan Bradley, 8 Dickey Street, is not a direct abutter. She said the truck noise prevents her from sleeping. The area suffers from too much traffic and issues with parking along Dickey Road, so she is concerned about the traffic that will be generated on Hillside Avenue. She asked why egress cannot be via the commercial area on Londonderry Road. S. DeLuca said they have no access.

Kathy Ross, 2 Holmes Street, said her property abuts and her home overlooks this parcel. She is concerned about the width of Hillside Avenue and the traffic that will be generated. She noted her concerns about trucks accessing and parking in this area. She said this parcel is at the beginning of a residential neighborhood with older homes and smaller streets. She said the owner expressed no interest in developing the parcel for residential use during their meeting last summer. She asked the Board not to approve the rezoning request.

Eva and Dennis Marvell, 53 Hillside Avenue, said their home overlooks the property and they are concerned about what they will have to look at. E. Marvell said the area is already crowded. D. Marvell said it seems like a challenging piece of property, as many projects have been proposed and not completed. They asked the Board not to approve this request.

Ray Breslin, 3 Gary Drive, said it is important that the Board listen to the abutters. He said the property is not ideal for commercial use, as it has limited access off Hillside Avenue. He is concerned about runoff entering the abutting wetlands, which are already contaminated. He said without a specific plan, it is difficult for the Board to approve this request.

K. Smith said many of these concerns would be addressed through the site plan approval process. The intent of the DeLucas is to work with the abutters on these issues. If there are violations occurring in the area, they should be addressed (i.e., parking on the street, hours of operation). He said the DeLucas did present a conceptual design with one building; he believes their intent is not to change the footprint, but to cut the proposed building in half and build one at a time. He said the owners do not want to develop the parcel for residential use. However, if that is the only option, that is what they will do.

Being no further public input, Chair Rugg closed public comment.

Chair Rugg asked for Board comment.

A. Chiampa asked about another point of entry on Hillside Avenue. K. Smith said that area will be used for water access. She asked if any vehicles will be stored as overflow from the auto auction and S. DeLuca said no, this land is separate from the auto auction.

The Board noted these are not zoning questions and the discussion should focus on the rezoning request. J. Penta said he hopes the owners will keep these concerns in mind when moving forward with their development plans. T. DeFrancesco reviewed the role of the Planning Board in this rezoning request process and K. Caron noted abutters are notified throughout the process.

Member A. Sypek moved to recommend to the Town Council an approval of the rezoning request by Windham Realty, LLC/William DeLuca (owner/applicant) to rezone 105 Hillside Ave (Map 10, Lot 92) from AR-1 (Agricultural Residential) to C-II (Commercial II).

J. Penta seconded the motion.

Discussion:

A. Chiampa expressed concern that if the parcel is rezoned C-II, there might be another use. K. Smith responded that he and the DeLucas have been doing business in town for some time and will continue to do so. If they returned to the Board with a different plan, that would not bode well for any of them.

T. DeFrancesco said this change is consistent with the Master Plan. He noted the current issues are enforcement related and could be dealt with. He said there is a need for this type of building in Londonderry. He said the concerns voiced are site-plan specific. He suggested that if the Board recommends this request, the owner present a concrete plan to the Town Council.

J. Butler expressed concern that the use could be changed, but does not believe the DeLucas will do this.

The motion was granted, 4-3-1, with J. Butler, A. Chiampa, and L. Wiles opposed and T. Combes abstaining as a Town Council member. The Chair voted in the affirmative.

- B. Public Hearing for site work relating to a proposed gravity sewer main construction for the Page Road improvements off-site improvements. 14 Page Road, Map 17 Lot 45 and 11 Sanborn Road, Map 15 Lot 164. Evans Family Limited Partnership/CJE Nominee Trust (Owner/Applicant).

G. Verani recused himself from this discussion.

Chair Rugg asked for Staff comment.

J. Trottier said this project was conditionally approved by the Board on July 12, 2023. The applicant is addressing the conditions of approval per

the July 23, 2023, notice of decision. This project will provide sanitary sewer to 13 Page Road, which is the site of a proposed 75,000 square foot warehouse. He described the two phases of development and said Staff supports approval of this request. He noted the remaining conditions, including posting the restoration bond, completing stormwater management, and confirmation that the pond has been constructed in accordance with the design intent.

K. Caron reminded the Board they are only discussing this specific request. The Board has already conditionally approved the warehouse and offsite improvements.

Earle Blatchford of Hayner/Swanson appeared before the Board representing the owner/applicant. He updated the Board on the permits they have obtained and said they have addressed all Staff comments. The sewer permits have been reviewed by Public Works and forwarded to DES. He said work will not begin for a couple of months, so permits will be in hand before any pipe or structures are constructed. He reviewed the measures the owner would like to proceed with, including tree clearing, installing erosion control measures, and earthwork. They are eager to move forward with the work, given the mild weather.

Chair Rugg asked for Board comment.

A. Sypek asked how the project was funded. J. Trottier said it is being funded privately.

Chair Rugg asked for public comment.

Robin Dame, 2 Wyndmere Drive, said there was a question of wildlife addressed at the last Board meeting concerning this property, specifically Blanding's turtles, which are an endangered species. She is opposed to this request. Chair Rugg noted the site plan has already been approved. J. Trottier said DES has identified the presence of a variety of wildlife and there are procedures that will need to be followed during construction, should any of the identified species be encountered. He pointed out this is a good time to do this work, as the turtles are not present. R. Dame noted the turtles are hibernating and will be killed by traffic, once they emerge from hibernation.

Ray Breslin, 3 Gary Drive, asked why the gravity-fed sewer line is not connecting with the line going into the Manchester wastewater treatment plant. E. Blatchford clarified they did not tie into the sewer at Grenier Field Road due to a low spot that would require a new pump station and more impact to Page Road. R. Breslin said this is a mining operation on a watershed. The Board noted although these are valid points, this is not part of the request under consideration.

289 Being no further public input, Chair Rugg closed public comment.

290
291 Chair Rugg asked for Board comment.

292
293 T. DeFrancesco clarified this request is to approve something out of
294 sequence from the normal flow of events and K. Smith agreed.

295
296 **Member A. Sypek moved to approve the applicant's request to**
297 **proceed with site work relating to a proposed gravity sewer**
298 **main construction for the Page Road improvements off-site**
299 **improvements. 14 Page Road, Map 17 Lot 45 and 11 Sanborn**
300 **Road, Map 15 Lot 164. Evans Family Limited Partnership/CJE**
301 **Nominee Trust (Owner/Applicant) as outlined in the Staff**
302 **Recommendation Memorandum dated January 3, 2024.**

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304 **J. Butler seconded the motion.**

305
306 **The motion was granted, 7-0-1, with G. Verani recused. The**
307 **Chair voted in the affirmative.**

308
309 **V. OTHER BUSINESS**

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311 **Work Session – Rules of Procedure**

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313 G. Verani returned to the meeting

314
315 J. Butler reviewed the changes he has recommended to the rules of
316 procedure.

317
318 He noted public comment is not appropriate during workshops and
319 conceptual discussions, but is allowed during public hearings. He
320 recommended adjusting the rules and procedures as to how meetings are
321 run. He also added sections for public comment and public relations.

322
323 The Board discussed designating a contact to prevent the spread of
324 misinformation and what that would entail, which would include monitoring
325 social media. K. Caron noted Staff does not have the resources for the level
326 of involvement that would be needed, if Staff were to participate at any
327 level. This would be a Board-monitored position.

328
329 The Board discussed the need to respond to comments on social media. K.
330 Caron said the Planning Department is updating their website and
331 investigating social media that would offer a separate platform to provide
332 information specific to planning and economic development. The Board
333 agreed that, with this information, there is no need to designate a Board
334 contact to monitor social media.

J. Penta said it is important to ensure that the rules of procedure provide the guidance needed for the Board to accurately guide the public on how to interact with the Board and strengthen those ties.

T. Combes noted many people do not understand that what property owners can do with their land/property is determined by state laws and zoning regulations. Chair Rugg agreed individual property rights are protected by case law, and New Hampshire is one of the strongest states protecting these rights.

G. Verani noted the importance of educating the public on the role of the Planning Board.

J. Penta suggested removing 4.7.9 and Section 12, regarding offering a separate agenda item for public comment. L. Wiles suggested removing Section 12 and adding 12.1, which provides clarity on when and why public comment is appropriate.

A. Sypek agreed with instituting a consent agenda, but would like to see the approval of minutes as a separate item. The Board discussed what would be included in a consent agenda. K. Caron suggested adding language that defines a consent agenda as well as the ability of a Board member to single out any item to be considered on its own.

T. Combes suggested adding a time restriction on meetings under Section 4. The Board discussed starting Board meetings earlier and the need to conduct meetings efficiently. K. Caron described the procedure for extending a meeting beyond the stated end time. T. Combes noted that long meetings require the applicants to pay their engineers, attorneys, and other associates for a longer period of time. K. Caron said deadlines have been published for 2024, so if the Board decides to make a change, the public would need to be properly noticed. The Board agreed to stay with a 7:00 p.m. start time.

The Board discussed the practice of addressing new plans at the first meeting of the month and conducting a workshop at the second meeting. J. Butler suggested condensing the meetings into one to provide flexibility. K. Caron said this will help Staff plan the agenda more efficiently. The Board agreed with this recommendation.

Chair Rugg suggested in the public hearing phase, adding dos and don'ts when members of the public address the Board. They agreed public comment should be limited from three to five minutes, at the discretion of the Chair.

The Board discussed why public comment should not be included as a separate agenda item, as recommended by the Town attorney. They agreed public comment is appropriate during the public hearing phase. T.

DeFrancesco reiterated that the public has ample opportunity to comment on the specific cases noticed and on the agenda. J. Butler pointed out public comment at Town Council meetings is reserved for comments outside of the public hearing process.

L. Wiles noted 4.1 should state the Board meets two times a month, not on a specific day of the week. He recommended adding that all meetings are televised. Chair Rugg suggested adding a link in the minutes to the meeting video.

L. Wiles suggested adding 4.2, regarding the ability to cancel meetings at the discretion of the Chair.

L. Wiles suggested in 4.7, adding information regarding special meetings. In 4.7.3 and 4.7.4, he suggested addressing continued hearings first in a meeting.

L. Wiles suggested in 5.1.1, adding a minimum of 24 hours to allow the Board to review supporting documents for consent agenda items.

The Board discussed in 8.6, adding the option of taking a voice vote when deciding whether to bring items discussed at a work session to a public hearing.

A. Sypek thanked J. Butler and L. Wiles for the work done on these recommendations. Staff will make these amendments and have counsel review them, before being presented to the Board.

VI. COMMENTS FROM THE BOARD

T. DeFrancesco asked about the procedure when a meeting is canceled due to inclement weather, et cetera, and K. Caron explained the process. She explained if a meeting is canceled for any other reason, this will impact the applicant's timeframe.

J. Butler noted the Board needs to focus on the issues being presented to them and not be sidetracked by other discussions.

VII. ADJOURNMENT

Member T. Combes made a motion to adjourn the meeting.

J. Penta seconded the motion.

The motion was granted, 8-0-0.

The meeting adjourned at approximately 9:30 p.m.

432 These minutes were prepared by Beth Hanggeli.

433

434 Respectfully submitted,

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436 _____

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438 Name: Jake Butler

439 Title: Secretary

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441 These minutes were accepted and approved on 1/10/24 by a motion made by

442 Jake Butler and seconded by Jeff Penza