

2016-05-04

Fm: Jack Mettee

To: Fritz Green

Fritz,

Just wanted to follow-up on our conversation this afternoon with a couple of points.

First. The state planning enabling legislation gives planning boards authority to review site plans for development, change or expansion of use***review and approve or disapprove site plans for the development or change or expansion of use of tracts for nonresidential uses or for multi-family dwelling units***,... (see below for full text). So I think the Board is within its authority to require site plan review for Mr. Brousseau. However, I believe we should notice and conduct this procedure properly to be legally consistent. A Conditional Use Permit procedure could be conducted simultaneously.

Second. I think we should revise the Site Plan Regulations to better reflect the state RSA language so in the future it is more clear when such review is required. See page SPR-1, Article III, Scope of Review of the Madbury Site Plan Review Regulations.

Third. Is the current property/use in compliance with Article VII, Madbury Sand & Gravel Regulation, specifically with respect to a current excavation & restoration plan and annual permit in addition to compliance with the 1994 Operational Plan--is this plan still valid or has it been amended updated? Should it be?

Thank you. See you this evening.

Jack

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<http://www.gencourt.state.nh.us/rsa/html/LXIV/674/674-43.htm>

674:43 Power to Review Site Plans. –

I. A municipality, having adopted a zoning ordinance as provided in RSA 674:16, and where the planning board has adopted subdivision regulations as provided in RSA 674:36, may by ordinance or resolution further authorize the planning board to require preliminary review of site plans and to review and approve or disapprove site plans for the development or change or expansion of use of tracts for nonresidential uses or for multi-family dwelling units, which are defined as any structures containing more than 2 dwelling units, whether or not such development includes a subdivision or resubdivision of the site.

II. The ordinance or resolution which authorizes the planning board to review site plans shall make it the duty of the city clerk, town clerk, village district clerk or other appropriate recording official to file with the register of deeds of the county in which the municipality is situated a certificate of notice showing that the planning board has been so authorized, giving the date of such authorization.

III. The local legislative body of a municipality may by ordinance or resolution authorize the planning board to delegate its site review powers and duties in regard to minor site plans to a committee of technically qualified administrators chosen by the planning board from the departments of public works, engineering, community development, planning, or other similar departments in the municipality. The local legislative body may further stipulate that the committee members be residents of the municipality. This special site review committee may have final authority to approve or disapprove site plans reviewed by it, unless the local legislative body deems that final approval shall rest with the planning board, provided that the decision of the committee may be appealed to the full planning board so long as notice of appeal is filed within 20 days of the committee's decision. All provisions of RSA 676:4 shall apply to actions of the special site review committee, except that such a committee shall act to approve or disapprove within 60 days after submissions of applications, subject to extension or waiver as provided in RSA 676:4, I(f). If a municipality authorizes a site review committee in accordance with this paragraph, the planning board shall adopt or amend its regulations specifying application, acceptance and approval procedures and defining what size and kind of site plans may be reviewed by the site review committee prior to authorizing the committee.

IV. The local legislative body of a municipality may by ordinance or resolution establish thresholds based on the size of a project or a tract below which site plan review shall not be required. If a municipality establishes a size limit below which site plan review shall not be required, the planning board shall adopt or amend its regulations to clearly reflect that threshold. Nothing in this paragraph shall preclude the planning board from establishing such thresholds in the absence of action by the legislative body.

V. Site plan review shall not be required for a collocation or a modification of a personal wireless service facility, as defined in RSA 12-K:2.

Source. 1983, 447:1. 1987, 256:2. 1988, 9:1. 1995, 303:3. 2005, 33:1, eff. July 9, 2005. 2013, 267:10, eff. Sept. 22, 2013.