



OLD VALUES - NEW HORIZONS

COMMUNITY DEVELOPMENT

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**Planning Board Approved Minutes
Wednesday April 6, 2016
7:00pm @ Community Development Department**

Attendance:

Chairman Paul Gosselin- present **Vice Chair Kristi St. Laurent- arrived at 9:25pm**
Margaret Crisler-present **Alan Carpenter-present**
Dan Guttman-present **Ruth-Ellen Post-present**
Kathleen DiFrusia, alternate-present (seated for Kristi St. Laurent)
Gabe Toubia, alternate-present
Matt Rounds, alternate-present (left at 7:12pm)
Selectmen Representative:
Joel Desilets arrived at 7:52pm.
Ross McLeod, alternate-excused

Staff:

Laura Scott, Community Development Director
Anitra Brodeur, Minute Taker

The meeting was called to order at 7:01pm.

Public Hearings – Continued from March 2, 2016

Case 2015-32 Minor Site Plan/Change of Use 26 Haverhill Road (Lot 11-A-315)

A Minor Site Plan Application has been submitted for 26 Haverhill Road (11-A-315), located in the Limited Industrial District. The applicant, Joseph Maynard of Benchmark Engineering, Inc., on behalf of the property owner Macmulkin Chevrolet, is proposing to amend the previously approved Site Plans (from 1977, 1988, 1993, and 2000) to allow a contractor's yard, manufacturing enterprises, storage yard, minor repair shop office, and commercial service establishment. In addition, a paved driveway is proposed to connect 22 Haverhill Road (11-A-317).

Ms. Crisler made a motion to continue the public hearing at 7:07pm. Seconded by Mr. Guttman.

The Chairman asked for staff commentary. The Board asked that the applicant review the memo addressing the questions of the Board.

Mr. Maynard addressed the Board representing the client. Mr. Maynard spoke to the lighting and plantings that had been added to the site plan. Mr. Guttman spoke to the additional shielding that had been requested by the Board. Mr. Maynard said that this was the most downward lit shield that is available for this lighting.

Ms. DiFrusia spoke to the hours of operation mentioned in the memo. Mr. Maynard said that there would be no weekends or holidays. There are 30 parking spaces delineated on the plan. Ms. DiFrusia asked how many rental vehicles were parked on the lot at any given time. Mr. Maynard said there are usually two or three.

Mr. Carpenter asked once again about the lighting. The lighting example in the packet attached to the application is on the building presently.

Ms. Difrusia asked if there was a way to dim the lights after dusk.

Ms. Crisler asked about the trees on the plan. Mr. Maynard said they would be evergreen. Ms. Crisler said that the trees might be part of the lighting glare solution for the neighbors. Mr. Maynard said there was a time and pruning process to make evergreen trees an effective shield for the light.

Mr. Guttman asked about painting a black line below the light and if this might dim the lights for the neighbors so the reflection was less substantial. He also spoke to other light dampening solutions.

Mr. Jeff Thompson, the property owner, addressed the Board. Mr. Thompson stated it was a priority to keep the front lights of the building on all night. The backlights could be shut off on a timer if needed. The Board would like to see a motion sensor on the backlights. Mr. Maynard and Mr. Thompson showed the Board where on the building the lights were. Mr. Carpenter felt as if the motion sensors on the backlights and the corner light being left on for security purposes were a good compromise.

Ms. Crisler felt as if the spacing of the trees could be altered for shielding purposes.

At this time, the Chairman opened the discussion up to the public at 7:30pm.

Karla Dukas, 7 Hardwood Road, addressed the Board. Ms. Dukas stated that she was happy the Board was addressing her concerns. She would like to see the plantings shield the lighting as quickly as possible.

Kurt Balwich, 9 Hardwood Road, addressed the Board. Mr. Balwich stated that the lights on Red's Tavern next door are not as bright as the lights on the MacMulkin Building. He was asking if they could be switched out with a dimmer light.

Public Comment was then closed at 7:37pm

The Board was asked if they had any other commentary.

Mr. Carpenter spoke to the lunines that were available for the client as well.

Mr. Carpenter made a motion to approve the application as presented with the following conditions for Case 2015-33: The plans will be submitted and signed by the Chair. The lights will have motion sensors on the north and east sides of the building with the exception of the first light on the eastern side of the building; the applicant will plant 10 trees 4-6 feet in height when planted 15' on-center apart. The location of the trees will help minimize visual impacts. The business hours of operation and woodcutting would be 7-5, no weekends or holidays. Seconded by Ms. Crisler.

Vote 6-0.

Motion passes.

(Mr. Desilets had not yet arrived when this vote was taken.)

Public Hearings

Case 2016-7 Preliminary Major Site Plan for 33 Indian Rock Road (Lot 11-C-1000)

A Preliminary Major Site Plan Application has been submitted for 33 Indian Rock Road (Lot 11-C-1000) in Business Commercial District A. The applicant, Karl Dubay, of The Dubay Group, on behalf of the property owner, Candela Investments, LLC, is proposing to redesign the existing driveway, parking, interior traffic flow and site lighting.

Ms. Crisler read the case into the record.

A motion was made by Ms. Crisler to open the public hearing. Seconded by Ms. Post.

Vote 6-0.

Motion passes.

Ms. Crisler read the letter from Danielle Fries from RK Centers into the record.

Chairman Gosselin asked if the Board had any questions for the applicant at this time.

Mr. Dubay addressed the Board. He spoke to the Chairman's question as to why he was applying for a major site plan rather than a minor site plan. Mr. Dubay stated that he would need a DOT Permit and, by some standards, he may be a bit over on the Minor Site Plan Regulations. It was not worth pressing the Board to do a Minor Site Plan when it was rather involved and time was not of the essence for the applicant.

Mr. Dubay stated that many drivers who go in and out of the plaza are sometimes confused by the flow of traffic. Mr. Dubay spoke to the parking; he would like to see this brought to ADA standards. There would be a need for a new revised driveway permit. The loop detectors and the signals would also be updated.

Mr. Dubay and the applicant and interested in updating the facility.

Ms. DiFrusia stated she was looking forward to improvements being made to the property. She asked if it was possible to add some landscaping to the front to connect it to the surrounding improved properties. Mr. Dubay stated that he would look into what improvements could be made on the property.

Ms. Crisler stated that the property looks much better on the proposed plan. The back of the building is rather unsightly; she is wondering if the applicant seeks to improve the back as well. Mr. Dubay mentioned that this would be a phased plan; the back might be improved at a later time. The applicant would also consider an n additional multi-use to the site.

Mr. Dubay mentioned that this property is assessed at a fairly steep rate.

Mr. Guttman asked if the sign was going to be upgraded as well. The applicant has talked to Ms. Scott about upgrading the sign in Phase II of the project. The applicant has made interior improvements over the past few years.

Ms. Crisler asked about the septic system. Mr. Dubay stated that the owner needed to expand their septic system to accommodate the tenants in the building. That meant making an assessment of the current septic and water systems to be sure they were in compliance with the regulations.

Ms. Post agrees with Ms. DiFrusia that improved landscaping in the front would be a great addition. Ms. Post asked how a stop bar works. Mr. Dubay stated it was a white line, sometimes paint, that is sometimes thermal plastic.

Chairman Gosselin opened the discussion to the public at 8:10pm
Public comment was opened and closed at 8:10pm.

Mr. Gosselin asked about parking. The parking is in compliance if you include the back parking spaces; yet, the patrons of the shops do not often use these.

Ms. Scott would like the applicant to look at the 111 Corridor Study to make sure there are no conflicts with the proposal.

**A motion was made by Ms. Crisler to close the Preliminary Hearing. Ms. DiFrusia seconded.
Vote 7-0.
Motion passes.**

Case 2016-8 Minor Site Plan/Change of Use Application for 49 Range Road (18-L-400)

A Minor Site Plan/Change of Use Application has been submitted for 49 Range Road (Lot 18-L-400) in the Professional, Business and Technology District and Cobbetts Pond and Canobie Lake Watershed Protection District. The applicant, Peter Zodhi of Edward N. Herbert's Office, on behalf of Mashop Development, is proposing to change the approved use from a 4,300 sq. ft. professional office to a 125-seat restaurant & lounge. Proposed site changes include minor parking lot reconfiguration, adding outdoor seating, adding an outside walk-in cooler, relocating the dumpster and adding an additional septic system. Per Section 303.5 of the Site Plan Regulations, if the application does not qualify as a Minor Site Plan then it will be deemed a Major Site Plan & the application will be heard as a Preliminary Major Site Plan Application

Ms. Crisler read the case into the record.

**A motion was made by Ms. Crisler to open the public hearing at 8:15pm; a determination was not made as to whether or not the application was Major or Minor. Seconded by Ms. DiFrusia. Chairman Gosselin spoke to the motion; he felt as if it were a Minor Site Plan application.
Vote 4-3.**

**Motion passes.
(Mr. Gosselin, Mr. Carpenter, and Mr. Desilets opposed)**

Ms. Scott stated that the traffic study has been done. They are just asking for page 3 of the site plan.

Mr. Peter Zohdi addressed the Board. He is presenting a 125-seat restaurant. He would like to improve the septic system because restaurants often use water quite frequently.

Ms. DiFrusia asked about the square footage of the restaurant; it is 4300 sq. ft., approximately half of the building. Mr. Zohdi stated that the traffic is heavier for the restaurant and the offices at different times of day.

Ms. Post would like to resolve the Major vs. Minor Site Plan. She is not seeing any obstacles to consider this a Minor Site Plan.

A motion was made by Ms. Post to open the discussion as a Minor Site Plan. Seconded by Mr. Guttman.

Vote 7-0.
Motion passes.

Mr. Zohdi spoke to the location of the dumpster. It will be moved on the site plan.

Ms. Post also asked about the leech field as well. There will be a grease trap coming out of the building.

Mr. Guttman asked about truck deliveries. Mr. Zohdi stated that the deliveries would be in the front of the building.

Mr. Carpenter asked about the grease tanks and how close those would be to the propane tanks. He asked if he was open to shielding them. The grease traps and the propane tanks would be buried under ground.

Mr. Carpenter asked about a “curb cut” to help with traffic flow to the west of the property. Mr. Zohdi stated that he might not be able to work with this “curb cut” at this time. Mr. Carpenter asked if Mr. Zohdi would be willing to sit in a future workshop to work with both of the tenants to find a solution to the traffic flow issue. He stated that he absolutely would be willing to do that.

Chairman Gosselin asked about the flow of traffic if all of the parking spaces are full. Mr. Zohdi clarified the flow of traffic for Chairman Gosselin on Page 3.

Ms. Crisler asked about signage and how clear it would be for the patrons.

Ms. DiFrusia asked about the walk in cooler. Mr. Zohdi stated that it would be on the outside of the building. Ms. DiFrusia asked what type of restaurant this would be. Mr. Zohdi was kind enough to share a copy of the menu for the Board so they could see the type of restaurant that was being proposed.

Chairman Gosselin opened the discussion to the public at 8:40pm.

Mrs. Lisa Everheart, 4 Grove Street, addressed the Board. She felt as if the restaurant would be a wonderful place for the community; it is her son’s restaurant.

The public hearing was closed at

A motion was made by Ms. Crisler to approve the Preliminary Minor Site Plan application for 49 Range Road with the condition that the dumpster be moved to the back of the parking lot. Seconded by Ms. Post.

Discussion

Ms. Scott would like the following conditions: the impact fees be included on the plan, parking calculations be amended, and the DES approval number added to the plans. Ms. Crisler and Ms. Post agreed to the additional conditions.

Vote 6-1-0.
Mr. Carpenter opposed. He would like to see the traffic flow be an open discussion with the neighbor.
Motion passes.

Case 2019-9 Home-Based Daycare/Customary Home Occupation for 27 Fletcher Road (25-R-840)

A Home-Based Daycare/Customary Home Occupation application has been submitted for 27 Fletcher Road (Lot 25-R-840) in the Rural District. The applicant, Nicole Ignacio, on behalf of the property owner Timmothy Ignacio, is proposing a Family-Group Daycare Home to operate M-F- 7am-6pm to care for 6 children with one employee. Approximately 22% of the living space will be used and no on-street parking or signage is being proposed.

Ms. Crisler read the case into the record.

A motion was made by Ms. Crisler to open the public hearing. Seconded by Ms. DiFrusia.

Vote 7-0.

Motion passes.

Ms. Scott stated this use would also need to be approved by the State. This is the first part of the process for the applicant. There are many conditions that the applicant must go through to be in compliance. There would be 6 children that would be permitted under the town and state regulations.

Ms. Post asked about the fact that this was in an open space subdivision. Ms. Scott stated that home-based businesses are allowed in an open subdivision.

Ms. Ignacio, the applicant, addressed the Board. Mr. Guttman asked if she would be insured; she would. She would need to be in order to be in compliance with the state. She will rely on word of mouth for her advertising. She does not need signage. The name of the business is New Horizons Home Schooling. She would be approved for operating hours from 7 am to 6 pm.

Ms. Crisler asked about the outdoor play area. The applicant stated that the State does not require a fence.

Ms. Post asked about the age group of the students. The applicant stated that the children would be between the ages of 2 ½ and 7 years of age. Ms. Post also asked about parking for a potential employee and parents.

The hearing was opened and closed to the public 9:00pm.

A motion was made by Mr. Desilets to approve the home-based day care. Seconded by Ms. Post.

Vote 7-0.

Motion passes.

Case 2016-10 Preliminary Major Site Plan/WWPD Special Permit Application for 13 & 15 Indian Rock Road (11-A-250 & 11-A-530)

A Preliminary Major Site Plan Application and WWPD Special Permit Application has been submitted for 13 & 15 Indian Rock Road (Lots 11-A-520/530) in the Village Center and WWPD Districts. The application is for 2 buildings – Building A will contain 1,290 sq. ft. retail and 2,280 sq. ft. bank with a drive thru – and Building B will be 2-stories and contain 6,300sqft retail and 6,300 sq. ft. office. Associated parking, lightning, landscaping, drainage and site improvements are proposed. This property is subject to the provisions of Section 719 of the Zoning Ordinance - Historic Building/Structure Demolition/Substantial Modification Delay Ordinance.

Ms. Crisler read the case into the record to open the hearing.

A motion was made by Ms. Crisler to open the public hearing. Seconded by Ms. DiFrusia.

Vote 6-0.

Motion passes.

Mr. Carpenter began the discussion. He asked if the Board was interested in sending a letter to the Selectmen to see if they were interesting in having a joint meeting to discuss a community water source.

Ms. Scott put in a request to the Selectmen to have a joint meeting the first week of May. Both boards would potentially have a list of potential topics they would like to discuss.

A motion was made by Mr. Carpenter to continue the public hearing for Case 2016-10 to April 20th, 2016. Seconded by Mr. Guttman.

Vote 6-0.

Motion passes.

Highclere Open Space Subdivision Compliance Hearing – Discussion of Intent

Chairman Gosselin asked for clarification from the Board as to their intent.

Mr. Carpenter stated that he would like this to be an agenda item. Mr. Carpenter also spoke to the open space that has been part of many of the plans that have been presented over the years in these subdivisions.

Mr. Desilets agrees with Mr. Carpenter; it was not his understanding that the applicant would have to re-notice.

Ms. Post stated that these have always struck her as something for attorney review.

Ms. Scott spoke to the word “compliance” and her interpretation of the hearing after watching the tape of the meeting. The Board must do a compliance hearing and that has already been posted for a future date. The applicant has given the abutters notice.

Ms. Crisler did make the original motion and spoke to her language and why she chose to change it. She stated that everything that comes before the Board is a public hearing.

Ms. St. Laurent stated that there is nowhere in the ordinances where a compliance hearing is defined. She assumed it was simply the documents coming back to the Board and not a full hearing.

Mr. Desilets agrees with Ms. St. Laurent and is regretful the applicant needed to take additional steps in the process.

2016 Special Town Meeting – Discussion on Process and Board of Selectmen Meeting

Mr. Desilets stated he does wish this agenda item might have been “more clear” on the agenda since many people were not in attendance at the March 23rd meeting.

Ms. Scott would like to see the Board of Selectmen meeting on April 18th be as productive as possible for both the Planning Board and the Selectmen. The meeting will also be held in the Community Development Room according to Mr. Desilets.

This meeting would be in reference to Citizens Petition #1.

To review, the Board voted 4-2-1 to ask the Selectmen to consider a Special Town meeting due to Citizens Petition #1 passing.

Chairman Gosselin spoke to his opposition during the vote and why he felt the need to vote as “opposed” in order to represent the public and the way they had voted.

Mr. Carpenter spoke to the voters’ intent and what that might have been. He stated that his issue with Special Elections would be that 1 or 2 percent of the town would make a decision for the entire public. He is not sure if this is a process that he would want to be a part of.

Ms. Post spoke to a compelling letter from a voter. That person felt as if there was confusing wording. She was also concerned about the appearance that the Board would want to overturn the will of the voters.

Ms. DiFrusia spoke to the specifics around clean rainwater. She was concerned that the voters were asked to vote on something that was erroneous.

Mr. Desilets stated that 145 people were the number of voter difference between the voters on the Citizens Petition. He asked if voters were “befuddled” by “Disapproved by the Planning Board”.

Ms. Crisler stated that she did vote to ask the Selectmen for a Special Meeting. She stated that voters thought they were voting with the “blessing” of the Planning Board.

Mr. Carpenter stated that the Board did have a process by which this could end up on the ballot to be overturned next year.

Mr. Desilets stated he was concerned that a Planning Board member would be polling the public to see how and why they had voted on the articles.

Mr. Toubia submitted an example from his City Corps ballots. The language was very clear from the Board of Directors to the voters on the sample ballot. He submitted those to staff for review.

Mr. Guttman stated that the Board does agree that this was a fairly confusing item for the public.

Chairman Gosselin asked Mr. Guttman to refrain from utilizing the word “stupid” as it does inflame other Board members.

Mr. Guttman stated that this is a significant item for the voters whose wells are becoming polluted and the wells are running dry.

Ms. Post stated that anyone who is trying to obtain the will of the voters is doing their job as an elected official; they are not out of order as might have been implied earlier.

Mr. Carpenter liked the idea of organizing the warrant articles differently.

Ms. St. Laurent stated that the Board should not find themselves without recourse in reference to the definitions. The Board could then be sure that they could enforce the language. Ms. St. Laurent was not happy with the result but the vote is the vote. It is unfortunate but not untenable.

Ms. Scott asked if the Board is considering withdrawing their request to the Selectmen at this time.

Chairman Gosselin asked for public comment.

Mr. Carpenter stated that this would be a 120-day process for the Board if there were a special election.

Chairman Gosselin stated that Board members who insult each other would be asked to not to speak for the rest of the evening.

Joe Bradley, 4 Kendall Pond Road, addressed the Board. He stated that there was confusion outside the polls by the citizens. Mr. Bradley spoke to the double negative language of the question. Perhaps voters thought that they were, indeed, “disapproving” the article. He stated that this was the very instance by which you would want to have a Special Election.

Tom Leclair, 22 Turtle Rock Road, addressed the Board. He does think it is justified to have a Special Election.

Derek Munson, addressed the Board. He would like citizens to be educated about the process.

A motion was made by Mr. Carpenter to have Mrs. DiFrusia and Ms. Crisler to represent the Planning Board at the meeting with the Selectmen to present the information requesting why the Board would like a Special Town Meeting.

Mr. Desilets intends to support the motion.

Vote 7-0.

Motion passes.

A motion was made by Mr. Carpenter to adjourn at 10:00pm. Seconded by Ms. DiFrusia.

Vote 7-0.

Motion passes.

Respectfully submitted by Anitra Brodeur