



PLANNING BOARD
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MINUTES OF THE PLANNING BOARD PUBLIC HEARING

Thursday, February 20, 2014 – 7:00 p.m. – Town Hall Conference Room

Members Present: Chip Hussey, John McDevitt, David Moore, Paul Sanderson, Selectmen's Rep Mo Sodini, Rich Winsor, Steve Gerrato - Alternate

Members Absent: Stu Gerome

Staff Present: Dylan Smith – RPC Circuit Rider; Myrick Bunker – Building Inspector

Mr. Gerrato left the meeting to attend the SB2 hearing.

Vice Chair McDevitt opened the Planning Board meeting at 7:00 p.m. A roll call was taken by the Vice Chair; he announced a quorum was present and the meeting was being recorded.

1. Boundary Line Adjustment: 55/63 Ocean Road (Map R21, Lot 43 and Map R21, Lot 42)
Owner: Carol Hughes
Applicant: Dan Hughes
The owner and applicant are proposing to convey 144,713 square feet from Tax Map R21, Lot 43 to Tax Map R21, Lot 42. The transferred area will allow for some development on Tax Map R21, Lot 42, which is encumbered by a significant utility easement.

Don Cook, DD Cook Builders and representing Carol and Dan Hughes, addressed the Board. Also present were Dan Hughes, applicant, and John Chagnon, Ambit Engineering. Mr. Cook reminded the Board they appeared before them in December and were granted a continuance in January. Their application was accepted as complete on December 19, 2013.

Bringing the Board up to date on their plans, Mr. Cook stated they have consulted their attorney, Ralph Woodman, regarding the variance issued in 1996. Mr. Woodman disagrees with the need for a variance; however, it was the Town Attorney's understanding they would need a variance in order to build a barn on Lot 42.

Altus Engineering's concerns were resolved (copy on file) as stated in his email dated February 20, 2014. They have filed for and been granted State subdivision approval. The septic design will be forwarded to the State upon approval of the lot line adjustment. They have also written to Spectra Energy for permission to put a driveway in the gas easement. The DOT driveway application has been submitted; PSNH permission is also in process.

Mr. Smith commented that the current commercial district boundaries should be delineated on the mylar; parcel based zoning was done a few years ago. If the lot line adjustment is granted, Lot 42 will be part residential and part commercial. Mr. Chagnon responded it had been noted on the current set of plans. Mr. Smith reviewed his comments from December 11, 2013 (copy on file). A condition subsequent would be necessary for the monuments (Item F).

Mr. Chagnon questioned Mr. Smith on a “potential site plan review”. He stated that the applicant had previously met with the Town regarding the issue. Mr. Bunker told the Board that the structure was presented to him several months ago. He felt that with the existing variance on Lot 43 the building could not be built. The variance indicates that Lot 42 must remain agricultural as a buffer for the residential zone.

Mr. Hussey suggested if the applicant intended commercial use of the barn in the future, they should consider site plan review. Mr. Smith added that the building on the plan is noted as “barn/office”; office generally means commercial use, and they would be subject to site plan review. Mr. Hughes stated it would be for his personal use. There was discussion on how to clarify the use without using “office”. Mr. Bunker stated that because the lot is zoned commercial it must be a permitted use; that use would have to be noted. The concern was that when it’s labeled “office” it would come under site plan review.

Vice Chair McDevitt reminded those present that the Board would be acting on the lot line adjustment only. The applicant would have to go to the ZBA for a variance in order to build a barn on the lot. Once the variance was granted, they could return to the Planning Board to address the building itself.

There was some concern among Board members that the lot line adjustment might affect the original conditions from 1996 and open McDonald’s to site plan review. Mr. Smith added that after researching the conditions, there were none listed on the previous approval. After further discussion, Mr. Sanderson stated that in 1996 when the ZBA granted the variance with conditions, it was zoned residential; it’s been rezoned since that time to commercial. Building a conforming building on a reconfigured lot doesn’t require a variance; modification of the previous variance will be needed. He continued that new site plan review for McDonald’s wouldn’t be necessary; that operation is not changing. However, adding a structure could trigger site review because it’s a new non-residential structure. It can be an abbreviated site review because the scope of the project is small. Going to the ZBA should be to remove the restrictions from the 1996 variance because the zoning has completely changed. The driveway on Lot 42 isn’t changing the essential use; there is a 300’ Public Service easement. This would qualify for agricultural because the proposed use is a barn.

Vice Chair closed the public hearing and returned to the Board for discussion. With no further discussion from the Board, the applicant opted to move forward with the lot line adjustment.

MOTION: Mr. Sanderson moved to approve the boundary line adjustment for 55/63 Ocean Road with the following conditions: receipt of the driveway permit from NHDOT, receipt of the subdivision approval from NHDES, and new monuments shall be set before the building permit is issued.

DISCUSSION: Mr. Chagnon reminded the Board that subdivision approval is for lot line adjustment. Responding to a question from Vice Chair McDevitt about the monuments being set, Mr. Sanderson stated it will prove the new lot, as newly configured, supports the uses that are capable under the ordinance. Vice Chair McDevitt voiced his concern that the ZBA may interpret that as the Board approving the building.

MOTION: Mr. Sanderson moved to approve the boundary line adjustment for 55/63 Ocean Road with the following condition: new monuments shall be set upon the boundary line within 180 days of approval. Second – Mr. Sodini; five in favor, one opposed (Mr. Winsor). **MOTION CARRIED**

2. Design Review: 1533 Ocean Road [Map R21, Lots 55 & 55A]
Owner: Clan Murphy Limited Partnership
Applicant: Richard Landry, Thurloe Kensington Development
The owner and applicant are proposing the construction of approximately 56,000 sq. ft. of multi-use commercial space. The project will include site improvements such as drainage, utility, landscaping and lighting, disturbing approximately 11.74 acres.

Kenneth Mavrogeorge, Tighe and Bond, addressed the Board. Also present was Richard Landry, Thurloe Kensington Development. Mr. Mavrogeorge gave a brief background on the location and history of the property. There are three significant easements on the property: PSNH easement across the back half of the site and two gas line easements. The proposed project will entail approximately 56,000 sq. ft. of commercial development. There will be impacts to the 75' wetlands buffer as well as the 25' vegetated buffer; there will also be some impact on the wetlands. They are aware that they will need ZBA approvals for variances within the buffers.

There is one proposed driveway, located in the center of the frontage roughly 900' from the intersection of Rt. 33 and Ocean Road. An overall drainage and grading plan was submitted; it shows that the stormwater from the site will be collected in a closed drainage system and conveyed to a stormwater management system for treatment and retention prior to discharging. A preliminary utilities plan was also included. There is an area on the plan reserved for a future potential septic system at the rear of the site. Although a landscaping plan was not submitted, they are fully aware the landscaping plan is required.

Vice Chair McDevitt reminded those present that this was a design review. Mr. Smith discussed his preliminary review (copy on file). Some concerns were the regional impact, wetlands and wetlands disturbances, frontage variance, and the multi-use designated building: match what is proposed with what is allowed in the Table of Uses. Mr. Smith continued that the proposed automotive use will need a Special Exception. Mr. Landry responded that the back side of the property will be impacted by the ability to put in public sewer. The multi-use designation will pertain to a shopping center/retail sales that fits the definition.

Mr. Smith referred the Board to the email received from Dave Walker, RPC, to NHDOT regarding the recent scoping meeting for the traffic study. Mr. Landry stated that they did not meet the warrants to put a new traffic light at their location. Mr. Smith suggested that the Board may want to have an architect review done, which is similar to an engineer's review.

Mr. Gerrato returned at 7:50 p.m.

Mr. Smith further suggested an AOT permit would be necessary (which is in the process); hiding trash receptacles, and making sure the aisle widths are 24' or larger. Septic or sewer is in the process. Stormwater management, traffic, landscaping and architectural design are the main elements and are important features to this piece.

Mr. Sanderson stated that from a traffic perspective, this site was a disaster and had no chance of working. There is no way on the curve to handle left hand turns out; there is no way to safely handle turning into the lot from Portsmouth. He suggested there should be a public highway coming in through the truck stop. The other major concern was sewer. The septic system may not be able to handle a fast food restaurant as well as retail shops.

Board members were concerned with traffic. Mr. Landry addressed the traffic issue by stating it was a legal lot with a curb cut allowed. There are towns that have curb cuts on roads with more traffic than on Rt. 33. They are planning to widen the road quite a bit, allowing patrons to make a two stage turn. The traffic study will get more in-depth.

Mr. Landry told the Board he has reviewed the information from the movie theater project. Their curb cut is further away from the intersection, giving more turning room. He added that the retailers will expect their customers to have reasonable access.

Mr. Sanderson stated he would be looking carefully at the proposed highway lighting because there are no lights in that area. This would be a very important aspect of safety. Mr. Landry explained they plan to create a streetscape with lighting along the front. There are some lighting constraints with residential property nearby. Mr. Smith added that there is a zoning ordinance regarding lighting.

There have been discussions with the City of Portsmouth regarding sewer. They were interested originally, but aren't interested in the fighting the battle. Mr. Landry stated he's been in discussions with the potential user for the rear of the property and the truck stop. Although there has been some progress, it's not final.

The back building and its impact on the wetlands was a concern to Mr. Hussey. The potential tenant for the back of the property is willing to work with Travel America and that plan may change in the future. Also suggested was looking at the stormwater management system used by Packard Development.

The buildings facing Rt. 33 will be designed so the side facing the road will look like a store front. The side with parking will be the actual store front. Vice Chair McDevitt suggested they review the Site Plan Regulations, Section 5.18, for the structural impact. Mr. Sanderson further suggested a turning radius on the inside for tractor trailers. They were reminded there is no overnight parking. Also suggested: a safe walkway from the truck stop. Mr. Landry responded it may be a problem because of the mounding from the gas easement.

The applicant was given the option to close design review or continue to the next meeting. They opted to close design review and submit a completed application.

MOTION: Mr. Winsor moved to close Design Review for 1533 Ocean Road. Second – Mr. Sodini; all in favor. MOTION CARRIED

Mr. Sanderson suggested that they can request a joint meeting with the Planning Board and ZBA.

3. Approval of Minutes: Thursday, February 06, 2014

MOTION: Mr. Winsor moved to approve the minutes of Thursday, February 06, 2014. Second – Mr. Sodini; all in favor. MOTION CARRIED

4. Other Business

It was suggested that Mr. Smith identify targets for a potential traffic study as well as talk to the Town Engineer.

5. Topics for Work Session: Thursday, March 06, 2014

6. Adjournment

MOTION: *Mr. Moore moved to adjourn at 8:17 p.m. Second – Mr. Winsor; all in favor. MOTION CARRIED*

NEXT SESSION

Thursday, March 06, 2014 – 7:00 p.m., Town Hall Conference Room, Work Session

Respectfully Submitted: Charlotte Hussey, Secretary to the Board

Approved: Thursday, March 06, 2014