



PLANNING BOARD
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MINUTES OF THE PLANNING BOARD WORK SESSION/PUBLIC HEARING

Thursday, October 06, 2016 – 7:00 p.m. – Town Hall Conference Room

Members Present: Chair Stu Gerome, Courtney Homer, Chip Hussey, David Moore, Steve Gerrato (Alternate), James Connelly (Alternate)

Late Arrivals: Rich Winsor, John McDevitt (Selectmen's Rep)

Members Absent: Scott Baker

Staff Present: Mark Fougere - Consultant

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

I. WORK SESSION

1. Sign Committee Update

M. Fougere updated members that a draft of the revised Sign Ordinance would be available for the work session on Thursday, November 03, 2016; members of the Sign Committee will be present.

2. Stormwater Management

M. Fougere has been working with the Town Engineer on the Stormwater Management Ordinance; members were given a draft to review. The grant closed out the last week in September, so there is not a specific timeline. The ordinance is 90% complete; M. Fougere, the Town Engineer and Julie LaBranche (RPC) have been working on the ordinance, using the model from Kensington.

R. Winsor arrived at 7:07 p.m.

3. Other Business

Van Etten Drive: Several residents from Van Etten Drive were present and addressed the Board on behalf of others in the neighborhood who signed the petition regarding the proposed playground. Those present included Joe and Trudy Fedora, 23 Van Etten Drive; Tom Barton, 3 Van Etten Drive; Peter Brown, 20 Van Etten Drive; and residents of 21 Van Etten Drive. J. Fedora and Barry Posternak, 18 Van Etten Drive, had met earlier in the day with M. Fougere. Residents were hoping for a better understanding of the background of Van Etten Drive, and why their proposal would require the reopening of the subdivision approval. Chair Gerome responded that the Board could not speak specifically to the application because they were not the applicant.

M. Fougere stated that the project went through a long approval process, there were public hearings and many decisions were made. An open space plan was approved that included a series of bonuses;

extra lots were granted by meeting certain provisions in the Ordinance (parts of that Ordinance no longer exist). The approved subdivision and site plans were recorded. Everything associated with approved plans is “etched in stone”, and all requirements must be implemented. Changing the plan would require another public hearing; M. Fougere briefly discussed the process. A proposal to replace the playground would be needed. The bonuses associated with the development were removed from the Ordinance.

Residents of Van Etten Drive felt the playground was a liability and safety concern; there was no one in their community to supervise the playground. There was also a concern about the increase in foot traffic and vehicle traffic in the area. There are seven picnic tables in a field that are unnecessary; residents don’t want to walk to the picnic area when they have a beautiful home.

J. McDevitt arrived at 7:17 p.m.

Chair Gerome explained that the Board’s hands were tied; they could listen to their concerns, but were guided by the Ordinance. The developer would need to file for a site plan change. J. Fedora stated that prospective owners were unaware of the requirements of the approved plans. M. Fougere suggested speaking with the Town Attorney for further clarification to amend a site plan when the original Ordinance no longer existed.

R. Winsor assured Van Etten residents that the Board would be more than happy to work with them to find a solution. However, it would be challenging. He further explained that there is new zoning; if the plan were reopened, it may have to be under the new zoning and the lots would be non-conforming. Under current zoning, the lots are too small. Chair Gerome added that a bonus was given for the recreation area. He suggested replacing the recreation area, but it would have to be the same use; it could not be open space. Board members were in agreement with Chair Gerome. M. Fougere explained that the developer came to the Board for additional lots; the open space, trails and recreation area were their suggestions for the extra lots.

There was further discussion about the recreation area, bonus lots, etc. Chair Gerome explained that amending the 15th occupancy permit requirement would require a change to the site plan. Responding to a question by a resident of Van Etten, Board members clarified that the walking trails are open to the public; however, the recreation area is for residents of Van Etten Drive only. Chair Gerome stated that the Board would have to see 100% agreement from the residents of Van Etten Drive before making any amendments to the recreation area. M. Fougere will contact the Town Attorney about pursuing an ordinance that is no longer in effect.

II. PUBLIC HEARING

C. Hussey recused himself; Chair Gerome recused himself and deferred to Vice Chair Winsor.

1. Subdivision of Land: 437 Portsmouth Avenue [U4, 25]
Owner/Applicant: Chip Hussey, Chipco Realty of Greenland, LTD
The owner/applicant is proposing to establish condominium ownership lines for two separate units on a condo plan.
2. Site Plan Review: 437 Portsmouth Avenue [U4, 25]
Owner/Applicant: Chip Hussey, Chipco Realty of Greenland, LTD
The owner/applicant is proposing to remove all fuel pumps, diesel pumps and propane tanks as well as associated concrete slabs and canopy on the existing site.

Jack McGee, representing Chipco Realty, addressed the Board. There were two applications to be reviewed: Subdivision of Land, which was actually to condominiumize the property into two units, and a change to the site plan.

Bruce Scamman, Emanuel Engineering, made the presentation to the Board, describing the location of the property. Unit 1 will consist of the restaurant and office above the restaurant as well as the dumpster pad in the rear of that building. Unit 2 will be the former Mobil Station and warehouse, car repair, second building in the back, and the small fenced in area with the concrete slab. There is common land for both units that will be used for access around the site; there is parking in the common area. There is also parking with the individual units. B. Scamman stated that the canopy and gas pumps will be removed. They are proposing to add parking spots in front of the gas station and two spots for larger vehicles.

MOTION: Vice Chair Winsor moved to accept the Subdivision of Land application as complete. Second – J. McDevitt; all in favor. MOTION CARRIED

Vice Chair Winsor noted that the canopy and gas tanks were being removed, and hoping to keep parking. Was there any trade-off for green space given the over-abundance of impervious surface on the lot? B. Scamman responded that they were not proposing to add green space or impervious surface. Vice Chair Winsor clarified that there were two applications: condo and site plan review. He stated he would prefer to deal with both applications simultaneously; M. Fougere was in agreement. B. Scamman reminded the Board that if the site plan was not approved, there was a site plan on record and the condo would have to move forward with the existing plan on record from 2011. Vice Chair Winsor polled the Board; they were in agreement to review both applications simultaneously.

B. Scamman pointed out the pumps to be removed as well as the canopy, gas tanks, bollards, propane storage area, and air tank area. They were proposing to add six parking spaces across the front of the building at Unit 2, allowing the retail space more parking. The potential owner has a lawn sprinkler system business; there are two trucks and trailer that will be parked on the side of the building. They were proposing that the sidewalks not be located in front of Nik and Charlie's or the Mobil station.

MOTION: D. Moore moved to accept the Site Plan review application as complete. Second – C. Homer; all in favor. MOTION CARRIED

Vice Chair Winsor reviewed and clarified what was being removed as well as the additional parking spaces. The proposal was to remove four undersized parking spaces as well as the parking spaces over

the property line. A total of seven parking spaces were being removed from the approved site plan. Vice Chair Winsor asked for a document that would summarize what was being proposed; B. Scamman will furnish that document.

Seven parking spaces were being removed from the approved site plan; six spaces were added in addition to two spaces for larger vehicles. There will be a net increase in parking of one regular and two large vehicle parking spaces (10x70). Large vehicle parking will utilize 10 spaces; eight parking spaces (11x30) from the previous oil company will be retained.

B. Scamman noted that the propane area behind the restaurant will not be removed; the propane area to be removed was located in the front of the building.

On the approved plan from 2011, there were parking spaces that encroached on the abutting property. As part of the proposed plan, those spaces will be removed; all parking will be on site to bring the property into conformance. The size of spaces will not be reduced; the smaller spaces on the approved plan will be brought into compliance.

There are some parking spaces that are not the full 10x20, and were approved in 2011. Most of the spaces are 10x18 as previously approved. The size of some spaces was increased due to their proximity to the front; spaces around the building as well as the proposed spaces are 10x20. Unit 1 has a total requirement of 26 spaces; Unit 2 has a requirement of 29 spaces and 43 spaces will be assigned to them. Unit 2 has a minimum of three users.

There was a brief discussion regarding the car dealership on the property. A Special Exception was granted by the ZBA allowing the dealership to sell up to 15 cars. Vice Chair Winsor noted there was a "sunset clause" stating that it would no longer be valid if there was any change in the business ownership.

B. Scamman noted that the road is not centered in the right-of-way. There is more space in the right-of-way on the north side of Portsmouth Avenue; there is a sidewalk on that side which is well below standard and has not been maintained by the Town. A letter was included from the Police Chief addressing sidewalks on the Nik and Charlie's side of Portsmouth Avenue (copy on file). C. Hussey stated that in the original approval, it was noted the Selectmen had to accept the easement; they haven't been ready to accept the easement due to lack of funds to repair the existing sidewalks. D. Moore commented that the telephone pole had not been moved, to which C. Hussey responded it was moved to its current location from the middle of the Syphers property.

Vice Chair Winsor noted that this site was very challenging: it doesn't meet or conform to zoning. He encouraged the Board, and applicant, to look at this as an opportunity to bring the property into compliance. Sidewalks were discussed as a means of traffic control. He continued that in 2011 the Board rushed to give approval to get the applicant back in business after the fire. Vice Chair Winsor stated he would like to see a traffic management plan. C. Hussey stated the site began in 1947 and the front was completed in 1960; on a site that old, today's standards don't work. Vice Chair Winsor responded that the Board could offer some latitude, but wanted to see how it would flow.

J. McDevitt agreed the sidewalks were an issue, but felt it was possible to work through that. He added that the Board was concerned with the streetscape along that street. He was unhappy with the used cars in the front of Unit 2. He continued that they needed to remember the Village District concept; he felt they could be creative and make the front of the building far more aesthetically pleasing. The potential owner of Unit 2 stated cars to be sold will not be parked in the front of the property. Parking

in front of the building would be for employees and customers. Vice Chair Winsor asked that the location of the used car sales be designated on the plan.

C. Hussey stated that drainage is a problem near the street because the road is 12" higher. Vice Chair Winsor stated that he wanted to see some delineation between the road and the parking lot so it is not one big egress point. In addition, he wanted to see a logical flow in and out of the parking lot. It should be designed as a lot with an entry; the entry way is currently one piece of frontage. It was suggested that a landscape architect be consulted. An underdrain and catch basin with a planter was also suggested. Catch basins on the property were discussed.

Vice Chair Winsor opened the hearing to public comments. S. Gerome questioned buffers with the neighbors. C. Hussey explained that there was a 50' buffer on one side that was going to be a right-of-way on the Syphers property. There will be an easement on the side abutting the Hussey family. He agreed that this would be a great opportunity to make improvements on the site. Leonard Schwab, Great Bay Drive West: Questioned how disagreements between condo owners would be handled. B. Scamman explained that condo documents, similar to a homeowners association, would include that information. Attorney McGee further explained how a resolution could be reached. L. Schwab also questioned involvement by DES in the removal of the tanks, etc. B. Scamman explained that DES licensed the removal. C. Hussey further explained that the company removing the tanks was licensed by DES, and a permit has been obtained from DES for that removal; DES would also be on site during the removal process.

There being no further comments, Vice Chair Winsor closed the public hearing and returned to the Board for discussion. The prospective owner described the improvements he planned to make. B. Scamman explained that new comments from Altus were dated September 2016; original comments were from 2011. Comments from Altus and the Planning Board Consultant have been addressed (copy on file). A waiver was submitted based on the Planner's suggestion from Site Review Regulations Section 3.3.1 – Site Plan Review Not Required, due to grandfathering and existing conditions of the site. B. Scamman added it was difficult to apply current zoning to existing sites. Vice Chair Winsor stated he would like the site plan revised and sent to the Town Engineer for further review.

The Board was in agreement that the landscaping and facade of Nik and Charlie's was acceptable; however, would like to see more green space.

The Board discussed the waiver request from Site Review Regulations Section 3.3.1. M. Fougere stated that nothing on the plan was changing, with the exception of some parking spaces. An in-depth site plan review would not be needed. The concerns he understood were access and safety of access, landscaping bed or sidewalk in line with the telephone pole, raised delineation. The Town Engineer's comments were from five years ago. M. Fougere will speak with the Town Engineer. There was a question of State subdivision approval because it was considered a subdivision under State statute; the Town Engineer felt State approval would be needed even though nothing was changing. B. Scamman commented that they were in discussions with DES.

Vice Chair Winsor advised them to meet with the Town Engineer. Vice Chair Winsor summarized the Board's comments: delineation of road and parking lot, a logical traffic flow, buffers, improvement of the streetscape, define the area for car sales, define the holding area for cars being repaired at the garage, reduce impervious surface, façade upgrade and elevations of what it will look like in the future, lighting noted on the plan. Signage will not change. There was further discussion regarding landscaping and road delineation; the Board was in agreement that something above grade was needed.

Attorney McGee questioned the application timeline. Vice Chair Winsor responded that would depend on the applicant submitting a plan that met the Board's expectations. There needed to be some delineation between the road and parking lot; if that wasn't on the plan, it would be a roadblock. Their ability to produce a plan that meets what was discussed would ease their way through. S. Gerome added that the situation was very rushed last time; they rushed through a lot of things to take care of the applicant. B. Scamman countered they were in front of the Board for several months and spent a lot of time improving the building that was on the property previously. Vice Chair Winsor stated that the Board would follow procedure and make things right, and they would take as much time as needed. A plan meeting the Board's expectations could move forward quickly.

Questioned about the delineation, Vice Chair Winsor stated they were looking for something vertical that could not be driven through or across, only the entrances provided for that lot would be used. He encouraged a sidewalk, providing connectivity to the Town. J. McDevitt noted that was the opinion of one Board member. He continued that they all have a concern regarding the streetscape. If something aesthetically pleasing rather than a sidewalk was proposed, he would take that into consideration.

M. Fougere summarized the Board's concerns: access control to be accomplished through a landscaping bed to create a barrier between the park lot and road, or a sidewalk, in line with the telephone pole; raised delineation; turning radius within the parking area. There was another discussion around the sidewalks, with B. Scamman adding it was his understanding the Selectmen didn't want the sidewalks and there were issues with sidewalks, in general.

MOTION: D. Moore moved to continue the Subdivision of Land and Site Plan Review for 437 Portsmouth Avenue [U4, 25] to the work session on Thursday, October 20, 2016. Second – C. Homer; all in favor. MOTION CARRIED

C. Hussey and Chair Gerome returned to the meeting.

III. WORK SESSION

1. Payment of Invoices

MOTION: J. Connelly moved to approve payment to Chinburg Builders in the amount of \$7,000 from the Planning Board Escrow Account, and \$1,980.45 from the Town Planning Board budget. Second - R. Winsor; all in favor. MOTION CARRIED

2. Topics for the Public Hearing: Thursday, October 20, 2016

Topics for the public hearing on Thursday, October 20, 2016 were reviewed.

3. Approval of Minutes

MOTION: R. Winsor moved to approve the minutes of Thursday, September 15, 2016. Second – S. Gerrato; five in favor, three abstain (J. Connelly, C. Homer, J. McDevitt). MOTION CARRIED

4. Other Business

- Sidewalk Grant: Greenland did not make the next round for the grant.
- Seavey Way: J. McDevitt updated the Board on the discussions with the Board of Selectmen regarding Seavey Way and public water. The Selectmen are dealing with the Coakley Landfill issues

and residents concern for the movement of contaminants toward Greenland. Their concern was how the water was going to be provided to the development. The Town Engineer will need to review the plans now that public water will be supplied to the development. Public water was not a condition of approval, but was strongly suggested by the Planning Board. The Board of Selectmen would like the plans thoroughly vetted by the Planning Board: how will water be provided to the development, any easements that may be involved, the possibility of the water main extending down Breakfast Hill Road in the future, and ensuring the quality and quantity of water. M. Fougere added that public water rather than wells as approved, is a significant enough change to warrant review of the site plan. The water main will be 12". R. Winsor suggested pre-emptively doing several things: have the Town Engineer review and provide a list of questions for the Board to ask; can the Town Attorney review the contractual language between the developers of Seavey Way and Portsmouth/Rye. J. McDevitt stated that as a Selectman he would not support taxpayers paying for water when the Town didn't contribute to the problem.

D. Moore left the meeting at 9:20 p.m.

5. Adjournment

MOTION: R. Winsor moved to adjourn at 9:25 p.m. Second – S. Gerrato; all in favor. MOTION CARRIED

NEXT MEETING

Thursday, October 20, 2016 – Public Hearing, 7:00 p.m., Town Hall Conference Room

Respectively Submitted – Charlotte Hussey, Secretary to the Boards

Approved: Thursday, October 20, 2016