



OLD VALUES - NEW HORIZONS
PLANNING AND DEVELOPMENT

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Planning Board Minutes 5/19/10

Roll Call:

Phil LoChiatto, Chairman - Present	Rick Okerman, Member - Present
Nancy Prendergast - Vice Chair- Present	Ruth-Ellen Post, Member - Excused
Kristi St. Laurent, Member - Present	Sy Wrenn, Alternate - Present
Pam Skinner, Member, - Present	Bruce Breton, Selectman Member - Arr. at 7:10
Louis Hersch, Alternate - Excused	Lee Maloney - Alternate - Present
Bruce Richardson - Alternate - Excused	Ross McLeod, Selectmen Alternate Member - Excused

Staff:

Laura Scott, Community Development Director - Present
Elizabeth Wood, Community Planner - Present
Tracey Mulder, Planning Assistant - Present

Lee Maloney is seated for Ruth Ellen Post.

Call to Order/Attendance/Pledge of Allegiance

Chairman LoChiatto opened the meeting at 7:00PM, followed by the Pledge of Allegiance.

Public Hearings

Case # 2010-11: Change of Use Application.

Vice Chair Nancy Prendergast read the hearing into the record.

An application for a Change of Use has been submitted for Lot 2-A-975, (127 North Lowell Road), which is located in the Neighborhood Business District. The applicant, Noreen & Dan Murray, is proposing to locate a retail clothing business on the property. This is considered a Change of Use because the former use of the property was an office. No interior, exterior or site modifications are being proposed.

Ms. Wood noted for the Board the details of the change of use application and noted the application was reviewed by TRC on April 27, 2010 and the outstanding items are as follows:

- Sign permits must be applied for and approved prior to their installation. Both the proposed freestanding sign and the proposed wall sign meet the requirements of the sign ordinance.
- The Fire Department recommends the condition that, within 10 days, upon approval of this proposal, the Fire department will inspect this property to confirm that there are (2) two means of egress to the ground floor. A minimum of (2) two doors are required. The Fire department will also inspect to confirm that the alarm system is properly installed and will run tests to confirm that the alarm system is properly operating. The inspection will also confirm that there are portable, hand-held fire extinguishers in the building. Per a State law, the applicant must also install a carbon monoxide detector in the building.

In addition, Ms. Wood itemized for the Board the following items for their review:

- 4/13/10 Letter from Applicant
- Store Front Diagram
- Proposed Wall sign Detail
- Proposed Free-standing Sign Detail
- Diagram of Site

Ms. Wood said the sign meets the Town's sign ordinance. Ms. Maloney asked if the sign would be lit and Ms. Wood answered, that was not part of the proposal.

Dan Murray, the applicant, addressed the Board saying they were going adhere to all of the Change of Use requirements shown on the plan submitted.

Ms. Prendergast asked staff about the parking and Ms. Wood said parking was adequate for the proposed purpose. The applicant delineated between parking for the home and the parking for the business on the site plan.

Ms. Maloney asked about traffic flow and Ms. Wood responded that an access permit for a driveway for retail use was approved and received from the NH DOT.

Chairman LoChiatto asked about the parking spaces and if they would be striped and the applicant answered, they would be striped and the flowerbeds on the plans would remain. The applicant noted there would be plenty of room to accommodate the ADA requirements. In addition, it was noted that ADA access is addressed through the building code process.

Mr. Breton arrived at 7:10.

Chairman LoChiatto opened the hearing to the public.

Mr. Robert Jacobellis, 130 North Lowell Road, addressed the Board and asked if the applicant would need a variance for their business. The Board responded the applicant would not need a variance if they meet the requirements for the allowed use. He asked if having a dumpster on site was allowed and it was noted by staff that the dumpster is allowed but that it was not shown on the site diagram. The Board said the dumpster should be on the site plan and the applicant agreed.

John Mangan, 1 Depot Road, addressed the Board saying he has no problem with the retail space as long as it has restroom facilities. Chairman LoChiatto responded this concern is a building department issue. Mr. Mangan's other concern is traffic and parking because this area is already very busy. Mr. Mangan also noted his concern about the proposed signage and how it did not fit with the historic Depot area.

Ms. Wood noted that the Historic District/Heritage Commission reviewed the plans through the TRC process and did not raise any issues. However, Ms. Wood said the signage plan was not presented at the TRC meeting.

Chairman LoChiatto closed the hearing to the public.

Ms. Scott said there seem to be adequate parking spaces, including those to accommodate handicap spaces on the proposed plan.

Mr. Mangan made a point of order, addressed the Board, and read the TRC report regarding the parking spaces.

Mr. Murray addressed the Board and showed on the plans where the dumpster was located.

Ms. Prendergast said she is concerned about the handicap parking spaces and Chairman LoChiatto said it is an ADA issue. Ms. Scott explained to the Board, because this is an existing structure it is not required to have ADA access and it falls under the building code requirements, not Site Plan Regulations.

Ms. St. Laurent noted that ADA issues are triggered by building modifications and since this is not being modified, it is not applicable.

Motion by Ms. Prendergast to approve the Change of Use request application for 127 Lowell Road with Fire Department conditions with two means of egress , two doors, alarm system properly installed and run operating tests and confirm portable hand held fire extinguishers and carbon monoxide detectors in the building. Second by Ms. Skinner.

Further discussion ensued regarding handicap parking spaces. Ms. Prendergast modified her motion to include: Designate spots 3 and 4 as handicap using center space between as access area, and show location of the dumpster on the site plan. Ms. Skinner concurred with the change.

Motion passed 7-0.

Case #2010-9:Minor Site Plan Application & WWPD Special Permit

Vice Chair Prendergast read the application into the record:

An application for a Minor Site Plan and WWPD Special Permit has been submitted for Lot 14-A-925 (Mammoth Road/NH Rt 128), which is located in the Neighborhood Business District & the Wetland and Watershed Protection District. The applicant Edward N. Herbert Associates, on behalf of Kenneth & Paul Bergeron, is proposing a Minor Site Plan and WWPD Special Permit for a previously approved development (The Willows). The Minor Site Plan Application is to reduce the number of units from 22 to 18, to reduce the amount of impervious surface, have 2 on-site community wells instead of Pennichuck water service, place 2 signs identifying the development, and name the 2 private roads within the Development. The WWPD Special Permit is to allow the drilling of the 2 community wells and placement of 6 foundation drains within the WWPD.

Ms. Scott noted for the Board this is an approved site plan and the application is to modify only the items listed. In addition, the plan shows what is currently there and what is proposed to be changed.

Ms. Maloney asked who would manage the wells and Ms. Scott said the association would manage the wells and DES would handle emergencies.

Motion by Ms. Skinner to hear the application for Minor Site Plan and WWPD Special Permit. Second by Mr. Okerman. Motion passed 7-0.

Mr. Peter Zohdi, from Edward Herbert and Associates, addressed the Board providing a set of plans delineating the approved site plan and the current site plan proposal. Mr. Zohdi said the only substantial change is the reduction of units from 22 to 18.

The Board asked about an irrigation system and Mr. Zohdi said they would have an irrigation system.

Ms. Scott mentioned that water tests are required for all units prior to a certificate of occupancy being issued.

Motion to consider this a minor site plan application by Ms. Prendergast as it meets Minor Site Plan Classification Criteria of Section 306.1-306.12 as outlined in the letter from Herbert N. Assoc. to Ms. Scott dated May 13, 2010. Second by Ms. Skinner. Motion passed 7-0.

Chairman LoChiatto asked if the architecture will stay the same and Mr. Zohdi said it would stay the same.

Ms. Prendergast asked about the WWPD special permit application and Mr. Zohdi indicated on the site plan where the wells will be placed and per the Towns zoning regulations, this is permitted.

Chairman LoChiatto opened the hearing to the public

Mr. Ben Howe, 8 Cobblestone Road, addressed the Board asking about the considerations specifically to section 306.11 and 306.12 in the Minor Site Plan Classification Criteria and wondered how the proposal classified as a Minor Site Plan. The Board responded to 306.11 that the well was not a public safety concern and these applications are reviewed by the TRC and the Fire Department attends these meetings. Ms. Scott responded to the question about Section 306.12 and said there is a fiscal impact reduction because of the reduced number of units.

Mr. Howe asked if there was an option to change the location of the wells because he is concerned about the total water supply with regard to this property and the surrounding dwellings. In addition, Mr. Howe said he is concerned about the clearing of trees and stumps and wants to ensure public safety. Ms. Scott said the Town has a stump ordinance in place that regulates stump clearing.

Mr. Zohdi addressed Mr. Howe's concerns and said the water supply will be tested every year as they do other like community wells in Town. Mr. Zohdi said that he could not determine what the water draw would be from the ground for these wells and there are no rules on water withdrawal except to comply with State and Town regulations.

Mr. Howe addressed the Board noting his concern is the quantity of water drawn and certainly there is a huge difference between this development and the surrounding homes, but he does not

think it is sufficient to not have an answer to this specific question and thinks there should be a study or some evidence showing what type of water draw these associations use.

Mr. Zohdi said that the Community Development Department would not provide a permit to the applicant until the water test is approved by the State. The Community Development Department will not provide a certificate of occupancy permit until all water quality tests are received from each unit.

Mr. Howe said he understands everyone has a right to drill for water, but he would like reassurance that abutting properties will not be affected.

Mr. Alan Doak, 8 Cobblestone Road, addressed the Board indicating he has no objections to the site but would like to see a water test performed after the wells are installed.

Mr. Zohdi stated that he is required to prove he has an adequate water supply for the proposed development. If he does not have adequate water with these 2 individual wells, he will need to bring in Pennichuck.

Chairman LoChiatto closed the hearing to the public.

Ms. St. Laurent asked the applicant if they find they need an additional well would they come back before the Board for approval. Ms. Zohdi said that he would like have the latitude to work with Ms. Scott to give the applicant authority to move their rig as long as the drilling is 25 feet from wetlands. Chairman LoChiatto said that a special permit is required for the WWPD and the motion could reflect this if they choose to do this tonight.

Motion from Mr. Breton to grant the application for WWPD special permit to allow the drilling of two wells within the WWPD with leeway to move wells to achieve water but at no time to allow drilling closer than 25 feet to the edge of the wetlands; and to allow 6 foundation drains in Willows 1. Second by Mr. Okerman. Motion passed 7-0.

The Board had a brief discussion regarding the naming of the roads and ensuring the numbering of the dwellings was satisfactory to the Police Department. Ms. Scott responded that Police, Fire and the Assessor have all reviewed the proposed numbering system and street names and found them satisfactory.

Ms. Maloney asked what material will be used for the signs and if they would have reflective material. Mr. Zohdi said this was not being proposed.

Motion by Mr. Okerman to approve the Minor Site Plan Application for lot 14-A-925 to reduce the number of units from 22 to 18, to reduce the amount of impervious surface, have two on site community wells instead of Pennichuck water service, place two signs identifying the development, and name the 2 private roads within the development with the conditions that amendments need to be made to the previously recorded condominium documents, NH DES community well permits will be required, and the final plans need to have original stamps, seals and signatures; and that the police and fire departments sign off on the road names and dwelling numbering system. . Second by Ms. Maloney. Motion passed 7-0.

Meeting Minutes

Motion to approve 5/5/10 minutes by Ms. Skinner as amended. Seconded by Mr. Breton. Motion passed 5-0-2. Ms. Maloney and Mr. Okerman abstaining.

Member Updates

Board of Selectman / Mr. Breton- Monday the BOS will be discussing the proposed reorganization of the Community Development Department and the creation of a full time Code Enforcement Officer. The department head is trying to do this within the current budget without any extra cost to the taxpayers. Ms. Scott provided a brief overview of the proposal for a full time Code Enforcement Officer for the Community Development Department.

Conservation Commission / Ms. Skinner- no report

Wall Street Corridor Study / Mr. Wrenn- The last meeting was held May 6 to approve the project problem and vision statement. All documents and meeting minutes and studies are on the Town website.

CTAP Road Mapping Project - Ms. St. Laurent - There have been a few meetings and a community assessment was completed and prioritized and a tentative action plan was put into place.

Rockingham Planning Commission - Ms. Maloney- The election of officers and the operating budget was discussed at the last RPC meeting.

Planning Board Appointment of WEDC Representative-

Ms. Scott noted at the May 3rd BOS meeting the Board voted to make the Windham Economic Development Committee an official Town committee.

Ms. Scott said the Selectman would be interviewing the interested candidates on June 7.

Ms. Skinner made a motion to appoint Sy Wrenn as a member of the WEDC representing the Planning Board. Second by Ms. Prendergast. Motion passed 7-0.

Community Planner's Report

Ms. Wood provided an overview of her Planners report for the Board.

Miscellaneous

The Board and staff had a discussion regarding the Cobbett's Pond Watershed Protection Ordinance maps that were provided for their member binders.

Legal Memo on Cobbetts Pond Watershed Variances

Ms. Scott provided to the Board a legal memo from Attorney Bernard Campbell regarding the Cobbetts Pond Watershed Ordinance because there have been discussions by the Board with regard to the intent vs. actual language in the Cobbetts Pond Watershed Protection District Ordinance. Mr. Campbell addressed this to the Zoning Board and Ms. Scott said that she is providing this clarification to the Planning Board because it is applicable to them as well.

Adjournment

Motion by Mr. Okerman to adjourn. Second by Ms. Prendergast. Motion passed 7-0.