

MINUTES

PLANNING BOARD PORTSMOUTH, NEW HAMPSHIRE

EILEEN DONDERO FOLEY COUNCIL CHAMBERS CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

7:00 PM

FEBRUARY 21, 2019

MEMBERS PRESENT: Dexter Legg, Chairman; Elizabeth Moreau, Vice-Chairman; Colby Gamester; Ray Pezzullo, Assistant City Engineer; Jody Record; Jeffrey Kisiel; and Polly Henkel, Alternate

ALSO PRESENT: Jillian Harris, Planner I

MEMBERS ABSENT: Jay Leduc; John P. Bohenko, City Manager; Rebecca Perkins, City Council Representative; Corey Clark, Alternate

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I. APPROVAL OF MINUTES

- A. Approval of Minutes from the January 17, 2019 and January 24, 2019 Planning Board Meetings.

Vice Chairman Moreau moved to approve the minutes from the January 17, 2019 and January 24, 2019 Planning Board Meetings, seconded by Mr. Gamester. The motion passed unanimously.

II. DETERMINATIONS OF COMPLETENESS

- A. SUBDIVISION REVIEW

1. The application of Service Credit Union, Owner, for property located at 3003 Lafayette Road, requesting Subdivision approval.

Mr. Gamester moved to determine that the application is complete according to the Subdivision Regulations and to accept the application for consideration, seconded by Ms. Record. The motion passed unanimously.

III. PUBLIC HEARINGS – OLD BUSINESS

- A. The application of **Clipper Traders, LLC, Owner, and Portsmouth Lumber and Hardware, LLC, Owner**, for property located at **105 Bartlett Street**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the tidal wetland buffer for proposed roadway improvements to include-configuration of parking, construction of parking islands, re-grading and installation of curbing to direct stormwater; utility improvements; drainage improvement and treatment including separation of stormwater from sewer, parking improvements and removal of two dilapidated structures, with 37,733 \pm s.f. of impact to the tidal wetland buffer. Said properties are shown on Assessors Map 157 as Lots 1 & 2 and Assessors Map 164 as Lots 1, 2, 3, and 4 and are located within the Character District 4-W (CD4-W) and Character District 4-L1 (CD4-L1) Zoning Districts. (This application was postponed at the November 15, 2018 Planning Board Meeting)

DISCUSSION AND DECISION OF THE BOARD

Mr. Gamester moved to accept withdrawal of the application, seconded by Ms. Record. The motion passed unanimously.

- B. The application of **Thomas and Ann Taylor, Owners**, for property located at **43 Whidden Street**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to install permeable pavers for two parking spaces and plantings, with 400 \pm s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 109, as Lot 2 and lies within the General Residence B (GRB) and Historic District. (This application was postponed at the November 15, 2018 Planning Board Meeting)

DISCUSSION AND DECISION OF THE BOARD

Mr. Gamester moved to postpone to the March 21, 2019 Planning Board meeting, seconded by Ms. Record. The motion passed unanimously.

- C. The application of **Patrick Liam Hughes, Owner**, for property located at **65 Fields Road**, requesting Conditional Use Permit approval pursuant to Section 10.814.40 of the Zoning Ordinance to construct an attached accessory dwelling unit (AADU) in an existing residential structure, with a footprint of 760 s.f. and a gross floor area of 760 s.f. Said property is shown on Assessor Map 170 as Lot 4 and lies within the Single Residence B (SRB) District.

SPEAKING TO THE APPLICATION

Attorney Derek Turbin represented the owners and spoke to the application. Mr. Hughes is seeking an AADU with one bed and one bathroom. The ADU essentially already exists on the site. It was constructed as an addition in the 1980s. Not all of the proper permits were pulled. A partitioning wall was put up and a kitchen was installed as well. It became an in-law apartment and the City took enforcement action on the former property owner. The City agreed to allow the improvements to remain, but stipulated that it could not be an ADU unless there was a proper

permit. Proper permits were pulled for the improvements, however there was not a permit to use it as an ADU. The application appeared in front of the Zoning Board in November and a variance was granted for its size. The proposed AADU is 10 square feet over the Ordinance. They are seeking a waiver for that. It has no legal parking spaces. The public right of way bisects the end of the driveway. It's not uncommon, but it is something that needs relief. The property has three spaces where cars currently park. The proposal includes widening the driveway slightly to meet the width requirements. The ADU and the dwelling look like one house. It looks the same as any other house in the neighborhood. There is no landscaping proposed. It is buffered slightly with an existing tree canopy.

PUBLIC HEARING

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the application. Seeing no one rise; the Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved to grant a modification from the following sections, seconded by Mr. Gamester:

1. Section 10.814.42 of the Zoning Ordinance – for approval of an AADU with 760 s.f. of gross floor area where 750 s.f. is the maximum allowed.
2. To allow 3 parking spaces that do not comply with the dimensional requirements of Section 10.1114.21 of the Ordinance.

The motion passed unanimously.

Vice Chairman moved to find that the application satisfies the requirements of 10.814.60, seconded by Mr. Gamester. The motion passed unanimously.

Vice Chairman Moreau moved to grant the conditional use permit as presented, seconded by Mr. Gamester with the following stipulations:

1. In accordance with Sec. 10.814.70 of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of Sec. 10.814, including the owner-occupancy requirement, and shall renew the certificate of use annually.
2. The conditional use permit shall expire unless the initial certificate of use is obtained within one year from the date granted. The Board may, for good cause shown, extend such period by as much as one year if such extension is requested and acted upon prior to the expiration date. No other extensions may be requested.
3. Documentation of the conditional use permit shall be recorded at the Rockingham County Registry of Deeds once the certificate of use has been issued.

The motion passed unanimously.

Vice Chairman Moreau commented that this is exactly what the Board was hoping for when they were creating the Ordinance. It's nearly perfect.

IV. PUBLIC HEARINGS – NEW BUSINESS

- A. The application of **The Vaughn Family Revocable Trust, Owner, Steven Riker, Applicant**, for property located at **50 Pleasant Point Drive**, requesting a Wetland Conditional Use Permit pursuant to Section 10.1017 of the Zoning Ordinance for 1,096 square feet of temporary impact and 641 square feet of permanent impact for a total of 1,737 square feet of wetland buffer disturbance for construction of an attached garage with associated site improvements. Said property is shown on Assessor Map 201 as Lot 11 and lies within the Single Residential B (SRB) District.

SPEAKING TO THE APPLICATION

Steve Riker from Ambit Engineering spoke to the application. Craig and Diane Alley are the applicants. Sheet C3 showed that the wetland buffer splits the lot in half. The Alley's would like to remodel the home in the existing footprint by adding a second story. They would like to construct a two-story garage, which will be outside of the buffer. It will be connected to the house by a breezeway. The breezeway will be partially in the buffer. The existing driveway will be removed and a porous driveway will be added outside of the buffer. Two impervious patios will be removed and pea stone will be put in. The deck on the back will be expanded to go the entire length of the house. There will be minor landscaping changes including a buffer planting area near the tidal wetland resource. The packet gives a copy of the architectural elevations. It also includes the storm water inspection and maintenance plan for the buffer planting area and the porous driveway. Three trees will be removed. One is a large Norway maple, which is invasive. The other two are cedars, which are on the front corners of the house. Sheet C2 shows which trees will be removed. There is a nice buffer between this lot and the lot to the south owned by the McSharys. There will not be any ledge removal or buffer removal in that area. They needed abutter concurrence in the DES application and the McSharys provided it.

Vice Chairman Moreau noted that they were planning to remove existing driveway, and questioned why it was listed as permanent impact in the application. Mr. Riker responded that they were going to change the grade. That is why it is permanent.

PUBLIC HEARING

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the application. Seeing no one rise; the Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau questioned if the variance requests for this application were approved.

Mr. Riker responded that they were not approved yet. They were for the expansion of the existing structure in the front yard setback because of the second floor addition and the garage. The garage would be 21 feet where 30 feet is required in the front yard. The expansion vertically is 18 feet from the setback. The meeting went long and they continued to Tuesday.

Mr. Gamester noted that receiving the variances should be added as a condition.

Mr. Gamester moved to grant the wetland conditional use permit, seconded by Vice Chairman Moreau with the following stipulations:

1. Provide a gutter along the roofline of the second floor with a downspout to the pea stone covered patio, or other infiltration area.
2. Approval of this permit is contingent upon approval of the requested variances from the Board of Adjustment, scheduled to be heard at the February 26, 2019 meeting.

Chairman Legg noted that the applicant did the best job they could because the house is in the buffer. The applicant has done a reasonable job to mitigate the impact as best as possible. The staff memo covers that in detail. The Chairman supported the application.

The motion passed unanimously.

- B. The application of **The Neil A. Fitzgerald Family Trust, Owner, R. Timothy Phoenix, Applicant**, for property located at **226 Park Street**, requesting Conditional Use Permit approval pursuant to Section 10.814.50 of the Zoning Ordinance to construct a new detached garage containing a detached accessory dwelling unit (DADU) with a gross floor area of 410 square feet. Said property is shown on Assessor Map 149 as Lot 50 and lies within the General Residence A (GRA) District.

DISCUSSION AND DECISION OF THE BOARD

Mr. Gamester moved to accept withdrawal of the application, seconded by Vice Chairman Moreau. The motion passed unanimously.

- C. The application of **Cate Street Development, Owner & Applicant**, for property located at **428 Route 1 Bypass**, requesting Wetland Conditional Use Permit pursuant to Section 10.1017 of the Zoning Ordinance for 19,567 square feet of temporary impacts and 50,225 square feet of permanent impacts for a total of 69,792 square feet of wetland buffer disturbance to redevelop the lots for residential living space including office and retail space. Said property is shown on Assessor Map 172 as Lot 1, Assessor Map 173 as Lot 2, Assessor Map 165 as Lot 2 and Assessor Map 163 as Lots 33 & 34 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District.

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved to postpone the application to the March 21, 2019 Planning Board meeting, seconded by Mr. Gamester. The motion passed unanimously.

- D. The application of **Service Credit Union, Owner and City of Portsmouth, Applicant**, for property located at **3003 Lafayette Road**, requesting Preliminary and Final Subdivision Approval between two lots and a proposed new right-of-way as follows: Lot 1 as shown on Assessor Map 291 decreasing in area from 764,798 s.f. to 627,374 s.f. with 570' of continuous street frontage on Lafayette Road; and Lot 1-1 as shown on Assessor Map 291 decreasing in area from 1,179,324 s.f. to 1,163,825 s.f. with 980' of continuous street frontage on Lang Road; and Proposed Lot 1-2 on Assessor Map 291 with 74,148 s.f. and 294.83' of continuous street frontage on a proposed new right-of-way connecting Longmeadow Road and Lang Road with an area of 78,775 s.f. Said properties are located in the Gateway Corridor (G1) District and the Garden Apartment/Mobile Home Park (GA/MH) District.

SPEAKING TO THE APPLICATION

Mr. Gamester recused himself.

Dave Desfosses from DPW and Patrick Crimmins from Tighe and Bond spoke to the application. Mr. Desfosses noted that it was not too often that the City of Portsmouth builds a new road. This is the first in a very long time. In 2011 the City asked for the right of way across the Credit Union lot as part of their approval to connect Long Meadow Road and Lang Road. That started a long chain of events. In 2017 the Planning Department, DPW and DOT did a road safety audit with Lang Road and the Route 1 intersection. There were 3 serious crashes and 1 fatality in recent years. Hopefully this will be a thing of the past. The City is working on this in coordination with the state of NH. The City is applying for a subdivision to divert Lang Road traffic out to Long Meadow Road and to a lighted intersection. Half of the traffic wants to take a left to go a few hundred feet to go right on Ocean Rd. This new road will eliminate that. The majority of the funding will come from the State. Mr. Crimmins will go through the specifics of the subdivision. The City has to own the land in fee, so that is the reason for the subdivision.

Mr. Crimmins showed the map of the area. They will construct approximately 2,000 linear feet of new road. 400 feet of that is the existing road. This will make the connection from Lang Road to Long Meadow Road. The cul-de-sac will be reconfigured to tie in the existing business. There will be a 333-foot radius to tie into Lang Road. It will "T" off the new road to tie back into Lang Road. It will allow for the driveway connections that already exist. The intersection will be changed to be right turn only. People will have to go down the new road to take a left. The project goes back to 2010. They have been working with the Credit Union to have them accommodate the road design. The Credit Union owns the rear parcel as well, so the property lines will be changed a little. The storm water area will be bisected. It will still function the same way. It will just be it's own parcel. It will treat the Credit Union and the new road. This is going through the AOT process now and they only had a few minor comments that need to be addressed. It's a pretty straightforward application. There is no major utility work, but they will provide sleeves in case there is new development. The taps will be extended across the new road.

Vice Chairman Moreau questioned if the study showed if there was a need to upgrade the signal at Ocean Road. Mr. Crimmins confirmed they did a traffic study as part of the AOT permit.

There may need to be some timing changes, but they won't need any lanes added. If there were more development, then that would be part of their project. It is wide enough to add lanes.

Chairman Legg questioned if there would be a physical barrier to prevent taking a left onto Lang Road. Mr. Crimmins responded that people could still turn left onto Lang Road coming southbound on Route 1. Route 1 allows for queuing. Mr. Desfosses noted that one of the State's comments was to eliminate the left on Lang Road. The City is still debating it, but allowing that left takes additional pressure off the intersection. Chairman Legg clarified that the issue was traffic turning left off Lang Road onto Route 1. Mr. Crimmins confirmed that was correct.

PUBLIC HEARING

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the application. Seeing no one rise; the Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved grant Final Subdivision Approval, seconded by Ms. Record with the following stipulations:

1. Lot numbers as determined by the Assessor shall be added to the final plat.
2. Property monuments shall be set as required by the Department of Public Works.
3. GIS data shall be provided to the Department of Public Works in the form as required by the City.
4. The final plat shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

The motion passed unanimously.

V. ADJOURNMENT

Chairman Legg noted that on March 5, 2019 there would be a meeting on the McIntyre project at City Hall at 6:30 p.m. It will be a thorough presentation. The matter may come before the Planning Board, so it may be worthwhile to attend the meeting to listen and participate.

Vice Chairman Moved to adjourn the meeting at 7:34 p.m., seconded by Mr. Gamester. The motion passed unanimously.