

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

Remote Meeting Via Zoom Conference Call

Per NH RSA 91-A:2, III (b) the Chair has declared COVID-19 outbreak an emergency and has waived the requirement that a quorum be physically present at the meeting pursuant to the Governor's Executive Order 2020-04, Section 8, as extended by Executive Order 2020-10, and Emergency Order #12, Section 3. Members will be participating remotely and will identify their location and any person present with them at that location. All votes will be by roll call.

7:00 pm

JULY 16, 2020

MINUTES

MEMBERS PRESENT: Dexter Legg, Chair; Elizabeth Moreau, Vice Chair Karen Conard, City Manager; Peter Whelan, City Council Representative; Ray Pezzullo, Assistant City Engineer; Jody Record; Colby Gamester; and Polly Henkel, Alternate

ALSO PRESENT: Juliet Walker, Planner Director; Jillian Harris, Planner I

MEMBERS ABSENT: Jay Leduc, Jeffrey Kisiel, Corey Clark

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I. APPROVAL OF MINUTES

A. Approval of Minutes from the June 18, 2020 Planning Board Meeting

Ms. Record moved to approve the Minutes from the June 18, 2020 Planning Board Meeting, seconded by City Council Representative Whelan. The motion passed unanimously.

II. PUBLIC HEARINGS – OLD BUSINESS

A. The application of the **Maud Hett Revocable Trust, Owner**, for property located on **Banfield Road**, requesting a Wetland Conditional Use Permit under Section 10.1017 of the Zoning Ordinance to construct 22 single family homes and an access road with an impact of 4,013 s.f. of inland wetland area and 21,089 sq. ft. in the wetland buffer. Said property is located on Assessor Map 256 Lot 02 and lies within the Single Residence A (SRA) District.

DISCUSSION AND DECISION OF THE BOARD

City Manager Conard moved to **refer** this application to the Conservation Commission and **postpone** the application to the next Planning Board meeting, seconded by Mr. Gamester. The motion passed unanimously.

- B.** The application of the **Maud Hett Revocable Trust, Owner**, for property located on **Banfield Road** requesting Conditional Use Permit approval for an Open Space Planned Unit Development according to the requirements of Section 10.725 of the Zoning Ordinance and Site Plan Review approval for the construction of 22 single-family homes and a new road with related parking, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 256 Lot 02 and lies within the Single Residence A (SRA) District.

DISCUSSION AND DECISION OF THE BOARD

City Manager Conard moved to **refer** this application to the Conservation Commission and **postpone** the application to the next Planning Board meeting, seconded by Ms. Record. The motion passed unanimously.

- C.** The application of **Richard Fusegni, Owner**, for property located at **1574 Woodbury Avenue** requesting a Conditional Use Permit for a drive-through facility in accordance with Section 10.440 (19.40) of the Zoning Ordinance and Site Plan Review Approval for the construction of a new retail bank with parking, utilities, landscaping, lighting, drainage and associated site improvements. Said property is shown on Assessor Map 238 Lot 17 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District.

DISCUSSION AND DECISION OF THE BOARD

Ms. Record moved to **postpone** this request to the next Planning Board meeting, seconded by City Manager Conard. The motion passed unanimously.

IV. PUBLIC HEARINGS – NEW BUSINESS

- A.** The application of the **Charles E. Locke Living Trust, Owner**, for property located at **220 New Castle Avenue** requesting a Conditional Use Permit in accordance with Section 10.815 of the Zoning Ordinance to convert the 2nd floor of an existing accessory structure to a garden cottage with 369 +/- s.f. of gross floor area. Said property is shown on Assessor Map 207 Lot 44 and lies within the Single Residence B (SRB) District.

SPEAKING TO THE APPLICATION

Attorney John Bosen spoke to the application. The property is abutted by 3 streets with frontage on New Castle Ave. There is a single-family residence, single car garage, and 2 story garage on the property today. The application is to build a garden ADU on the second floor of the two-story garage. The space is currently recreation room with a bathroom and shower. It is 460 sf and is accessed by exterior stairs. The ADU will have use of the one car garage with the driveway for 2 parking spaces. There are eight parking spaces total on the property. The application meets all of the ordinance conditions except for one. No windows higher than 8 feet above grade face an adjacent structure. The bathroom window is partially obstructed with the one car garage. They would like to keep it because it is a bathroom window. The current owner will continue to own and reside on the property. They are seeking a waiver for the window.

Vice Chairman Moreau questioned what happened on the first floor of the two-story garage. Mr. Bosen responded that it was used as a garage and workshop.

PUBLIC HEARING

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

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved to grant a modification to section 10.815.33 of the Zoning Ordinance to allow windows/doors higher than 8 feet above grade facing adjacent properties, seconded by Mr. Gamester. The motion passed unanimously.

Vice Chairman Moreau moved to find that the application satisfies the requirements of 10.815.40 with modifications granted, seconded by Mr. Gamester. The motion passed unanimously.

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

- 3.1) In accordance with Sec. 10.815.50 of the Zoning Ordinance, documentation of the conditional use permit approval shall be recorded at the Rockingham County Registry of Deeds.
- 3.2) In accordance with Sec. 10.815.70 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. 10.815, including the owner-occupancy requirement, and shall renew the certificate of use annually.

The motion passed unanimously.

Vice Chairman Moreau commented that this was exactly what they had imagined when they put together the ordinance. Chairman Legg agreed.

- B. The application of the **City of Portsmouth, Owner and Eversource Energy, Applicant**, for property located at **0 Borthwick Avenue** requesting an amended Wetland Conditional Use Permit in accordance with Section 10.1017 of the City's Zoning Ordinance for replacement of three wooden utility poles with one steel pole and replacement of one wooden pole with one steel pole. There is 3,359 square feet of temporary buffer impact and 3,348 square feet of temporary wetland impacts. Impacts are from the placement of timber mats to allow equipment to access the pole location with temporary impacts to wetland and wetland buffer areas. Said property is shown on Assessor Map 240 Lot 2-1001 and lies within the Natural Resource Protection (NRP) District.

SPEAKING TO THE APPLICATION

Leonard Lord from Tighe and Bond spoke to the application. They are seeking an amendment for the CUP after the fact. The original application was to replace a three-pole structure and a one pole structure. This was done over the winter. The site had massive overhead wires, and they could not go with the mat layout that was presented. Mr. Lord showed a diagram where the proposed timber mats were going to be laid, and where they are actually laid out. They had to be laid out in a different configuration. An impact summary is included. There was a 1,121 sf increase in temporary wetland impacts and 1,208 sf reduction in buffer impacts. The impacted area was all mulched and revegetated. Tighe and Bond did construction inspections while construction was going on.

Chairman Legg questioned why the overhead wires weren't identified during the design and original application. Mr. Lord responded that they did know there were overhead wires there. The contractors were under the State permit and have a lot of flexibility. The engineers have one thing in mind, but the contractors have a lot of flexibility to alter the design to access the site. That was the mindset going on.

PUBLIC HEARING

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

DISCUSSION AND DECISION OF THE BOARD

Mr. Gamester moved to **grant** this request as presented, seconded by City Manager Conard. The motion passed unanimously.

V. PUBLIC HEARINGS - ZONING

- A. **POSTPONED INDEFINITELY** Request from James G. Noulas, Jr. on behalf of St. Nicholas Greek Orthodox Church that the church's property located on Ledgewood Drive be re-zoned from Single Residence B (SRB) to Gateway Neighborhood Mixed Use Corridor

(G1). Said property is shown on Assessor Map 229, Lot 6A. **POSTPONED INDEFINITELY**

Ms. Walker commented that this was on the agenda because they wanted to bring it back in front of the Planning Board. They talked to the petitioner and explained the Gateway District allows too much density for that area and it was not supported by abutters. Staff looked at other zoning districts that might be appropriate. However, there is no scaled down version of the Gateway District. The petitioners wanted to talk to themselves and the congregation more. They would like to do work force housing at this location. They are postponing for now.

Mr. Gamester moved to **postpone** this item indefinitely, seconded by City Manager Conard. The motion passed unanimously.

VI. CITY COUNCIL REFERRALS

A. Acceptance of sidewalk easement at 444 Pleasant Street.

Ms. Walker commented that the City did improvements to the street and sidewalk on Pleasant St. and discovered that a portion of the City sidewalk is on the Portsmouth Housing Authority's property. The Staff memo shows the location. It is a good amount of sidewalk that is currently not in the public right of way. It is good to clean up these items when they are found.

Mr. Gamester moved to **recommend** that the City Council authorize the City Manager to accept a sidewalk easement over land at 444 Pleasant Street from Portsmouth Housing Authority, seconded by City Council Representative Whelan. The motion passed unanimously.

VII. ADJOURNMENT

City Council Representative Whelan moved to adjourn the meeting at 7:27 p.m., seconded by Vice Chairman Moreau. The motion passed unanimously