



City of Portsmouth
Planning Department
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Memorandum

To: Planning Board
From: Peter Stith, Planning Manager
Date: January 19, 2023
Re: Recommendations for the January 19, 2023 Planning Board Meeting

I. ELECTION OF OFFICERS

The Chair will call for nominations for Chair and Vice Chair for the year.

Please find the section on Board Membership and Officers as found in the [Planning Board Rules and Procedures](#) below:

B. Board Membership and Officers.

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2. Officers: Board members shall elect annually from its membership in January of each year a Chair and Vice-Chair. Unless voted to the contrary by the Board, the vote shall be conducted by secret ballot. (While this is currently in our Rules and Procedures this procedure is inconsistent with State Law and is not followed for Planning Board Elections) The concurring votes of five members in attendance at a meeting shall be necessary to initiate the election of Officers.

3. Duties of the Chair: The Chair shall preside at all meetings; shall have complete voting privileges on all matters, including the election of officers; and, report any discussion or action relative to the Board that has taken place since the last meeting.

4. Duties of the Vice-Chair: The Vice-Chair shall assist the Chair and, in the absence of the Chair, shall have all the powers and duties of the Chair.

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II. APPROVAL OF MINUTES

A. Approval of the December 15, 2022.

Planning Department Recommendation

1) Board members should determine if the draft minutes include all relevant details for the decision making process that occurred at the December 15, 2022 meeting and vote to approve meeting minutes with edits if needed.

III. PUBLIC HEARINGS – NEW BUSINESS

*The Board's action in these matters has been deemed to be quasi-judicial in nature.
If any person believes any member of the Board has a conflict of interest,
that issue should be raised at this point or it will be deemed waived.*

- A.** The request of **Liberty Mutual Insurance Co. (Owner)**, for property located at **225 Borthwick Avenue** requesting a Wetland Conditional Use Permit under section 10.1017. This project proposes shoreline stabilization work for two existing ponds on site with erosion impacts. This project proposes stabilizing the slopes with an extensive native vegetation planting plan which will occur along the slope and enhance the vegetated buffer. Said property is shown on Assessor Map 240 Lot 1 and lies within the Office Research (OR) District. (LU-22-212)
REQUEST TO POSTPONE

Planning Department Recommendation

Vote to postpone to the February meeting.

IV. PUBLIC HEARINGS – NEW BUSINESS

The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

- B.** The request of **Vieira Family Trust, (Owner), and Edward and Kathleen Vieira (Applicants)**, property located at **12 Regina Road** requesting a Wetland Conditional Use Permit under section 10.1017. This project proposes a disturbance of 144 s.f. within the 100' wetland buffer zone. This application proposes constructing a 10 x 10' shed on top of a crushed stone in an area that is 12 x 12' within the wetland buffer. Said property is located on Assessor Map 225, Lot 29 and lies within the Single Residence A (SRA) District. (LU-22-221)

Project Background

Applicant is requesting a wetland conditional use permit to install a new shed on their property. The shed is located completely within the 100' wetland buffer and adjacent to the existing driveway in an area of limited grass, weeds and tree roots.

Project Review Discussion and Recommendations

This application has been before the Conservation Commission. See below for more details.

Conservation Commission

The Conservation Commission, at its regularly scheduled meeting of Wednesday, December 14, 2022, considered the application for a Wetland Conditional Use Permit under section 10.1017. The Commission voted to recommend approval of the Wetland Conditional Use Permit to the Planning Board as presented.

Staff Analysis

1. The land is reasonably suited to the use activity or alteration.

Applicant is proposing to construct a new shed in an area of lawn just beyond the driveway. The shed itself will be 10 x 10' and will be placed on a crushed stone base that will be 12x12'. The size of the stone area will allow for infiltration of stormwater from the shed below the footprint area of the shed. The majority of this parcel is located within a 100' wetland buffer.

2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.

The majority of this lot is within the 100' wetland buffer, leaving no real alternative location outside of the buffer.

3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.

The small size of the shed, distance from the wetland and the infiltration proposed with the crushed stone will reduce any impacts due to the new impervious surface area of 144 square feet.

4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.

The applicants noted that prior to applying for a conditional use permit, they did not realize they would need permission for placing crushed stone and have already gone ahead with the fill of the stone base. They have noted that if necessary, they are prepared to remove the fill that has been placed. The shed is proposed to be located over an existing lawn area that has minimal grass and weeds. This work will amount to 144 square feet of new crushed stone in an area of lawn. The applicant is proposing to increase plantings in this area of the property by placing four or five blueberry bushes surrounding the shed to mitigate wetland buffer impacts.

5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.

Given the small size of the project, significant impacts are not expected. The placement of blueberry bushes, along with some additional buffer plantings would help to mitigate any impacts.

6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.

The applicant is not proposing any disturbance or changes to the 25' vegetated buffer strip.

Planning Department Recommendation

1) Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017.50 and to adopt the findings of fact as presented.

(Alt.) Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017.50 and to adopt the findings of fact as amended and read into the record.

2) Vote to grant the Wetland Conditional Use permit with the following condition:

- 2.1) 2.1) In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers during project construction. These can be purchased through the City of Portsmouth Planning and Sustainability Department.*
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IV. PUBLIC HEARINGS – NEW BUSINESS

The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

- C. The request of **Torrington Brown LLC** and **Single Venture LLC (Owners)**, for property located at **132-134 Middle Street** requesting a Conditional Use Permit Approval to provide 7 parking spaces where 17 spaces are required as permitted under Section 10.1112.14 of the Zoning Ordinance. Said property is located on Assessor Map 127, Lot 12 and lies within the Character District 4-L1 (CD4-L1), and the Historic District. (LU-22-232)

Project Background

The project involves the renovation and remodeling of an existing structure at 132-134 Middle Street, currently 20 dwelling units and 1 commercial unit. The proposed use will be 21 residential units (adding one residential unit and removing the commercial unit). There are 7 off-street parking spaces proposed (some stacked) where 17 are required and therefore the applicant is seeking a Conditional Use Permit under Section 10.241.23(c).

Project Review Discussion and Recommendations

This application has been before the Zoning Board of Adjustment and Planning Board. See below for more details.

Zoning Board of Adjustment

The Zoning Board of Adjustment granted variances on February 19, 2020 to allow a lot area per dwelling unit of 590 square feet for 134 Middle and 499 square feet for 132 middle where 3,000 square feet is required for each. A variance was granted for expansion of a nonconforming use to be extended, enlarged or changed without conforming to the Ordinance and for the use to be extended throughout other parts of the building. A one-time, one-year extension was granted on January 18, 2022 and will ultimately expire on February 19, 2023 if a building permit has not been issued. A building permit has been filed, but is on hold pending approval of the parking CUP.

Planning Board

The Planning Board granted a parking CUP on February 27, 2020 to allow 7 parking spaces where 24 were required. A one year extension was granted on February 25, 2021 and the approval expired on February 27, 2022. The 2020 request required more parking because of the size of the units, which were mainly between 500 – 750 square feet and the current request has most of the units under 500 square feet, reducing the parking requirement.

Conditional Use Permit for Parking

The off-street parking standards in the City's Zoning Ordinance require 17 parking spaces for the site based on the parking requirements for residential uses as provided in Section 10.1112.31. The parking requirement is calculated using the floor area per dwelling unit requirement for the 21 dwelling units and the required one visitor parking spaces for every 5 dwelling units as shown in the table below provided by the applicant.

<u>Parking Demand Portsmouth Ordinance</u>			
<u>Unit Size</u>	<u>Parking Spaces Required</u>	<u># of units</u>	<u>Parking Spaces Required</u>
< 500 SF	0.5 per unit	17	8.5
500 to 750 SF	1 per unit	4	4
Over 750 SF	1.3 per unit	0	0
Visitor	0.2 per unit	21	4.2
<i>Total required:</i>			<i>17 Spaces</i>

Per Section 10.1112.14 of the Zoning Ordinance, the Planning Board may grant a conditional use permit to allow a building or use to provide less than the minimum parking spaces required by the off-street parking standards. An application for a conditional use permit for off-street parking must include a parking demand analysis.

Per Section 10.1112.142, an application for a conditional use permit shall identify permanent measures to reduce parking demand including but not limited to proximity to public transit and shared parking on a separate lot. The applicant has noted that the property is located on a public transit route and within easy walking distance to jobs and amenities.

The applicant believes that the provided parking is sufficient for the proposed use and that while the relief seems large, it is actually quite small in that the conversion from office to residential creates the need for one additional space and it could be argued that the intensive commercial re-use of the unit may require more parking than the proposed residential use.

Technical Advisory Committee Review

Per Section 10.1112.141 of the Zoning Ordinance, the parking demand analysis must be reviewed by the Technical Advisory Committee prior to submission to the Planning Board. TAC reviewed the analysis at the December 6, 2022 meeting and recommended approval with the following condition:

2.2) *Applicant will updated plans to reflect the addition of an extra bike rack.*

Planning Department Recommendation

1) Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1112.14 and to adopt the findings of fact as presented.

(Alt.) Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1112.14 and to adopt the findings of fact as amended and read into the record.

2) Vote to find that the number of off-street parking spaces provided will be adequate and appropriate for the proposed use of the property and to grant the conditional use permit as presented with the following condition:

2.1) Per the requirements of the Zoning Ordinance, the six proposed tandem spaces shall be assigned to the same dwelling units and shall not be used to provide guest parking.

V. CITY COUNCIL REFERRALS

Public hearing on the Accessory Dwelling Unit amendments scheduled for January 30, 2023.

Planning Department Recommendation

Vote to hold a public hearing for January 30, 2023.

VI. OTHER BUSINESS

A. Chairman's Updates and Discussion Items

B. Planning Board Rules and Procedures

Background

The Board has had discussion about amending the Rules and Procedures over the course of this year. This is an opportunity for continued discussion of changes to the rules. The link below is for the current document.

<https://files.cityofportsmouth.com/files/planning/PB+Rules%2BProcedures+rev+Jan2014.pdf>

Planning Department Recommendation

Vote to schedule a public hearing for the proposed amendments to the Rules and Procedures at the February meeting.

C. Board Discussion of Regulatory Amendments and Other Matters

VII. ADJOURNMENT