

**PLANNING BOARD
TOWN OF PETERBOROUGH, New Hampshire**

Minutes of June 11, 2012

Members Present: Chairman Rick Monahon, Joel Harrington, Alan Zeller, Jerry Galus, Audrey Cass, Tom Weeks, Ivy Vann and Barbara Miller, *ex officio*.

Staff Present: Carol Ogilvie, Director Office of Community Development; and Laura Norton, OCD Administrative Assistant.

The meeting was called to order at 7:00 p.m. by Chair Monahon. He introduced the Board and staff. He noted the first item on the agenda was a site plan review for an office building in West Peterborough submitted by Linda and Gregory Spitzfaden.

Spitzfaden Site Plan Review: Application to construct a new building for office use at 305 Union Street, Parcel # U030-044-000 in the West Peterborough District.

Chair Monahon asked Ms. Ogilvie to give a brief summary of the proposal relative to meeting the requirements to accept the application as complete. Ms. Ogilvie noted the site plan was in compliance “and it is certainly sufficient for a vote to accept as complete and move it to public hearing.”

Ms. Miller asked for clarification on #2 of the staff report (the percentage of impervious cover allowed) with Ms. Ogilvie replying “yes, the word *coverage* should be *open space* (71.7%) which well exceeds the requirement.” Chair Monahon noted he would entertain a motion to accept the application as complete. With reference to item #5 of the staff report Mr. Weeks asked about the requirement for a 30-foot buffer from any existing residential use. Ms. Ogilvie replied “that is a question for the plan review and is not a factor in whether or not the plan is complete.”

A motion was made/seconded (Vann/Harrington) to accept the application as complete with all in favor. Chair Monahon thanked the members adding “now I would like the Spitzfadens to speak to the application.” Mr. Spitzfaden introduced himself and told the members Dawn Tuomala of Monadnock Survey had prepared a presentation for them. He added “but I would be happy to answer any questions you might have.”

As Ms. Tuomala set up her PowerPoint presentation she introduced herself to the Board. She told the members she had created a color presentation “to better see what is happening.” She noted the parcel was an existing lot with a building that would be demolished, and the new building would be about 4000 square feet. She pointed out parking areas by the 50-foot Right-of-Way (giving access to several different lots in the back) and on the east side of the building. She briefly discussed the current storm water management system pointing out catch basins along the front and side of the building, as well as a ditch that runs along the back property line. Ms. Tuomala showed elevations of the proposed new building from all sides. She oriented the members by noting the lot was directly across the street from Teixeira Park and beside the Peterborough Tool Company to the east.

Chair Monahon raised his hand and asked if he might interrupt to ask a question about the road to the back lots. He noted “you mentioned a road (Right-Of-Way) to the back properties” adding “is that deeded to the property?” Ms. Tuomala replied the Right of Way was deeded to property owned by Patricia Dyer.

Ms. Tuomala reviewed the existing building. “The intent is to demolish the existing building and replace it with a new 4,020 square foot two-story wood frame building. She pointed out that the structure was not square to the road. The site and the building will be constructed using the principles of Maharishi Vastu and Maharishi Vedic Architecture.” Ms. Tuomala went on to note “the architect on this project is one of the few certified to do this in the country. He has a precise orientation of an eastern face going north/south directly.” Ms. Tuomala told the members the plan was so precise “we hired another survey company to check our bearings and we were within a 9-second rotation of the building so we are pretty close.” She pointed out the wooden picket fence noting “there are certain distances required for the fence, and the gates are to be placed precisely as shown.” She added “*inside* the fence is the architect’s work, *outside* the fence is my work.”

Ms. Tuomala reviewed the entrance and walkway, landscaping and drainage lines. She reiterated how the various items were important to the orientation of the structure. She pointed out parking areas (10 spaces behind the building) and an additional 3 spaces along the 50-foot Right-Of-Way or on the east side of the building, noting that the 3 spaces on the east side of the building were accessed from an abutter’s property Chair Monahon asked if that area was deeded. Ms. Ogilvie replied it was not but there was a letter on file authorizing the use of the space.

Ms. Tuomala briefly reviewed the Groundwater Protection Overlay Zone and the State Shoreline Conservation Zone as well as the district setbacks, utility requirements, storm water management (the exact locations of culverts and drainage structures have not been determined) and lighting plan. She added “and I think there is some sort of a water structure that was proposed after I submitted the plan so it is not on here” adding “but it is *within* the fence line, so I don’t know.”

Mr. Galus asked about solar panels and Chair Monahon asked “you said it was wood frame?” Ms. Tuomala replied “yes, modular units but wood frame.” Chair Monahon asked about ADA compliance and whether or not the building would have a basement. “No basement” replied Ms. Tuomala. “Crawl space?” asked Chair Monahan. “Slab or crawl space” replied Ms. Tuomala adding “I am not sure yet but whatever it is it will be done by a structural engineer.”

Ms. Vann asked “have they thought about permeable anything in terms of storm water management?” and a brief review of a treatment swale and level spreader followed. When Ms. Vann asked about permeable surfaces under the parking area Ms. Tuomala replied “no, I don’t think so, the groundwater table is too high.”

Mrs. Dyer gave the members a brief history of the water run-off in the area and the fact the current building sits like it does “because it is sitting on a sawdust pile.” She concluded by noting “and I know this for a fact, I have lived there since 1958.” Ms. Tuomala interjected “so really the bottom line is that we are not going to make this any worse.”

Mr. Harrington asked if Ms. Tuomala would speak to the lighting plan – which included review of 3-foot bollards along the walkway and a down-lit pole. Mr. Weeks asked “is there a lighting plan?” adding “we have to think about light trespass.” Mr. Harrington asked “is there any lighting in the parking lot?” Ms. Tuomala replied “we have thought about it but it may not be necessary.” “Will there be after hour use?” asked Mr. Harrington. Mr. Spitzfaden replied “no, not very much, just normal working hours.” Mr. Harrington replied “so right now there is no lighting plan for the parking.” Ms. Tuomala replied “right now, correct.” Ms. Miller noted “it will certainly be an improvement to the area” with the members in agreement.

There were no other questions from the Board. Chair Monahon asked if there were any questions or concerns from the audience. Brenda Blanchette introduced herself and asked about increases in traffic activity. Mr. Spitzfaden replied “that is a very good question, there will be very little traffic.” Ms. Blanchette asked “what type of business is going in there?” Mr. Spitzfaden replied “publishing consultant and office work” adding “occasionally we have a delivery truck but I estimate less than a truck a week.” Ms. Blanchette asked “will they block the road?” with Mr. Spitzfaden replying “no.”

Mrs. Dye asked about snow removal. Ms. Tuomala pointed out the snow storage area on the plan and a brief demonstration of how the snow would be discarded followed.

Andy Peterson introduced himself and spoke briefly on behalf of Ed Dell (current owner of the property). He noted Mr. Dell is very supportive of the application and has worked hard to accommodate the Spitzfadens. He noted “it is an expensive and exacting process creating a building on this site.” He cited the letter from the property owner next door (the abutter whose property is used to access the lot) noting “this is an existing situation, everyone uses the space, the Post Office uses the space.” He gave a brief history of the evolution of the building from its days as Curtis Manufacturing adding “if you think the site is ugly now, if you could see pictures, you would see it was uglier then!”

He asked the Board to “consider this commercial property a gateway property in an area where a great amount of money has been spent to beautify it.” He added “this is a striking testimony to the Spitzfaden’s hard work and Mr. Dell’s cooperation. This building will beautify the area, not the opposite and we are very excited about this project.”

Chair Monahon asked about the possibility of a deeded the Right-Of-Way through the abutter’s lot to the ADA parking area. Ms. Tuomala replied “that is not possible at the moment.” Another member noted that if need be the applicant could go before the ZBA for a Variance to reduce the number of parking spaces required.

Mr. Peterson spoke again noting “they don’t need the parking, it has always been by practice. There are other ways to handle the parking requirements if necessary.” Chair Monahon cautioned the members that as they look at the plan submitted they must also look at the possible demise or change in use in the abutter lot. “It is important to know in a plan that one has the ability to meet the code” he said. Mr. Weeks asked about screening the parking. It was noted that the lot is somewhat wooded already and a brief review of the shrubs and trees of the landscaping plan followed.

Ms. Blanchette noted she was curious as to why cars from the Green Grocer parked at the Park every day. “Why is that if there are parking regulations?” she asked. Chair Monahon replied that he understood her concern “but enforcement of parking requirement is the issue here” adding “a failure of plan does not set precedence for our review today. That is not part of this.” He added “we have to accept the zoning regulation is based on square footage of the building as the requirement for each car.”

Mr. Harrington mentioned the applicant could come in for a waiver of the requirement. Mr. Weeks interjected “that would have to be a Variance, not a waiver. They would have to go to the ZBA.” Looking to Ms. Ogilvie Ms. Vann asked “that is not in our site plan?” Ms. Ogilvie replied “yes, you can. The Planning Board is allowed to modify the required number of parking spaces when requested by the applicant.”

In closing Mr. Zeller noted he would like to clarify Ms. Blanchette’s question about the Green Grocer. He went on to note “they have asked their employees to park elsewhere to make room for the customers. It is an accommodation done for business reasons” he said.

The Public Hearing closed at 7:55 p.m.

Magic Flute Child Site Plan Review: Application filed by Jacqueline Goohs to conduct a retail use at 99 Grove Street on land owned by the Rite Aid Corporation, Parcel ID # U018-069-100 in the Village Commercial District.

As in the first case, Chair Monahon asked Ms. Ogilvie to give a brief summary of the proposal relative to meeting the requirements to accept the application as complete. Ms. Ogilvie noted “as I wrote in the Staff Report this application is a bit unconventional in terms of what you are accustomed to seeing.”

Ms. Ogilvie noted “we do not require site plans to be filed with the Registry of Deeds so we can extend more flexibility.” Ms. Miller asked “what do you mean?” Ms. Ogilvie explained that the state requires that subdivision plans get filed at the Registry (which she explained was the repository for these important records). She added “but there is no state law for site plans and historically Peterborough has never filed them.”

A brief discussion about one page in the application (a partial plan with an engineer’s stamp on it) followed. Ms. Ogilvie reported the page came from an old application submitted by Cumberland Farms. She noted that she did not consider this piece of paper to be the site plan – that was the hand drawn sketch; also, she had called the engineer (who had not been noticed of the meeting) to find he had not been engaged to do work for Ms. Goohs and had not granted permission for the plan to be used. Ms. Ogilvie also noted the engineer stated he had no objection to the application going forward provided the page was withdrawn from the file. A brief discussion followed and Chair Monahon noted “we will let the applicant make a presentation” adding “but let’s not get too far into this without accepting the application as complete.” He went on to note “I feel it to be incomplete because of the relative thinness of it and no engineer’s drawings. But it is important to hear the concept for the site before we decide.” Ms. Vann noted “I don’t think we can (hear the presentation) I think we have to accept it as complete first.” Ms. Vann went on to ask “what

exactly is missing?" A brief discussion regarding the need for an engineer's plan and the withdrawn documentation (noted above) followed.

Mr. Weeks reviewed a list of what he thought was missing. That list included that the plan be dated, be to scale, include lot lines and the dimension of the lot, show the location of the parking setbacks, show the location of the required 30-foot buffer to the adjacent property, define the screening for the buffer, show ADA accessible parking area (including depth dimensions of each space), provide a landscaping plan that includes the size and elements of landscaping, provide a lighting plan (that complies with lighting standards) and "provide a plan for screening the parking, where ever it ends up being." Mr. Weeks noted the entire lot is within the Groundwater Protection Zone and that must be noted on the plan. He noted a separate application would be required for the wind turbine shown on the plan and that setback requirements may be an issue. He ended by asking about the location of a dumpster for rubbish.

Ms. Vann asked about the responsibility (vis-à-vis) of the former gas station tanks having been removed with the ground tested. Mr. Weeks noted that those reports were on file at the Town House. Ms. Miller pointed out blank spaces on the application form and asked for clarification. Ms. Ogilvie noted the checklist was created to assist applicant and that each box must be checked yes or no unless a waiver has been requested.

Ms. Vann pointed out several blank boxes on the checklist and said "I am not comfortable accepting this in its current state. There are too many things we do not have. I do not think we should start the clock on this – it is not fair to the applicant or to us." Ms. Miller said she gets phone calls all the time about the site and questions like "what are we going to do with the property?" She added "I think we should work with Ms. Goohs in any way that we can."

A motion was made/seconded (Vann/Weeks) to *not* accept the application submitted as complete with all in favor.

Mr. Harrington noted "I have one comment" and spoke briefly about the decision. Addressing Ms. Goohs he reviewed the application requirements the Board must adhere to. "There is no offense to you" he said adding "we are fair to every citizen that comes in and we are all eager to see change but this application is not complete."

Chair Monahan interjected "at this moment I would like to allow the applicant to discuss her intentions and share with us anything she feels will help us."

Ms. Goohs spoke about her plans for the site. She expressed confusion over what application form to fill out "as the site is under 2,000 square feet I was not sure." She noted she would be painting and spackling and adding HVAC "but other than that I am not changing anything."

Ms. Goohs pointed out the parking area for the site noting "I need four spots and I have seven." She told the members she intended to create more green grass areas on the lot. She gave a brief history of her business noting "I have a children's clothing store, it is a nostalgic high-end toy store." She noted she would like to leave the back wooded area as it is so "the children can wander through the forest, sing songs and talk about gnomes." She expressed her intention to grow the

store in the future. "It is all about the children" she said. She noted the business was family owned and that she had four children of her own. About the windmill on the plan she noted "that is just me being idealistic, if we have to take it out - fine."

Chad Branon introduced himself as an engineer from Fieldstone Land Consultants. He began by saying "some of this is my fault." He explained his involvement with Ms. Goohs and his proposal for a complete site plan on the property. "The checklist takes time and money" he said adding "and I appreciate Ms. Goohs attempting to take a practical approach to it." With respect to the engineer's stamped material mentioned earlier Mr. Branon noted the information was public record and could be used "you just cannot change it. We do not recreate the wheel on every project" he said. Mr. Branon spoke briefly about the fence that divided the subject lot from the abutter James Stewart and the required 30-foot buffer. "A 30-foot buffer would be quite restrictive" he said. He went on to add "there seems to be some room for flexibility in that some of that space between the building and the property line could be used functionally, adequately and safely." He also questioned whether or not the neighbor's fence was in fact on the subject lot. He concluded by noting "This is a unique property, it is a redevelopment not a vacant lot." He said he would work with Ms. Goohs to complete the checklist.

Chair Monahan replied "procedurally that is what we would like to see." Mr. Weeks asked "can we waive the 30-foot buffer?" Mr. Branon replied "yes" and a brisk discussion that included whether or not the lot was an existing condition or abandoned followed. Abutter Paula Stewart noted "it is no longer an existing *anything*, it has not been used for 15 years." "It has not been abandoned" replied Ms. Goohs. Mr. Harrington redirected the discussion by noting "these are legal questions" and suggested they did not need to be discussed in this forum.

Jim Stewart introduced himself and noted he and his wife had purchased 103 Grove Street in 2010. He noted he had submitted a letter outlining his concerns about the application. He noted "in many ways I appreciate it and I understand what she is trying to do" adding "but that building has been abandoned. The zoning, the lighting, the traffic have all changed." He noted "you would have to have a traffic count to know the impact it would have." He explained the difficulty of backing out of his driveway as it is now. Mr. Branon noted the business would open at 9:00 a.m. "missing the am peak." Mr. Stewart cited a previous applicant and his application. "They had everything you need" he said adding "a survey, parking plan, lighting plan, landscaping plan." He went on to note "and let's be real, 90% of small businesses fail, what about the next business that comes in? That site would be perfect for a Duncan Donuts." Mr. Stewart concluded by noting "I don't object to her use, that is fine." A brief discussion about the 30-foot setback and parking on the parcel followed. When the suggestion to put parking on the north side of the lot was considered Ms. Goohs gasped and replied "that may put the children running to my store in jeopardy." Mr. Stewart replied "but you want to put them in a contaminated, abandoned gas station." Chair Monahan concluded the discussion by noting "we will stop now, the applicant and her consultant will get back to us." He suggested they comprise a list of perceived deficits that the Planning Board may or may not want to waive. He suggested "remember, we do not need every element drawn in detail."

Mr. Stewart stood up and addressed the Chairman. "I think you are doing an awesome job as the Chair" he said. He went on ask for clarification about a phone call the Chairman had mentioned with Ms. Goohs earlier in the day. "For the record, could you expand on that?" he asked adding

“for full disclosure.” Chair Monahon noted he had a conversation with Ms. Goohs to make sure she had no architecture needs at the present time so that he would *not* have to recuse himself. (It was noted Ms. Goohs had contacted the Chairman (an Architect) at an earlier date for possible consultation and service). Mr. Stewart asked Ms. Goohs about Chair Monahon’s involvement in her project with Ms. Goohs relying “he is not involved in this phase; we are just doing building improvements.” Mr. Stewart then asked Chair Monahon if it would be possible that he would be involved as an architect if the plan were approved. “I will not ask you to recuse yourself if you can say that you will not be” he said. Mr. Branon interjected “this is not a meeting where any vote will take place; we will work on the plan and come back prepared. We thank you for your time.”

Mrs. Stewart asked the members to consider the neighborhood “this is not a minor thing, it will have a significant impact” she said. Chair Monahon replied “there is no likelihood the small size of the building would lessen our concern for the site.”

Mr. Harrington noted the availability of the Office of Community Development. “They are terrific, go and meet with them” he said.

The discussion ended at 8:40 p.m.

Deliberation- Spitzfaden Application

Chair Monahon asked if any further discussion was needed in the case. Ms. Vann replied “I am ready to make a motion on this.” Ms. Vann began a motion when Mr. Zeller challenged the screening of the parking lot as being a condition of approval. “Why do that?” he asked “the houses are not that close” he said. Ms. Vann replied “in general we prefer not to have parking lots visible to the residents.” Ms. Vann went on to note the screening could consist of simple shrubbery and did not have to be elaborate. Ms. Miller asked “is this an unfair burden? Is it something arbitrary?” Chair Monahon noted “in my point of view this is absolutely expected in development plans like this.” Mr. Weeks interjected “it is mandatory, the zoning requires it.”

Mr. Harrington seconded the motion when Mr. Weeks questioned the 30-foot setback. He quoted §245-9.1.D (1) for the members and asked “do we have the authority to waive this?” The discussion that followed encompassed the interpretation of the regulation. Ms. Ogilvie pointed out that, in her opinion, there was room to consider that this lot did not directly abut a residential use since the two were separated by a 50-foot Right-of-Way. The members agreed with that interpretation. Ms. Ogilvie noted the landscape plan should be received prior to the issuing of a Building Permit with the members in agreement.

Mr. Harrington asked “is there any reason to think this road (the Right-of-Way) could change in the future?” Ms. Ogilvie replied “no, I wouldn’t think so.” Ms. Vann added “no, it is the access to the back land.”

A motion was made/seconded (Vann/Harrington) to approve the application to construct a new building for general office use on the property currently owned by Ed Dell on Union Street in West Peterborough subject to the conditions that a landscape plan that shows screening of the parking in the rear and adjacent residential buildings and any and all DES provisions are filed with the Office of Community Development, prior to the issuance of a building permit. The Planning Board found

that the requirement for a 30-foot buffer for this use from any existing residential uses does not pertain in this case as a 50-foot right-of-way road belonging to another property owner divides the parcel from the residential neighbor. All were in favor.

Discussion of Route 101 Bridge Deck Project

Mr. Zeller noted he and Ms. Miller had attended the New Hampshire DOT informational meeting on May 24th. Mr. Zeller went on to note “I don’t have a lot to say but I do want to comment on it.” He went on to report that the request for a sidewalk on the bridge deck was not too late “but it *is* getting close.” He reported the deck could be moved a bit further south to accommodate a sidewalk but “forever the town would be on the hook for the maintenance of it” adding “all it requires is a letter from the Board of Selectmen for that to be implemented.” Ms. Vann asked “will they do it?” Ms. Miller replied “yes, we will.”

Mr. Zeller also noted he had reviewed the Transportation Chapter of the Master Plan “and the word *sidewalk* never came up, I did not see it at least” he said.

A brief discussion about the existence of a sidewalk on the south side of the bridge followed and it was determined there was no sidewalk on either side, just breakdown lanes. Ms. Vann noted “it would be worth having a sidewalk on both sides but if we can only have one (side) I vote for the north side of the bridge.” The other members agreed noting it could be extended to meet the sidewalk down Grove Street and onto Granite Street.

Report out of Planning Board Members serving on other Boards

No update.

Workshop Schedule

Ms. Ogilvie noted a schedule for workshops needed to be determined. She noted “you have typically met on the third Monday of the month, which will be June 18th but the 25th is also an option.” Ms. Ogilvie reminded the members the workshops “are a time to draft your work program and set up our tasks for the year.” After a brief discussion the members agreed the fourth Monday of the month would work best for all. Ms. Ogilvie confirmed the next workshop for 5:30 p.m. on Monday, June 25, 2012.

Minutes

A motion was made/seconded (Miller/Harrington) to approve the Minutes of May 14, 2012 and May 21, 2012 as written with all in favor.

Reappointment of Bill Groff as Alternate

Mr. Groff was not present at the meeting. Ms. Ogilvie noted she would communicate with him about this position.

The meeting adjourned at 9:20 p.m.

Respectfully submitted,

Laura Norton

Administrative Assistant

Approved July 9, 2012