

**PLANNING BOARD**  
**TOWN OF PETERBOROUGH, NH**

**Minutes of October 12, 2015**

**Members Present:** Ivy Vann, Jerry Galus, Matt Waitkins, Tom Weeks, Joe Hanlon, Ed Jeunst, Alan Zeller and Bob Holt.

**Staff Present:** Peter Throop, Director, and Laura Norton, Administrative Assistant, Office of Community Development

Chair Vann called the meeting to order at 6:30 p.m. “Welcome” she said adding “this is the regularly schedule Planning Board meeting and we are delighted to have you here.” She noted approval of the Minutes was the first item on the agenda.

**Minutes:**

A motion was/seconded (Galus/Weeks) to approve the Minutes of September 14, 2015 as written with all in favor.

A motion was made/seconded (Weeks/Galus) to approve the Minutes of September 21, 2015 with a correction about the size of a parking space with all in favor.

**Application for Minor Subdivision:**

Chair Vann noted “this is a continued hearing for a Minor Subdivision to subdivide a 9.8 acre parcel of land, parcel number R002-022-200, located at 611 Old Mountain Road in the Rural Zoning District, into two parcels with the original parcel and home located on 3.34 acres and the new parcel consisting of 6.43 acres.” She went on to give the audience a bit of background on the case. “The reason we are talking about this is because the request falls into Appendix B: *Stormwater Management and Erosion Control Regulation* which states that subdivision and site plans shall include plans for managing storm water and controlling erosion and sedimentation as provided in its definitions.

Chair Vann noted that the applicant’s representative had requested a waiver (a request seeking a waiver of the Peterborough Subdivision Regulations Section 237-19 (D) *Lots* – “All cut and filled slopes shall not be greater than 3:1 and shall be graded, loamed and seeded and mulched.” The proposal calls for an 18’x100’ area to be graded to a 2.5:1 slope).

Dawn Tuomala of Monadnock Survey, Inc. introduced herself and said “we are here tonight to respond to comments at the last meeting. I listened to everyone. The good, the bad and the ugly.” She note that a bit further down from where the proposed house is located, we were able to move the proposed septic system up closer to the house. Referring to the plan she said “Sheet 2 shows those results.” Ms. Tuomala also noted they had performed a ledge probe down the slope of the boulders where the house was to be located. “We went down 5 feet, 25 feet away, and determined that they are boulders, not ledge outcrops” she said. She noted a new test pit down slope from there. “We went down 5 feet and found a seasonal high water depth of 28 inches which is reasonable.”

With reference to the driveway turnaround and grading Ms. Tuomala noted “we are no longer requesting a waiver for a 2 ½:1 slope, all the slopes are now 3:1 or greater. Now there are no easements. No driveway easement, no slope easement. Everything is on the lot.”

In reference to the drainage design, Ms. Tuomala adjusted the catch basin and the outfall over to other side of the lot “so there is no chance of anything flowing to the existing house.” She pointed out the ditch line had been extended to pick up drainage off Old Mountain Road, added a proposed tree line (shown around the edge of grading and around where the silt fence had been relocate for erosion control).

Ms. Tuomala told the members she had met with DPW Director Rodney Bartlett to review the driveway entrance and pointed out an additional first page note item would be necessary (Note #12) stating that prior to the issuance of a Certificate of Occupancy the driveway will be built to town driveway standards with a 200-foot sight distance in both directions and at a point 10 feet back from the existing pavement of Old Mountain Road. “The driveway is 150 feet long and meets town requirements” she said adding “there is a 10% grade for the first 50-75 feet leveling out to a 2% grade in front of the garage area with adequate turn-around” she said.

Ms. Tuomala reviewed the overall disturbance noting a reduction in the overall impervious surface from 35,500 square feet to 24,900 square feet. “Just a hair under 25,000 square feet” she said. She pointed out the relationship of the existing house to the lot, the house across the street and surrounding properties so that the members could see “the big picture.” She noted “The existing and proposed houses are about 140 feet apart” adding “the existing house and the house across the street are about 160 feet apart.”

Ms. Tuomala concluded with a request for a waiver of the requirement of a drainage study and third party review at this time, noting that a third-party drainage review would be required prior to issuance of a Building Permit. She looked to the Board and said “we request a plan approval and acceptance of the waiver tonight.”

Chair Vann thanked Ms. Tuomala and asked if the members had any questions. Noting the subdivision would leave one lot smaller than 5 acres, Mr. Weeks asked “have you received a state subdivision approval?” Ms. Tuomala replied “yes, a copy is in the file.” Mr. Weeks then noted the new boundary line between the two lots did not indicate what would be used for monumentation (pipes, granite posts, etc.). He referenced 237:25 *Monumentation* adding “it would be better than just a point in the middle of a field.” Ms. Tuomala replied “this has been a bit of a moving target but yes, we will get it set.”

Chair Vann interjected “do I understand you are asking us to approve the subdivision and leave the question of the stormwater review for the presumptive purchaser of the lot? Is that correct?” she asked. “Not quite” replied Ms. Tuomala adding “pages 3 and 4 of the plan address stormwater and erosion control. This is not a site plan where I know exactly what is going to happen.”

Chair Vann expressed her concern about deliberating an approval without having a third-party drainage review. “Administratively it is extremely difficult” she said. The brief discussion about how to make a buyer aware of the requirement followed and included a discussion of the

possible conditions of approval, recording on the plan at the Registry of Deeds, and flagging the file.

Chair Vann opened the hearing to the public. With no comments or questions she closed the public hearing for Board discussion.

“We need to think about what we want to do here” she said adding “I don’t mind saying that I am not in love with leaving this matter hanging. Saying no (denial of application) may not be the answer yet approval without the drainage plan being looked at is hard to accept.”

Mr. Weeks suggested a condition of approval be that the plan be in substantial compliance so that the Code Officer would catch if a Building Permit application is received. Mr. Throop replied “that is the way it is supposed to happen but this kind of approach sometimes falls through the cracks” adding “on a site like, the slopes are more likely to trigger the Code Officer to go back and look at the site and site plan review. I will talk to Dario (Carrara, Code Enforcement Officer) about putting a flag in place.”

Mr. Waitkins interjected that while on the Zoning Board of Adjustment he had seen people who bought property in specific zoning areas thinking they could do something only to find out they could not. “I saw that happen and I do not want to see it again. That is not OK” he said. Mr. Throop pointed out the language of the Traditional Neighborhood Overlay District “states the applicant provide architectural design detail. I spoke with someone interested in that today, they probably will not build but they must provide some details. If the buyer doesn’t want to build what is approved, they can certainly come back for an amendment”

The members continued to discuss how to reference the need for a drainage review. It was noted that there are no fail-safe options. Mr. Clark noted this sort of thing had happened to him when he was required by municipal regulations to develop systems and locations of residences for a construction project he worked on in another town. “Nothing went where the design said it would go, but it was required in that town” he said adding “it ended up costing me money.”

Mr. Holt asked “why don’t we just submit this plan for review?” He read from Appendix B “the purpose of this regulation is to control runoff and soil erosion and sedimentation resulting from site construction and development of one acre or greater. Subdivision and site plans shall include plans for managing stormwater and controlling erosion and sedimentation as provided below.”

Mr. Throop replied “we can do that” adding “and if it comes back with comments the applicant can address it.” Chair Vann suggested the Board needed to make a decision. “We can make it a condition of approval or continue to next month. I think we should send it out for review *and* I think we need to flag the file somehow. We have to find a way to be reasonably certain any potential buyer will get a full file and understand a stormwater management system must be in place and it must be followed.” She looked around the table and asked “what is the sense of the Board?” Mr. Galus, Mr. Zeller and Mr. Juengst readily agreed.”

A motion was crafted/seconded (Weeks & Vann/Zeller) to **approve** the Subdivision request for Richard J. Freitas and Sheila C. Kozlowski at 611 Old Mountain Road, Parcel R001-022-200 on plan entitled “Subdivision Plan of Land Lot R001-022-200 Richard J. Freitas and Sheila C. Kozlowski Peterborough, New Hampshire Dated March 13, 2015” with the latest revision dated

10-7-15 by Monadnock Survey, Inc. consisting of 4 pages which also includes Topographic & Soils Overlay, Conceptual Site Grading, and Erosion Control & Detail plans subject to the following conditions:

1. Prior to signature of the plans: Plans legend to indicate type of boundary markers are to be set along the new property line between parcels R001-022-200 and the newly created parcel R001-022-201 as required by §237-25 of the Subdivision regulations.
2. Note 12 regarding the approval of the driveway site distance prior to the issuance of a Certificate of Occupancy to be added to the plan.
3. Prior to Signature of the plan, a final Stormwater Management and Erosion Control plan complying with all applicable sections of the Peterborough Subdivision Regulations shall be required and shall be reviewed by a third party consultant for parcel R001-022-201 as provided for in Appendix B (H)(2) of Chapter 237.

**Before** a vote was taken Mr. Throop advised them to vote on the waiver request that was still on the table.

A motion was made/seconded (Clark/Zeller) to deny a waiver of the Peterborough Subdivision Regulations Appendix B (H)(2) of Chapter 237 requesting that the requirement of third party review of the Stormwater management and erosion control design be completed prior to issuance of a building permit. All but Mr. Weeks were in favor.

The subsequent vote for the approval of the subdivision (noted above) had all members in favor.

### **Preliminary Conceptual Consultation:**

“OK, the second item tonight is a Preliminary Conceptual Consultation regarding the conversion of an existing building previously used as a bank branch to a coffee and donut shop use on Parcel Number U018-063-000, located in the Village Commercial District.” Char Vann took a moment to review the preliminary review. “I want to remind everyone that what we are doing here is talking about the idea of a conversion of the existing building to a new use.” She added “this is not a public hearing and public comment may be accepted at the discretion of the Planning Board Chair” and concluded with a smile “and nothing said here can be used against each other.”

Chair Vann then went on to tell the audience that one thing the Planning Board has talked *a lot* about in the last 6 months is Peterborough’s Design Standards and the commitment to ensure that they are followed. “We don’t want to be looking like *anywhere* and we don’t want to be looking like *nowhere*” she said, as she reiterated the importance of Peterborough continuing to be Peterborough.

Jay Heavisides of Meridian Land Services Milford, NH, introduced himself as the applicant’s representative. He then introduced Mike and Adam Quinn of Quinn Management Inc. (Bedford, NH). He then distributed a preliminary design of the former Ocean National/People’s Bank located at the intersection of (US) Routes 101 and 202.

“This is a nice site” he said adding “Dunkin Donuts would like to move from across the street (currently located at the Big Apple Convenience Store and Gas Station) to here.” He was quick to note “we know about the drive-through, we are not asking for one.” He noted the only changes would be some site improvements including a remodel of the interior, painting the exterior, changing the sign, the addition of a dumpster and restriping of the drive-through area for employee parking. “That is it” he said.

Mr. Heavisides noted the lot currently had 14 parking spaces (13 spaces are required per town regulations) with 6 spaces in the back and one ADA space “for a total of 21 spaces.”

Chair Vann asked if they would consider closing the driveway lane existing north on to Route 101/202. She described vehicles exiting there and making a quick U-turn to end up in the Westbound lane of Route 101. Mr. Heavisides replied “we have met with NH DOT, they will be conducting a traffic analysis but I believe their intent is to leave it as it is.”

Mr. Waitkins asked about the extent of the traffic study. “I want to see an animation of what is going to happen at the intersection” he said. He noted the use of Synchro or other forms of traffic analysis software tools. Mr. Heavisides replied “I am not sure” with Chair Vann interjecting “I think we would like to see something like that.” Mr. Heavisides noted “DOT controls the intersection” with Mr. Waitkins noting “and the intersection is in Peterborough. I want to personally see a computer-generated animation of what happens at the intersection so I can actually see what is happening.” He also noted the animation should go beyond the intersection itself. Mr. Holt noted “I expect the peaks for Dunkin Donuts will be higher than they were for the bank traffic.”

Adam Quinn (Jr.) told the members “we will do whatever study is required by the Board.” Chair Vann noted “that type of software is pretty readily available, it is not an esoteric software for these days and it is a fair request with the peak anticipated to be a lot *peakier* than the bank traffic.”

Mr. Juengst asked about the addition of product at the new location with Mr. Quinn replying “it will be the same menu as across the street.” Mike Quinn (Sr.) added “we do serve lunch items but generally we do most of our business in the morning.” He went on to note they expected a drop in business in the early stages of the new store because they would not have the incidental purchases from the people buying gasoline. “We are not projecting a super collision of a perfect storm by moving. In fact a town this size having two stores to go to reduces the volume of each store. Generally we do a *below average* business.” Mr. Quinn told the members his family had been in town for 15 years. He noted their lease at the Big Apple was up for consideration and they saw this building as an opportunity to control their own property, create a better environment and provide seating for their customers.

“OK” said Chair Vann “now let’s talk about the exterior.” Mr. Heavisides distributed several graphics of potential exterior facades for the building. He told the members “here are several examples of what the building could look like” adding “page 3 is what Dunkin Donuts wants.” This graphic depicted the building with the corporate franchise colors of beige, pink and orange. He conceded that he’d told corporate “the orange awnings are not going to fly” suggesting brown or beige instead. Mr. Weeks interjected “what is the purpose of the awnings?” Chair Vann

relying “it is their (brand identity) thing.” Mr. Heavisides told the members the signage would remain the same.

Chair Vann noted she had recently been to Vermont and saw a Dunkin Donuts franchise that she had absolutely no qualms with. “The awnings were an eggplant color” she said. Mr. Weeks noted the Dunkin Donuts in Freeport, Maine. “It can be done” he said. Mr. Harrington replied “we can work with anything.”

After additional discussion on what the building would look like the members concluded there would be no monolith or detail striping on the building, beige awnings on the front side of the building would be permitted sans promotional writing on them. “That is not too much to ask” said Chair Vann. Mr. Quinn (Sr.) replied “they like to use their images and colors unless restricted by the town. You have made it perfectly clear. It is perfectly clear in your regulations that we cannot. You can point to your regulations in your decision and we are OK with that, we want to be good neighbors.”

Mr. Quinn (Jr.) reiterated they wanted to be good neighbors and work with the town. He did note some push-back they had received from corporate, pointing out the building across the street (The Magic Flute). “She is not a franchise” interjected Chair Vann. Mr. Quinn (Sr.) agreed noting “you have made it clear, these are your regulations and we will live with that.” Mr. Holt acknowledged the applicant’s respect for the regulations noting “you are coming in in good faith.”

Mr. Weeks reminded the applicant about the sign regulations as well “keep those in mind” he said. He also asked if the time/temperature sign was going to stay. Mr. Juengst thanked the applicant for working with the Board but noted his concern with the drive-through structure. He asked “would you consider taking it down?” Before the applicant answered Chair Vann interjected “let’s just say if you wanted to remove it is alright with us.” Chair Vann then added “and another thing to think about is having a place outside to sit and have your coffee.” Mr. Weeks reminded the members and the applicant that would have an impact of their parking requirements. He also noted one residential abutter had submitted a correspondence. That letter was read to the Board and audience by Chair Vann. Essentially the abutter suggested the applicant consider a plan to relocate his driveway to the south, creating a turnaround on his property to enter/exit the highway. When Chair Vann was finished Mr. Zeller interjected “I am only one voice but I would like to discourage the applicant from even thinking about it.” He added “They moved in there, they know the traffic.”

Chair Vann then opened the meeting up to the public but there were no questions or comments and the conversation returned to the scope of the traffic study. Mr. Throop noted “they will focus on the intersection and how the change in use may impact the function of the intersection.” A brief discussion of how the intersection may back up at peak times, what intersection improvements may be appropriate and what those improvement might look like followed.

In closing Mr. Quinn (Sr.) reiterated the respect he and his family have for the town and how the branding of the franchise would not be obtrusive. Citing specific time limit and business decisions that must be made Mr. Heavisides requested the Board expedite their decision at the Site Plan Review meeting next month. “That would be very helpful” he said. Mr. Waitkins reiterated an automated traffic presentation would be extremely helpful. “It is pretty standard, I

would think any traffic engineer can do it and it would be really nice to have” he said. Mr. Weeks added “and having any information that the proposal does not negatively impact the Stewart property would probably be beneficial.” Mr. Throop noted the timing of the traffic study and said “anything the Board approves would be conditional to the DOT study.”

Tyler Ward introduced himself as a resident and asked why the applicant wanted to buy a larger building “especially when you mentioned your stores are at a below average rating.” Mr. Quinn (Sr.) replied “that is a good question, I have some family members who are asking the same thing.” He went on to say “we do not control the property we are currently in, we would like to create a nurturing environment” adding “two shops in a town of 6500 will result in a lower volume of customers per shop but our intent is not to close one to double the volume of the other.”

Chair Vann concluded the meeting by reminding the members who have not taken the broadband survey to please do so. Mr. Throop briefly reviewed the re-write of the Vision Chapter of the Master Plan. He explained the public hearing and final Planning Board approval process. Mr. Weeks inquired about having recommendations at the end of the chapter with Mr. Throop replying “not typically in a vision chapter, it is really used for future chapter updates and focuses on what the general guidelines and priorities are for making community decisions.” He went to say “this chapter is intended to reflect the input from the forum and follow-up survey last year and how we see the community evolving over time.” Chair Vann interjected “I am reasonably impressed by what I see making clear the priorities of the town.” She went on to say “if we want to do innovative land use anywhere the Vision Chapter needs to support what we want to and it does that based on everything we have talked about.”

Mr. Throop encouraged the members to review the chapter and e-mail him any comments for the Master Plan Steering Committee meeting on October 28<sup>th</sup>.

Mr. Juengst noted his concern about the potential of small locally-owned businesses being impacted by the Dunkin Donuts. Mr. Weeks noted “the sale of donuts, coffee, breakfast sandwiches and soda are allowed in the Commercial District and we cannot discriminate as to who sells them.” A brief discussion about the barrier to entry for a small local business versus a national franchise followed. Mr. Throop summarized “it is much easier when the applicant is willing to work with the town and it can be less expensive for them when clear standards are in place.

After a quick vote from the members, Chair Vann announced they would not have a Planning Board Workshop next week.

**Next Meeting:**

November 9, 2015 at 6:30 p.m.

The meeting adjourned at 8:10 p.m.

Respectfully submitted,

Laura Norton  
Administrative Assistant