

**EXETER PLANNING BOARD  
DRAFT MINUTES  
AUGUST 11, 2016**

**1. CALL TO ORDER:**

The session was called to order by Chair Kelly Bergeron at 7:04 pm.

**2. INTRODUCTIONS:**

The Chair introduced Boardmembers Don Clement (BOS representative), Pete Cameron (Clerk), Kelly Bergeron (Chair), Katherine Woolhouse (Vice Chair), Aaron Brown, and Langdon Plumer. Staffmembers present were Dave Sharples, (Planner) and David Pancoast (Recording Secretary). The Chair announced that all members would be voting tonight. Members of the public were present as well.

**3. ANNOUNCEMENTS:**

The Chair announced the matter of Ted Boschetto (for East Coast Venture, Inc.), Case #21612, would continue for third party review to 9/8/16.

**4. NEW BUSINESS: PUBLIC HEARINGS:**

- An agenda matter was taken out of order by the Chair:

**The application of D. R. Lemieux Builders, Inc. for the proposed subdivision of a 12.3 acre parcel into five (5) single family residential lots. The subject property is located at 13 Garrison Lane, in the R-1, Low Density Residential zoning district. Tax Map Parcel #61-28. Case #21612.**

F. X. Bruton of Bruton and Berube in Dover, NH, for the applicant, requested a continuance too, as the project involves a scenic road requiring public review and they want to come back on 9/8 for a full presentation. Since not yet opened by the Board, the Chair announced the matter was moved to 9/8/16.

- **The application of McFarland Realty Trust for a minor site plan review for the proposed construction of a 12,200 square foot addition to the existing service bay area of the existing building and associated site**

**improvements at 151 Portsmouth Avenue. The subject property is located in the C-2, Highway Commercial zoning district. Tax Map Parcel #51-13. Case #21610.**

Mr. Sharples: application is complete for review. Mr. Plumer moved to open and accept the case/application for review. Mr. Cameron seconded and the roll call vote was unanimously approved.

Corey Beldon, with Altus Engineering, was there with Ms. Sue McFarland Monohan from McFarland Ford. They first came last year, got approval, but never constructed it. They have changed the project to a larger expansion, and the existing parking lot will be repaved. Front of building will get a new façade, new entrance and lighting and new drainage, which is all identical to the prior approval. New larger service bay expansion to be 12,200 sq ft. Because of the grades extending the foundation outward, they need to re-grade the parking lot and also further improve drainage, with 2 new catch basins tying into existing lines. All improvements are within existing impervious areas, they are just swapping this new addition for existing paving with no net increase in impervious. Not in the Shoreland Zone, not in any wetlands nor wetland buffer zones.

Mr. Cameron asked if the applicant was anticipating any increase in traffic from this expansion? Ms. Monohan replied that the incremental service bays being added were for increasing addition size due to existing service facility not being able to handle larger trucks, so this larger expansion is a better space for bigger trucks, with more room to move around and safer for workers-they had some injuries to personnel that will not occur. They are getting 40% increase in capacity but probably not more increase in the amount of business per se.

Mr. Clement asked if the re-grading will lead to stormwater management effects on site? They are relocating one catchbasin, are any other basins being relocated or any more changes? Mr. Beldon explained that the applicant was adding two more catchbasins and that surface flow onsite drains back to the catchbasin that is being relocated. Two new catchbasins will connect back to where water the drains now and they are also capturing existing roof drains and picking it up and piping it to the catchbasins, then to a shallow swale, then to the low-lying area. Mr. Clement asked if they are not increasing stormwater coming off site, will the new re-grading increase the velocity of stormwater coming off site to the stream at Hannaford's?

Mr. Beldon said all sheet flow surface will run off to the catchbasins, they are not increasing impervious, not changing concentration or speed of runoff.

There were no other comments from the Board. No public comments were offered.

The Chair said a waiver was requested. Mr. Sharples said the only comment (no TRC, nor third party review) was from DPW which said they need a waiver from proposed pavement thickness-they are proposing 3 in. thickness rather than the required 4 in. thickness. Mr. Plumer moved that the requested waiver of Section 9.13.7.3 regarding pavement thickness for Case # 21610 be approved. Mr. Cameron seconded and it was unanimously approved by roll call vote.

Mr. Sharples proposed seven standard conditions that he read into the record. He reported that pre-construction was not included since he can informally conduct that during early project review onsite. [Conditions are not recited herein for brevity of minutes.] No conditions were changed or added. Mr. Brown moved the request of McFarland Ford, Case #21610, be approved subject to the proposed conditions of the Planner. Mr. Plumer seconded and it was unanimously approved.

**The application of Tuck Realty Corp. for an amended site plan review to discuss the condition of approval for off-site improvements associated with the 80 Epping Road project (Case #21506) approved in November 2015. The subject property is located in the C-2, Highway Commercial and R-4, Multi-Family Residential zoning districts. Tax Map Parcel #55-3. Case #21611.**

Mr. Sharples reported that the applicant had submitted an amended site plan for review and approval. Originally this project was approved last November 2015. One condition of that approval was to install a DPW-approved sidewalk at the project on Epping Rd. The DPW said that the new sidewalk needed to meet same specs as the existing one that is located across the street for a similar project-five feet in width, with raised granite curb. He said the Chair wanted a Town Counsel legal opinion on this matter which they got from Attorney Mitchell. The opinion is confidential unless the Board releases it to public information. He had shared his memo on it with the applicant but not the actual opinion. The applicant has given its comments on it without seeing the legal opinion. They do not want to build the sidewalk that has been required. This matter is on for this evening for discussion only, prior to Board acceptance of the proposed plan. The Chair asked the applicant for discussion only for its clarification as to why this was filed.

Mike Garrity, with Tuck Realty, said he and Jonathan Ring of Jones & Beech Engineers of Stratham were present for this. He hoped the Board could consider whether it could move forward at all, given the legal opinion it got, not wanting to waste the Board's time. There was procedural discussion on the matter having to be in 'discussion-only' status and it was so limited.

Mr. Garrity said the applicant wanted modification or removal of the sidewalk condition of approval. The prior approval process was long. There is 1000 ft of road to be constructed. There was some discussion at the prior board meetings about a possible sidewalk. During the approval session, a member of the Board wanted a condition of approval for a sidewalk. The applicant met with Jennifer Mates of DPW in December, who said that DPW didn't want any sidewalks done piecemeal, it wanted Master Plan compliance. At the end of that DPW meeting, the applicant was only supposed to do a painted lane along the frontage and a 4 foot wide paved shoulder, a multipurpose feature to serve as a sidewalk. So they modified their final plan and submitted it to Planning. Mr. Sharples reviewed it against the conditions of approval and wanted to see the DPW-approved sidewalk. The applicant had asked DPW for written approval for months without a response but finally got DPW input from Ms. Mates that specified a full granite curb, raised sidewalk. He said it's unfair for other entities to get a free sidewalk built on their frontage at this applicant's effort and expense. He offered alternatives to doing it DPW's way: perhaps to modify it or remove it from the original approval entirely.

Jonathan Ring from Jones and Beech Engineering in Stratham said he was the engineer at the time. At the TRC meeting on it they were told by DPW that it didn't want a sidewalk and it had told the daycare folks the same thing. It was on the plan only as a paved shoulder enhancement, consistent with the discussions at that time. There was also a veterinary clinic along there that was approved without any sidewalk. Mr Garrity reiterated that Jen Mates was the only DPW person who had spoken to this issue. Mr. Sharples had nothing more to offer at that time.

The Chair asked the applicant why it had not appealed within the required 30 days if they were unhappy with the decision? Mr. Garrity said they wanted to work with DPW, didn't want to sue over it and thought it could be resolved in some other way. They felt they could amend the approval. The front portion of the project is not built yet and the applicant will come back to amend that for Aroma Joe's and apartments. He hoped they could coordinate with a sidewalk grant effort,

pay some of the initial engineering, do some master planning, or in some other way help out on this matter.

The Chair said that nothing had dramatically changed-the Board required a new sidewalk under Sect. 9.15, to accord with DPW requirements, which is within its purview to require. If the applicant was not happy with the sidewalk, it should have appealed it within 30 days, but that wasn't done. Now it seems that they just don't want to build it, so that's not a change. There is no hardship on this. Mr. Garrity said a lot of things weren't thought about at the final hearing. Mr. Cameron said there is a sidewalk directly across the street and it should have been an indication to them about it. Mr. Garrity said there was, but there are many different types of sidewalk and that first they got DPW guidance that was fine but then later got the input of the sidewalk-across-the-street requirement. He thought building a simple crosswalk across the street there to the existing sidewalk was enough. The Chair said the only thing here is the applicant doesn't want to build the new sidewalk.

Mr. Sharples asked the Board if it wanted to share the legal opinion. Mr. Clement moved to make the legal opinion on this public. Mr. Brown seconded and there was unanimous approval. Mr. Sharples read the legal opinion into the record. The recommendation therein was to deny the matter unless there was a credible change in circumstances. Mr. Brown said the applicant isn't likely to sway the Board to go against its counsel. There was further discussion. Mr. Brown said the challenge to having an approval condition for later DPW approval on something is that if they don't like it, they have to appeal.

There was discussion on putting the construction amount into escrow and on the timing of the construction of the sidewalk, and on bonding. Mr. Sharples said that the Board should absolutely bond any public improvements. Essentially it's an exaction step and applicant can build it themselves or give money to the Town to build it. A phasing plan was submitted subsequently on this project. The Chair said it was part of the approval so it has to be built. Mr. Sharples said he will review that meeting tape to see how clear it was regarding when it was to be built. He went over the legal opinion process in detail. It was a straightforward query he presented to legal counsel. A different builder coming in and wanting to change the project is a change in circumstances. If this applicant can't show such a change in circumstances, then this request should be denied.

Mr. Garrity said they need to know when to build it. The Chair said that they should work with Planner on that point. Mr. Cameron asked the Board if it is satisfied with all that it has heard and if there was more to learn? The Chair said that she thought it was all here and the legal opinion was clear. Mr. Cameron only wanted the record to show the Board had everything it needed to decide this.

Mr. Garrity offered to simplify the matter for the Board so it could avoid having to vote and he withdrew this application. The Board accepted that withdrawal.

## **5. OTHER BUSINESS:**

- **Proposed Town Acquisition of Tax Map Parcel #49-12 (4.7 acre parcel on Newfields Road)**

Jennifer Perry, DPW Director, reported that they are in the process of acquiring land on Newfields Rd adjacent to the DPW facility there and have a signed Purchase & Sale Agreement. It is a 4.7 acre parcel, east of the rail road tracks, abutted by DPW land on the east and is essentially landlocked. It's not useable by the Carrs, who own it. The Conservation Commission was offered it a year ago but couldn't pursue it, so the owners were referred to DPW for its possible interest. It has potential use for DPW. The BOS was made aware of this presentation. This is a '41.14.c' process for acquisition of town land. She had to meet with the Conservation Commission this week, and with this Board, then go back to the Board of Selectmen for two public hearings on it. The Commission recommended acquisition to BOS for use by DPW.

Mr. Plumer said it makes sense. Mr. Brown asked how DPW had come up with the \$24,000 price on a \$21,000 land appraisal? Ms. Perry said the owners had gotten the appraisal in 2015, had tax incentives at that point. DPW had to sweeten the pot a bit on it since-with only a minor increase. It was an earnest offer. They went back to Kraft Appraisal and there was not enough of a change in the financial climate to warrant a new appraisal. She said there is a color aerial photo in the back of the Board packets, showing setbacks/buffers in feet. The sellers wanted a 100 ft setback from property lines for construction, which DPW couldn't do, so it negotiated for a 25 ft setback and that changed the price. Ms. Perry also said that their facilities planning conducted recently showed that the DPW building closest to this

property does not meet current code nor current needs, so DPW will be coming for proposed facilities expansion within 3-4 years. This acquisition would be extremely beneficial to the Town at this time for that reason.

Mr. Clement said at the BOS meeting on this there was discussion on change in sale price and some discomfort with members about the price change had occurred, even though not a large amount. He said in the end this is a very important price of property with 'value-added' for DPW so the BOS decided it was too good a deal to pass up based on the known future need.

Mr. Sharples said that there will be two public hearings with BOS on this so no public comment needs to be taken by the Board on this tonight.

There was discussion on the Board moving forward by recommending to the BOS that it hold hearings on acquisition. Mr. Cameron moved that the Board send the BOS a recommendation letter supporting this acquisition. It was seconded by Mr. Plumer and unanimously approved by roll call vote.

- **Proposed Site Plan Revisions Language review discussion:**

Mr. Sharples presented the proposed Site Plan Regulations revision language and suggested the Board hold a hearing on it as presented. The Board has seen all the language before, it's in regulations amendment form now. He went over language regarding deletions and additions-he added new 9.3.5 section which he read into the record. The stormwater section is being revised next. The Board needs to hold a public hearing. There was discussion on the timing of the public hearing and amount of notice beforehand. Mr. Sharples said there is no problem with 9/8 if the Board approves tonight to hold a public hearing on this, but that may be too soon if the Board wants longer. Mr. Clement moved the Regulations amendments be scheduled for public hearing for 9/8 and Mr. Cameron seconded. On discussion Mr. Brown asked if the Board could change any of it at that point. Mr. Sharples said it could change any of it, they just have to repost and redo the public hearing. The roll call vote was unanimous approval of the hearing.

- **Approval of Minutes of July 28, 2016:**

Mr. Cameron abstained on this discussion as not present for that session. After discussion on revisions, Mr. Plumer moved to accept The Minutes of July 28, 2016 with the changes as noted. Mr. Brown seconded and Ms. Woolhouse also abstained due to absence from that session. The vote was unanimous for approval.

- **Town Planner items:**

Mr. Sharples reported that Horsley Whitten Group will be coming in for a workshop session next Tuesday at the Library at 6 pm with the MPSC for update and scope of work presentation.

Northeast Distribution 14,000 sq ft addition had its pre-con with him and they will be starting next week. He will do the inspections in house.

He checked the Franklin St erosion control and all is good with that.

Regarding Capital Improvement Projects (“CIP”), the first session is on 8/25 but the Board does have a second session on it. The date of 9/8 is getting booked with regular agenda items. They want it to get to the BOS by 9/30. He asked if the Board could hold a separate meeting to handle CIP? The first CIP public hearing is the worst one. Mr. Clement said that if the Board can do the first one on 8/25, then the second session on it on 9/22, he would be comfortable with that approach if the rest of the Board was. The Chair said that scheduling other things with CIP is done on a case by case basis, for the first meeting the whole meeting is CIP and each item is taken one at a time. Second session is shorter but can decide whether to do them on a case by case basis, so the first CIP session length will dictate the second one. Mr. Sharples said he would schedule it for 8/25 and then for 9/22.

The sitewalk with C3I originally set for 9/25 will still be on 9/25 at 5 pm at 8 Commerce Way. They are coming on 9/8 for their next hearing and then going to ConCom after that.

The Gourmet Gift Baskets building is big. Doing a great job. 100,000 sq ft with 40 ft ceilings. Massive.

## **6. MEMBERS' REPORTS ON OTHER COMMITTEE ACTIVITIES:**



Mr. Clement said that C3I had come to ConCom this week and he was there. The ConCom wanted to work with other boards to find out what's coming up for them.

**7. ADJOURNMENT:**

There being no other business before the Board, Mr. Plumere moved to adjourn and Mr. Cameron seconded. The vote was unanimously approved. The session adjourned at 8:40 pm.

Respectfully submitted by David Pancoast, Recording Secretary