

Planning Board Minutes 02/12/13

NEWMARKET PLANNING BOARD MEETING FEBRUARY 12, 2013 MINUTES

Present: Val Shelton (Chairman), Ed Carmichael (Town Council ex officio), Diane
McMenimen, Jane Ford (Alternate), Elizabeth Dudley

Hardy (Planner), Eric Botterman

Absent: Janice Rosa (excused), Adam Schroadter

Called to order: 7:02 p.m.

Adjourned: 7:51 p.m.

Agenda Item #1 – Pledge of Allegiance

Agenda Item #2 – Public Comments

None.

Agenda Item #3 – Review & Approval of Minutes

01/08/13

Action

Motion: Rick McMenimen made a motion to approve the Planning
if any

Board minutes

Second: Eric Botterman

Chairman Shelton stated she had an amendment on page 4, line 1, to delete the second "if". On page 5, line 16, at the end of the sentence it should read "you should come to". On line 25, that should read "She stated when the Zoning Update Committee first met" not "She stated when they first met". On Rick McMenimen's motion on line 35, the motion would have been "Rick McMenimen made a motion to recommend to the Town Council the adoption of the proposed land use code..."

Vote: All in favor

01/22/13

These minutes have not been finalized and will be acted upon at the future meeting.

Action

Motion: Eric Botterman made a motion to move the approval of the

01/22/13 minut

Second: Rick McMenimen

Vote: All in favor

Agenda Item #4 – Regular Business

Acadia Engineers and Constructors LLC/Russell Serbagi Jr. – Continuation of a public hearing for an application for Site Plan at 13 Water Street, Tax Map U3, Lot 4, M2 Zone. The proposal is for the redevelopment of the property to include two projects:

- 1) Restoration and renovation of historically significant F. E. Lang Blacksmith building (5,599 SF) ; and
- 2) Construction of four new townhouse units (5,320 Square Feet).

Chairman Shelton stated the Board should be taking action on this tonight. The public hearing at the last meeting was not closed. She asked if anyone from the public wished to comment. No one spoke and Chairman Shelton closed the public hearing.

Tim Nichols, Acadia Engineers and Constructors LLC (AEC), stated there were two waivers that were submitted. One is for snow storage locations and the second is for an outdoor lighting plan. He stated there are no snow storage areas onsite. During any significant snow events, like the recent one, they will be loading and disposing of snow offsite. They are requesting a waiver of the lighting plan, because they specified they would use all Dark Sky compliant fixtures and are working with the Rivermoor Landing Condominium Association to provide security lighting and to address some of their concerns. The actual fixtures they will use are also in compliance with a request by the Conservation Commission to use a lamp that has a lighting frequency that is less intrusive to the wildlife in the Lamprey River. Diane Hardy stated the Town Engineer recommended there not be snow removal onsite, because of the close proximity to the river.

Action

Motion: Eric Botterman made a motion to grant the waiver to Section
regarding snow removal

3.05 of the Nev

Second: Rick McMenimen

Vote: All in favor

Action

Motion: Eric Botterman made a motion to grant the waiver of Section

3.16 paragraph

Second: Rick McMenimen

Vote: All in favor

Chairman Shelton stated Adam Schroadter is not present at the meeting. She stated she should have appointed Jane

Ford as an official voting member. She is appointing her at this time.

Action

Motion: Eric Botterman made a motion to waive the requirement for Hydric Soils as

Second: Rick McMenimen

Vote: All in favor

Chairman Shelton stated she would like to get Diane Hardy's recommendations on the latest site plan. Diane Hardy stated she had updates to her February 7 report. She did hear back from Rick Malasky and he has reviewed the plans for the fire lanes and "No Parking" signs that have been included in the area of concern. He indicated his approval of the revised plans. She stated Tim Nichols did make further revisions to the plans. Notes have been added pertaining to the Zoning Board of Adjustment variances and the detail on the ADA accessible space has been updated, so it is consistent with the regulations. She recommended the Board approve the Site Plan subject to Conditions #1-5 below:

Chairman Shelton read the conditions.

1. Prior to the Planning Board Chair signing of final Plan set, the Applicant shall provide a revised, stamped and signed Existing Conditions Plan, as required by Section 4.10 (A) and Section 4.10 (B) (2) confirming the property boundaries as shown on the Site Plan. Further, all sheets depicting boundary information shall be stamped by the LLS confirming correct boundary and lot areas.
2. Impact fees for the project (calculated in accordance with Town regulations) shall be paid to the Town of Newmarket is expected that multiple Certificates of Occupancy (CO) will be issued over the period of build-out. Prior to the issuance of any CO the pro-rata share of impact fee attributed to that portion of space for which the CO is requested shall be paid.
3. The Applicant shall enter into a Developer's Agreement with the Town of Newmarket, which includes findings of fact special site plan approval conditions, the Town's expectations prior to and during construction, requirements prior to the issuance of building permits, certificates of occupancy, and scheduling.
4. Evidence that all relevant Federal and State permits relating to wetlands and sewer line relocation have been secured. Copies of all permits (and any corresponding conditions) shall be provided to the Town Planning Department prior the signing of site plans by the Planning Board Chair.
5. The Site Plan shall be recorded at the Rockingham County Registry of Deeds.

Chairman Shelton asked if the applicant had any comments or questions and he did not. She asked the Planning Board if they had comments or questions. Eric Botterman asked if Conditions 2 and 3 were necessary. Chairman Shelton stated, regarding Condition 2, the Board assesses impact fees at the time of approval. Eric Botterman asked if Condition 3 was required. Any developer would have final plans approved and, once approved and recorded, he can pull building permits. Diane Hardy stated it brings the developer through the process from Planning Board approval to the issuance of the Certificate of Occupancy. It is an administrative matter and it includes things like having a preconstruction conference, making sure that everyone is working off of the correct set of plans, and bonding. It spells out the requirements for payment of the construction management fees in advance of having any building permit issued. It is an administrative tool and a common tool used by professional planning offices. Chairman Shelton stated it is within the Site Plan Regulations.

Eric Botterman asked, on item 5 where it says a site plan shall be recorded, if that meant all of the pages. Diane Hardy stated that would be just C3. Eric Botterman asked, when a town wants to record a site plan, do they always record the

sheet signed by the Planning Board. Chairman Shelton stated she has to sign all of the sheets. The regulations require the plans are reviewed and then signed by the Chairman. Diane Hardy stated there should be a signature block, but there is a stamp in the Planning Office that may also be used for signature. The requirement for a signature block was added as Condition #6.

Tim Nichols stated he had received a message from their arborist and the visual test was inconclusive for Dutch Elm disease. They are sending a sample to UMASS to do an analytical test.

Action

Lot 4,
Blacksmith

Motion: Eric Botterman made a motion to approve the site plan for M2 Zone for the redevelopment including restoration and building and construction of four new townhouse units

Acad

Second: Rick McMenimen

Vote: All in favor

Chairman Shelton thanked the applicant, recognizing that this has been a very long process for them and for many boards in town. Everyone is very excited they have chosen Newmarket to do this redevelopment and to move their business here. Everyone is looking forward to them coming in and for them enjoying much success there. She thanked them for their patience and steadfastness. She was not sure many developers would still be here. Tim Nichols stated it is a wonderful site and they understood that everyone on the Board is a volunteer and they appreciate the Board's admirable efforts. They look forward to starting their project and are very excited.

Agenda Item #5 – Other Business

Landscape Regulations – Discussion

Chairman Shelton stated there are printed copies for the Board to review. She stated they could have some overview discussion tonight. Eric Botterman stated some of these regulations would require trees or landscaping to be put on Town property. The Town would have to maintain it and care for it. He suggested this be sent to the Department of Public Works Director, Town Administrator and Tree Warden for their review. There may be some consternation about the Planning Board putting a potential financial burden on the Town. He felt the Board should not spend a lot of time talking about this until they receive feedback from those individuals. Chairman Shelton agreed. She stated she was also wondering if they should distribute this to some of the professionals who have represented applicants that have come before the Board to get their input on how this might impact applicants and future projects. She suggested Bill Doucet and Mike Sievert and anyone else someone might think of. Eric Botterman stated the intention of this was good, but the devil is always in the details. Chairman Shelton asked if anyone was present from the public, who may want to speak on this.

A gentlemen in the audience stated he was there to speak about the dam. Chairman Shelton stated they had a public comment period at the beginning of the meeting for non-agenda items, but this topic is not a Planning Board issue. He should go to the Town Council, as it is their issue and that is the proper forum to raise any concerns or make any comments. He could also talk to the Town Administrator. She recognized any comments he had were valid comments, they are just not within this Board's jurisdiction.

Action

Motion: Eric Botterman made a motion to continue the Landscape

Regu

Planning Board
Departments and others for

meeting, with the understanding that Town Planner Diane
their comments.

Second: Rick McMenimen

Vote: All in favor

Chairman's Report

Chairman Shelton stated she and Diane Hardy are scheduled to appear before the Town Council again at their next meeting. That will be the first public hearing for the proposed ordinance for the M-2 zoning changes. She gave an overview of the January Town Council meeting presentation. She has prepared a memo to address the questions that were posed during the initial discussions and will do an updated presentation. She went over the updates. There are four components. One is an updated build-out analysis spreadsheet. Each parcel is looked at in more detail. There are a total of 47 additional residential units that could be constructed if those are built out. She went over the 36 parcels that are being looked at for the rezoning. Of those, three parcels are vacant and undeveloped, that is 8% of the 36 parcels. There are 22 nonconforming parcels that have residential and mixed uses now. That is 16% of the total. Clearly, there is a disconnection between existing land use and the current zoning. Eleven of the parcels have conforming uses, mostly because they have been redeveloped. That includes the medical office building, the parking lots for the mills, Riverdale Auto even though that is not functioning as a business anymore, the library and the railroad. There are nineteen residential units that will still be grandfathered. There is only one parcel that does not front on Route 108 that could be developed with all residential, that is the conceptual presentation that Mr. Decker and Bill Doucet had made for the property owned by Elm Street LLC last summer. The Board has heard from abutters stating that they want that lot to be residential, not commercial. There are three parcels that do not front on Route 108, but they are used to support the parking on other parcels, like the mill and the Polish Club parking. If those lots were to be redeveloped with any residential, the rezoning would have to also address the parking needs of the mill and the Polish Club. It is likely the only way to be able to do that would be with a parking garage.

She stated ten out of the thirty six parcels can feasibly be redeveloped into mixed use, with street level commercial/retail and residential above. There are six parcels with sufficient acreage to support eight additional units, without going through the Special Use Permit process. The reason for that is that a single-family or a duplex under the proposed zoning does not have to go through the Special Use process.

She stated Councilor Wright had asked if the Board had looked at unintended consequences of the zoning changes. She stated there is one that the Board did miss. She asked for a consensus of the Board to recommend to the Town Council a slight modification to the proposed Special Use Permit section. Right now, in that section, Special Use permitting only applies to multi-family or mixed use development with three or more residential units. Under that, there are two conditions of a Special Use Permit that apply. Those conditions are that there are two onsite parking spaces per residential unit and there is prohibition of residential use on the first floor along Exeter Road and Main Street. By moving those two requirements out of the Special Use section of the ordinance into the main core of the M-2 zoning district, those requirements would then apply to a single-family or a duplex. For example, there is a vacant lot next to Rite Aid. If the zoning goes through as proposed, someone could pull a permit to build a single-family house or a duplex on that lot. With the recommended modification to remove those requirements out the mixed-use development section and move the paragraph regarding the parking requirement of two spaces per unit for residential use, there wouldn't be any way one could develop a single family or duplex residential use on that lot. There are five (5) other lots similar to this, which could then be used for mixed-use development. They would have to have a commercial component and any residential use would have to be on the second floor or third floor level. This is in Section 2.02(B)(2), (3), and (5) of the M-2 section.

Diane Hardy stated, if there are any modifications made to this proposed zoning amendment, there would have to be another public hearing with the posting of the ordinance, before any action could be taken on it by the Town Council. Technically, it should be on the Planning Board agenda, if it is going to be suggested as a recommendation for change. Eric Botterman stated he had no problem making the recommendation. Diane Hardy stated it still has to go through due process. She stated, at this point the Planning Board has made its recommendation and it is in the hands of the Town Council. To go back and change that recommendation, the Board needs to go through a process. Chairman Shelton stated they want the Council to move forward with the proposal. Diane Hardy stated she disagrees with that procedure.

Chairman Shelton stated, if that is a technical issue, then she will make that suggestion as a private resident. She stated she will not present this to the Planning Board after all, she will present it to the Town Council at their meeting as a private citizen and the Board members can go to the meeting and make comments or express their support or concerns at that time.

Elizabeth Dudley stated she wanted to discuss the letter received by a citizen. Chairman Shelton stated this was still her Chairman's Report and they will discuss that under New/Old Business.

Chairman Shelton thanked Diane Hardy for bringing the procedure for making this modification to her attention. Diane Hardy stated, under the Town's ordinance for the adoption of zoning changes, the Planning Board has to make a recommendation before it goes to the Town Council. If the Planning Board is now modifying that recommendation, there is a formal process involved.

Chairman Shelton stated the other three items she will include in her response to the items in question would be an assessed valuation spreadsheet, which she developed with the Tax Assessor, and two analyses, one on the Kent Place redevelopment and one on the Water Street redevelopment. Those show the tax impacts related to those two projects.

She encouraged the Planning Board members to attend the Council meeting on February 20 and would appreciate any comments or support from them as members or as private citizens.

She stated the other item on the Chairman's Report is there is an open seat for a one year term on the Planning Board. Whoever gets the most write-in votes will be asked to fill that term.

She stated there are still two Alternate member openings. She asked the Board to think about that for the March meeting and to try to find some people who might be interested in becoming an Alternate.

Committee Reports

Town Council

Ed Carmichael stated the rezoning was the biggest topic. The Town Council has a business meeting on February 6. There were many readings and second readings. The Water Department was looking for a new utility truck. The Council asked them to look around and try to come up with a secondhand truck with low mileage. If they were not able to find one, the Council would discuss it further. There is a need for one. There was discussion at the end of the meeting on the Economic Development Committee. He stated he attended their meeting last night and it was very impressive.

Planner's Report

Diane Hardy stated they are still looking for a Newmarket representative on the Strafford Regional Planning Commission to fill the term that was vacated by Rose-Anne Kwaks. She encouraged people to submit an application. Rick McMenimen stated the SRPC typically meets once a month, the third Friday of the month in the morning. Every quarter they would meet in a different town and have a guest speaker and then a meeting afterward to vote on the budget or recommendations.

Diane Hardy stated, at the Town Council workshop next week, there will be a presentation by Dubois King on the pedestrian bridge project. There has been a redesign of the project to reduce some of the costs and it is still over the original budget, but they are looking for additional funding from different sources.

New/Old Business

Elizabeth Dudley wanted to bring up a letter that Muriel Knight wrote to the Board. She stated one of the points made in the letter was the Planning Board had to be very careful about activity near the railroad, in terms of encouraging any more activity near there. Mrs. Knight was concerned about someone getting hurt. Chairman Shelton stated the letter would be kept on file relative to any applications that might come in for that area. The Board's consensus was that Mrs. Knight had spent a lot of time on her letter and they thanked her for her input.

Chairman Shelton thanked Elizabeth Dudley for the excerpt out of Rockland that she distributed to the Board. It was informative and enlightening. This was also forwarded to the Town Administrator.

Agenda Item #6 – Adjourn

Action

Motion: Eric Botterman made a motion to adjourn at 7:51 p.m.

Second: Rick McMenimen

Vote: All in favor