

Planning Board Minutes 04/12/11

NEWMARKET PLANNING BOARD MINUTES
APRIL 12, 2011
7:00 P.M.

Present: John Badger (Chairman), Eric Botterman (Town Council Representative), Elizabeth Dudley, Diane Hardy (Town Planner), Rick McMenimen, Justin Normand (Alternate), Janice Rosa, Val Shelton, George Willant

Absent: Adam Schroadter (Alternate), Peter Roy (Vice-Chairman)

Chairman Badger called the meeting to order at 7:04 p.m.

Pledge of Allegiance

Chairman Badger explained, during the deliberative session on April 5th, there was considerable discussion regarding Warrant Article 8, which concerns the bonding authority for the Black Bear Industrial Park. During the public comments, a gentleman stated if the voters were unhappy with the progress of the development within the Black Bear TIF Industrial Park, the Planning Board is to blame. This gentleman and others were not aware of the Black Bear Tax Increment Finance (TIF) Committee. This committee is the first line of offense when a developer proposes a project for the Industrial Park. If such a project is deemed viable, the Black Bear TIF Committee submits their findings and recommendations to the Town Council. After review, analysis, and discussion the Town Council and Black Bear TIF Committee may recommend that the developer file an application for the project with the Planning Board. This would be the first point the Planning Board would be involved with any project involving the Industrial Park. It is not the Planning Board's responsibility to seek out developers and qualified projects for Black Bear. That is the responsibility of the Black Bear TIF Committee and the Town Council. The Planning Board will only be involved when an application is presented from the developer and not before. So, if anyone is disappointed about the progress of the Black Bear Industrial Park, you need to speak with the Black Bear TIF Advisory Committee. The present Chairman is Mr. Mike Ricker, his phone number is 659-7831.

Public Comments

Review and Approval of Minutes: 03/08/2011

Action

Motion: Rick McMenimen made a motion to approve the minutes from the March 8, 2011 meeting, as amended.

Seconded: George Willant

Val Shelton noted on page 3, line 25, it should be clear the previous site plan did not include ice cream truck storage on site.

George Willant discussed editorial changes.

Town Planner Diane Hardy discussed an editorial change.

Vote: All in favor – Justin Normand

Justin Normand abstained from the vote because he had not participated in the meeting.

Regular Business

Applicant: Cheney Property Management Corp/MJS Engineering, PC

Location: 54-56 Exeter Road, Tax Map U4, Lots 12 & 13, B1 Zone

Application: Design Review

Proposal: The proposal is to redevelop two parcels by removing the existing commercial building and residential duplex and constructing a two-story mixed use building with parking area. The two lots would be incorporated into the Newmarket Business Park Condominium area. Continued from 03/08/11.

Chairman Badger noted the Board received a request to continue this application to the May 17th meeting. The applicant is still working with the Zoning Board of Adjustment.

Action

Motion: Eric Botterman made a motion to continue the Cheney Property Management Corp/MJS Engineering, PC application for design review located at 54-56 Exeter Road, Tax Map U4, Lots 12 & 13, B1 Zone to the May 17th Planning Board meeting.

Seconded: Janice Rosa

Vote: All in favor

Applicant: Solon Realty Co, LLC

Location: 438 Wadleigh Falls Road, Tax Map R6, Lot 50, B3 Zone

Application: Site Plan Review

Proposal: The proposal is to revise the existing site plan to allow the storage of containers & trailers in the limits of the gravel area and allow containers in the previously delineated container area. Also requested is to allow an old office trailer to be used as a warming hut for the workers who move the containers. They are also requesting the storage of fourteen ice cream trucks on site, which will be used from the site during the season and stored there off-season. This use would include a dumpster on the site. The owner would also like to include the storage of snow removing equipment to include a loader & bulldozer onsite year round. This site plan also includes additional screening from the roadway. Continued from 03/08/11.

Action

Motion: Eric Botterman made a motion to continue the Solon Realty Co., LLC application for Site Plan Review located at 438 Wadleigh Falls Road, Tax Map R6, Lot 50, B3 Zone to the May 17th Planning Board meeting.

Seconded: Janice Rosa

Vote: All in favor

Applicant: Gayle McConnell/Fraternal Order of Eagles

Location: 41 Exeter Road, Tax Map U3, Lot 40, M2 Zone

Application: Site Plan

Proposal: The proposal is to change the use of the building from office/retail sales to a private membership social club. The building will house the Fraternal Order of Eagles social room and meeting rooms and club offices.

Attorney Chris Burns, representing the Fraternal Order of Eagles, explained the last time they were before the Board there had been several parts of their application missing, primarily the signature from the current land owner providing authorization for the Fraternal Order of Eagles to present to the Board. This has since been provided to the Town Planner. There had also been discussions regarding whether the proposal would fall under a minor site plan or major site plan review. He referenced the Title III Land Use Codes and Regulations Chapter 6, which addresses the definition of a minor site plan review: "A change of use of a non-residential site which no change in floor area is proposed and which either maintains or decreases the intensity of use on the site with respect to parking demand and traffic generation." He

explained the site in discussion is the old funeral home on Main Street, which is already zoned for every activity this proposal would need. Based on the membership, the use of this building by the Eagles would produce far less use than the funeral home would. Although the building is empty currently, the zoning still allows for heavier commercial use. He noted, if the current owner had moved forward with the plans, that proposal also would have been a heavier commercial use. Traffic volume would decrease as most of the members are Newmarket residents, who will walk to the building. The Eagles' secretary met with Town Planner Diane Hardy to provide the appropriate paperwork for a minor site plan review. Since they were here last, they have sent letters to the Town Administrator, Fire Chief, Police Chief, and Water and Sewer Superintendent.

Town Planner Diane Hardy noted Gayle McConnell has signed the application and provided a letter authorizing the Eagles to move forward with their proposal before the Board. In addition, more information was received and she believed the proposal would fall under a minor site plan review. She noted, with this information, the abutters were noticed of the meeting and the meeting was advertised appropriately. The one question which remains is relative to the boundary plan. She referenced a photo copy of a plan drafted in 1955, with a surveyor stamp on it. She recommended, based on the fact there will be no changes to the site, the Board accept this waiver.

Val Shelton asked if the requirements for site plan acceptance have been met. Town Planner Diane Hardy explained it is based on the representations that have been made today, letters provided and the slight modifications to the site plan to show clarification.

Action

Motion: George Willant made a motion to accept for review the application of Gayle McConnell/Fraternal Order of Eagles for minor site plan located at 41 Exeter Road, Tax Map U3, Lot 40, M2 Zone. The proposal is to change the use of the building from office/retail sales to a private membership social club. The building will house the Fraternal Order of Eagles social room and meeting rooms and club offices.

Seconded: Rick McMenimen

Vote: All in favor

Chairman Badger opened the public hearing at 7:18 p.m.

Elizabeth Dudley referenced the change from office/retail sales to private membership social club suggesting the Board keep in mind the loss of revenue to the Town in taxes.

Walter Johnson, Secretary for the Eagles, explained the club is not a non-profit organization. They do provide sales on the property including liquor sales. The organization still pays all required taxes including real estate taxes.

Town Planner Diane Hardy noted there had been concerns during the last meeting relative to lighting, noise, parking, etc. She asked if the Board wanted to set up a technical review committee to review the site plan. Eric Botterman suggested this is a familiar property and did not feel a site walk would be helpful.

Chairman Badger noted at the last meeting there were neighbors who had commented about shrubs, hedges and flowers.

Karen McIntosh, of 47 Exeter Road, explained she owns the property directly across the street. She isn't as concerned about flowers, but would like to see the sea of pavement between road and parking lot broken up a bit.

Attorney Chris Burns explained after the last meeting he had an opportunity to meet with most of the abutters and address their concerns. He explained the Eagles would be happy to address any concerns there are. He has no problem adding or detracting lighting, adding flowers and shrubbery, etc.

Chairman Badger asked if Karen McIntosh would be willing to work with the applicant on the flowers and shrubbery. Karen McIntosh suggested she would be willing to work with the applicant; they have gotten along well so far.

Janice Rosa suggested the Fire Department may need to be involved on the curbing issue.

George Willant noted one of the abutters had spoken about lighting. He asked about noise control when there are bands in the building. Walter Johnson explained the abutter had been concerned about lighting, because there are tenants in the adjacent building. There is no additional lighting proposed on that side of the building. The light is on a motion detector so it will not be on all the time. Trash pickup is done as everyone else's. Trash will be maintained within the building until the night before trash pickup. There will be no large dumpster for trash. The site will receive deliveries. There is a spot in the back and in the front. The deliveries are usually made after the morning rush and in box trucks. There is not a lot of room for bands at this facility, but bands will be few.

Town Planner Diane Hardy noted there are two waivers for this application: one relates to the land survey and one relates to the surveyor's stamp.

Action

Motion: Val Shelton made a motion to waive Section 2.03(A)(4) and Section 2.03(A)(5) for the Gayle McConnell/Fraternal Order of Eagles application located at 41 Exeter Road, Tax Map U3, Lot 40, M2 Zone.

Seconded: George Willant

Vote: All in favor

Town Planner Diane Hardy recommended the following conditions:

The applicant works with the abutters to address concerns about landscaping and/or fencing and that a plan be submitted to the Planning Department prior to the signing of the plan and occupancy of the building by the Eagles.

Any new lighting, if proposed, be of a downward deflecting type consistent with the site review regulations

Storage of trash is within the building and there will be no dumpster on site.

Eric Botterman asked if there needs to be a condition on the lighting where no new lighting is proposed. If the applicant decides to add lighting, they would need to come back before the Board for approval. Town Planner Diane Hardy suggested there have been instances where new lighting was not proposed, was installed later making it difficult to enforce. She suggested this makes it clear that if any new lighting is added to the site, it would have to be with review and approval of the Planning Board.

Action

Motion: Eric Botterman made a motion to approve the minor site plan application for Gayle McConnell/Fraternal Order of Eagles located at 41 Exeter Road, Tax Map U3, Lot 40, M2 Zone with the following conditions:

Storage of trash is within the building and there will be no dumpster on site.

Any new lighting if proposed, be of a downward reflective type consistent with the site review regulations

The applicant works with the abutters to address concerns about landscaping and/or fencing Along the Exeter and New Road portion of the property and that a plan be submitted to the Planning Department prior to the signing of the plan and occupancy of the building by the Eagles.

Seconded: Janice Rosa

Vote: All in favor

Walter Johnson asked who they would speak to within Town in the event they want to put up a small fence, since it would likely be located on Town property. Town Planner Diane Hardy noted Public Works Director Rick Malasky would be the person to speak with.

Applicant: Kevin Burke

Location: 206 South Main Street, Tax Map U4, Lot 109, M3 Zone

Proposal: Request for waiver of Minor Site Plan & request for waiver of Impact Fees for the addition of a third dwelling unit

Kevin Burke explained the house has been in the family for over 80 years. The apartment that is being renovated was an apartment up until 1969. It stopped being an apartment due to deaths in the family. He and his wife moved in to the home to help his wife's elderly aunt. The aunt recently passed away. The footprint of the house will not change. The apartment will be updated to comply with life safety codes. This will be a 450 square foot studio apartment and will be rented to a relative. There is a buffer zone on both sides; the apartment cannot be seen from the street. Abutters have been notified and are in favor of the renovation. He has provided letters from long-term residents stating this has been an apartment. The home is a duplex now and will be a three unit home. There are no school age children in the home. He is asking for a waiver from minor site plan review and a waiver from the impact fees. There will be no further impact on the municipal services because water and sewer already service the site. There will be no additional school age children.

Town Planner Diane Hardy referenced the memo she wrote to the Board discussing the accessory apartment criteria stating if it meets the required criteria, it does not have to come before the Planning Board. This application is an accessory apartment within a duplex. Given the size of the unit, and the nature of what is being proposed it is not of the same magnitude or have the impacts a tri-plex would have. Providing the fact the Planning Board does not typically review accessory apartments, and providing the limited impact on services and abutters, she felt granting the waiver for site plan review and impact fees would be reasonable. The site does allow space for six vehicles which meets the Town's parking requirements. There is a requirement prohibiting parking in the front yard. She noted, as she drove by this evening, there was a vehicle in the front yard. She felt it was appropriate to waive the impact fees. Mr. Burke has agreed to provide a letter from a real estate agent stating the unit would be marketable and there would be no negative impacts to abutters or the Town. He stated his garage was currently filled with construction materials and when the project was completed the car would be moved to the garage.

Kevin Burke noted he spoke with Oyster River Realty who expressed their concern with drafting a letter because of apprehension the Town would question their expertise.

Chairman Badger opened the floor for public comments at 7:42 p.m.

No comments.

Chairman Badger closed the floor for public comments at 7:42 p.m.

Janice Rosa noted it is nice to see there are still homes in Newmarket that are passed on from generation to generation.

Eric Botterman asked about parking lot runoff. Kevin Burke explained runoff would go into the graveyard or the garden in the back.

Action

Motion: Eric Botterman made a motion to accept the applications for requests for waiver of Minor Site Plan and Impact Fees for the addition of a third dwelling unit by Kevin Burke for property located at 206 South Main Street, Tax Map U4, Lot 109, M3 Zone.

Seconded: Rick McMenimen

Vote: All in favor

Action

Motion: Eric Botterman made a motion to approve the application for waiver of Minor Site Plan and Impact Fees for the addition of a third dwelling unit by Kevin Burke for property located at 206 South Main Street, Tax Map U4, Lot 109, M3 Zone.

Seconded: Rick McMenimen

Vote: All in favor

Old Business/New Business

Town Planner Diane Hardy noted there is a draft report of the Economic Development Plan, which was distributed last Friday to the Economic Development subcommittee. The Committee will be meeting to review the report and make modifications and revisions. There are specific recommendations pertaining to the Black Bear TIF District. The Chairman would like to wait until after the May 10th vote to see how the results of the warrant article regarding the Black Bear TIF bond issue rescission so it can be addressed in the draft document, if necessary.

Eric Botterman understood the Black Bear TIF warrant article stating, if this article is to pass, it would eliminate the bonding authority, but would not eliminate the Black Bear TIF district or the ability to develop it in the future. Chairman Badger stated if the bonding is rescinded, the Black Bear TIF District and the Black Bear TIF Committee would continue.

Town Planner Diane Hardy explained there is a draft of storm water requirements as part of the site plan review regulations. She hoped the subcommittee would package the information during the month of May for presentation to the Planning Board in the months of June and July.

Chairman Badger noted this would be Rick McMenimen and George Willant's last meeting. He thanked them for their participation and dedication to the Board over the years.

Chairman Badger noted Justin Normand is running as a "write in" candidate for the available one year term.

Adjournment

Action

Motion: Janice Rosa made a motion to adjourn at 7:53 p.m.

Seconded: Rick McMenimen

Vote: All in favor