

City of Rochester Planning Board
Monday July 25, 2022
City Hall Council Chambers
31 Wakefield Street, Rochester, NH 03867
(These minutes were approved on August 8, 2022)

Members Present

Mark Collopy, *Chair*
A. Terese Dwyer
Keith Fitts
Paul Giuliano
Don Hamann
Dave Walker

Members Absent

Peter Bruckner, *excused*
Mark Sullivan, *excused*
Robert May, *excused*

Alternate Members Present

Ashley Desrochers
James Hayden
Matthew Richardson
Michael McQuade

Staff: Shanna B. Saunders, *Director of Planning & Development*
Ashley Greene, *Administrative Assistant II*

(These are the legal minutes of the meeting and are in the format of an overview of the meeting. A recording of the meeting will be on file in the City Clerk's office for reference purposes. It may be copied for a fee.)

I. Call to Order

Mark Collopy called the meeting to order at 6:30 p.m.

II. Roll Call

The recording secretary, Ashley Greene, conducted roll call.

III. Seating of Alternates

Mr. Collopy asked Michael McQuade to vote for Bob May and Matthew Richardson to vote for Peter Bruckner.

IV. Approval of Minutes for July 11, 2022

Dave Walker made a motion to approve the minutes from July 11, 2022. Don Hamann seconded the motion. The motion carried by a unanimous voice vote.

V. Communications from the Chair

There were no communications from the Chair.

VI. Opening Discussion/Comments (up to 30 minutes)

A. Public comment

There was no public comment.

B. Discussion of general planning issues

Terry Dwyer asked for an update on Fillmore Blvd and how the site is currently looking. Ms. Saunders explained the Planning Department went to the site a week ago to check on the fill piles that are being moved. Ms. Saunders reminded the Board that the fill piles need to be moved and 100 feet from any homes before COs will be issued. There is still an issue with the distance of the fill piles to two homes at the very end of the project. They are currently finishing any stick-built homes with the intent to apply for the second phase of the project. Ms. Saunders also discussed the water tank and the current construction status.

VII. New Applications

A. [Ashley Hannon, Tree Frog Learning Center, LLC, 393 Gonic Road](#) Site Plan for a day care center. Case# 262 – 74 – HC – 22 **Public Hearing ACCEPTANCE/FINAL ACTION***

Ashley Hannon, owner of Tree Frog Learning Center, presented the proposal for a daycare center located at 393 Gonic Road. Ms. Hannon explained there would be 60 kids in the daycare center, and they are planning to open in mid-August. Ms. Hannon said they have one location in Maine and this location would be their second.

Mr. Collopy opened the public hearing. Seeing none, he brought it back to staff.

Ms. Saunders explained that this daycare center is an existing structure that is located in front of the Pickleball facility that was proposed and approved at the last Planning Board Meeting. Ms. Saunders explained that staff recommends the application be accepted as complete.

Mr. Walker made a motion to accept the application as complete. Mr. Hamann seconded the motion. The motion carried by a unanimous voice vote.

Ms. Saunders discussed the conditions recommended by staff. Ms. Saunders discussed the parking spots in the front of the building be marked for pick up and drop off only and the outdoor play area be fenced off. If there is no food prepared on site. The applicant will need to obtain a Rochester Food License and follow the 2017 food code. The Fire Department needs to schedule a Life Safety inspection.

Ms. Hannon explained there is a fire box that was placed and linked to the Fire Department.

Mr. Walker asked if the building was sprinkled. Ms. Hannon explained that per the Fire Department the building does not need to be sprinkled because there are six egresses, and each classroom has an exit. Mr. Walker asked if there is a dumpster on site. Ms. Hannon explained there is a dumpster in the rear of the building and it is screened.

Ms. Dwyer asked about snow removal. Ms. Hannon explained that there appears to be plenty of room in the parking lot and along the parking lot to move the snow. Ms. Saunders asked if she was renting the property, Ms. Hannon said yes she is renting. Ms. Saunders said that the owner of the Pickleball facility that was recently proposed is the owner of this property and will be responsible for snow removal.

Mr. Giuliano asked what a Day Care III is. Ms. Saunders explained that it is not an in home daycare and that it is a day care that is in a separate location that is run by staff. Ms. Hannon explained that this type of daycare is licensed differently and the staff needs to be licensed and obtain CPR and background checks.

Mr. Walker made a motion to approve the application with the conditions discussed. Mr. Hamann seconded the motion. The motion carried by a unanimous voice vote.

B. [Donna Johnson, Storybook Hollow ELP, 16 Whitehall Road](#) Site Plan for a day care center, a self-directed learning center for middle and high school students, and a teen parent program. Case# 126 – 15 – HS – 22 **Public Hearing ACCEPTANCE/FINAL ACTION***

Ms. Saunders presented on behalf of Donna Johnson as she was not present. Ms. Saunders explained that not only is this going to be a daycare it is going to be a timbernook daycare program. There will also be collaborative learning space for middle and high school home school families as well as a teen parent program, which will allow the teen parents to put the child into daycare and receive learning themselves to get their education. Ms. Saunders said staff recommends that the application be accepted as complete.

Mr. Walker made a motion to accept the application as complete. Mr. Hamann seconded the motion. The motion carried by a unanimous voice vote.

Ms. Saunders explained the requirement to have driveway signs to mark and entrance and exit and fencing around the play area outside. Ms. Saunders explained that there is a food license requirement if they choose to prepare food on site.

Mr. Collopy opened the public hearing. Seeing none, he brought it back to the board.

Mr. Collopy asked about Fire Department comments and the type of fire system in the property. Ms. Saunders explained that there were not comments noted but would put a standard condition of approval for any comments from Fire. Mr. Collopy asked if they had sufficient parking for the proposed project. Ms. Saunders explained that the parking is based on square footage and the facility did meet the parking requirements. Ms. Saunders said that a condition can be put in place if parking becomes an issue the applicant must come back to the board.

Ashley Desrochers asked if there were any conditions or assessments that are completed for daycares around lead paint. Ms. Saunders explained there are none that she is aware of. Ms. Dwyer said she thinks the state would want an assessment done on lead paint. Ms. Desrochers explained that the state does not require any assessment and the state only gets involved if a child has been poisoned.

Ms. Dwyer discussed her confusion with the plans and that there is not identification for what each room will be used for. Ms. Dwyer said it does not give an idea of what this daycare and learning center will be like. Ms. Dwyer explained that she would prefer that the applicant be here to answer any questions.

Mr. Giuliano discussed his concerns with daycare and learning in the same facility. Mr. Giuliano said that he does not feel he has enough information present to make a decision.

Ms. Dwyer asked for a written statement from the fire department regarding the safety of this property.

Ms. Desrochers explained her reasoning for the lead concerns.

Mr. Fitts discussed his concern with addressing the lead concerns and not bringing it up with the last application. Ms. Saunders explained that the last application was a new structure. Mr. Fitts said that he feels if it is not in our ordinance than we shouldn't be addressing it. Ms. Saunders said that we can only adopt what the state tells us that we can adopt.

Mr. Walker made a motion to continue the application to August 8, 2022. Mr. Dwyer seconded the motion. The motion carried by a unanimous voice vote.

VIII. Proposed Zoning Ordinance Change – Solar Panels

Ms. Saunders discussed the draft proposed Ordinance for Solar Panels. Ms. Saunders went over the definitions of the ordinance including the different categories of solar panel installs which would determine the level of review it would receive. Ms. Saunders explained residential solar which

would be roof or ground mounted that is 20kw or less which is equivalent to 1 of the trackers that we are familiar with at the Staples building. Commercial and Industrial accessory use would be 80kw which would be equivalent to 4 trackers or less, this would be approved administratively and require a building permit. Community solar is free standing ground mounted solar that is up to 100kw and less than one acre of land coverage, which would be equivalent to 5 or more trackers. Community solar would require planning board approval. Commercial solar, with the anticipation that some energy will be sold back to the grid, will be equivalent to approximately 50 trackers or 1 megawatt. Utility solar is identified as a utility company such as Eversource who's primary business is making money on the solar energy. Ms. Saunders explained they are proposing that solar panels be allowed in just about every zone and as long as it is a residential accessory use, it is permitted and only requires a building and electrical permit from Building & Licensing. Accessory solar to commercial or industrial and community solar is required to go before the Zoning Board of Adjustment for a Special Exception. Downtown Commercial, Hospital Special, and Airport Overlay District requires a conditional use permit.

Mr. Walker discussed his concern with the trackers being allowed in the Residential 1 and 2 zones. Ms. Saunders explained that currently they are already allowed and the Planning Board has no jurisdiction, and the applicant simply needs a building and electrical permit and to meet the setbacks.

Mr. Giuliano asked about screening for the solar panels. Ms. Saunders explained there is no requirement for screening as it is no different than a playground structure or a gazebo in someone's back yard. Ms. Saunders discussed if there were 4 or more trackers screening would likely be required around the accessory structures such as an electrical box or other infrastructure.

Ms. Dwyer said that since this is a draft ordinance there is no reason why we can't be more restrictive in the residential zones.

Mr. McQuade mentioned that on the draft ordinance there is purpose and authority that is to be determined. Mr. McQuade asked if the purpose of this purely cosmetic or is it safety issues? Mr. McQuade asked if there is enough evidence or knowledge to determine if it would devalue properties. Ms. Saunders said she will ask Assessing about solar trackers devaluing properties.

Ms. Dwyer asked what responsibility the homeowner has for the safety of the solar panel. Mr. Hayden explained that if the solar panels are similar to the ones at Staples it would be difficult for someone to climb up to vandalize.

Mr. Fitts asked what the process would be if solar panels were restricted in the residential zones. Ms. Saunders explained that if it was restricted and a property owner still wanted to install, they would have to do a variance and explain why their property is special and why they get to have the solar panel tracker but no one else could. Mr. Fitts asked if there was a way to allow the Planning Board to have a discussion about a tracker being installed. Ms. Saunders said that the ordinance could state a certain amount of land be required to install a tracker.

Mr. Walker discussed his concern about trackers being installed on smaller lots and buildings and trees casting shadows. Mr. Hayden explained that when he had his solar panels installed the company comes out and check the site for any shadows or obstruction from the sun. Mr. Hayden said that just because a ground mounted system is permitted does not mean that it will be beneficial for their property.

Mr. Collopy asked what the source of the language in the ordinance is from. Ms. Saunders explained that staff did research from other ordinances that have been written throughout the state, nationwide ordinances, and nonprofit solar organizations that provide input and some of their recommendations.

Ms. Desrochers explained that she would not support the ordinance as she does not feel that the Planning Board should be legislating solar.

Mr. Hamann asked the difference in cost between roof top and ground mounted. Mr. Hamann said he believes the ground mounted can be cheaper than the roof top solar. Mr. Hamann explained that it is the property owner's business if they want to have a ground mounted solar panel.

Mr. McQuade explained that if it will impact the community, or is a safety hazard, or decrease property values than the board should determine what is allowed. Mr. McQuade discussed not legislating what may or may not look good.

Ms. Saunders explained that currently under the ordinance if you are a power generation utility you are required to come before the Planning Board. And if you are a SFH owner who wants to install accessory solar it is just a building permit. But it is quite undetermined if you are merely a Rochester Resident who wants to install 50 solar trackers on a piece of land, or a small business that wants to install 6 solar trackers on its property. Ms. Saunders said that now the City is looking to determine how to define and permit these different categories of solar going forward.

Mr. Walker discussed the regulations on setbacks and where sheds, chicken coops, etc. are placed in a yard.

Ms. Dwyer discussed the setbacks that are already in place and having a certain amount of land in order to put the solar mounts in their yard. Ms. Dwyer expressed her concerns with the solar trackers being an eye sore.

Ms. Desrochers asked for clarification on what solar panels are being regulated. Ms. Saunders explained that it is currently just a building permit to install the trackers if it is for a single-family home and city staff checks the setbacks. Ms. Saunders also discussed that not all trackers turn and there are other solar mounts that go on the ground.

Ms. Saunders went over what else would be regulated by the ordinance, such as the height, setbacks, lot coverage, visibility approval process, screening, glare, and noise. Mr. Giuliano asked for more of a match up between the permitted uses and the conditional uses regarding the requirements. They should be more symmetric of each other.

Mr. Richardson expressed that there should be no change for roof mounts and have some regulation for ground mounts and trackers. Ms. Saunders explained that currently there is just building permits for solar for any size.

Ms. Saunders discussed what brought on the need for the ordinance and the reason why there needs to be regulations on solar being an accessory use versus a primary use.

IX. Review of inspections and surety for May and June 2022

Ms. Saunders went over the inspections for May and June 2022.

Ms. Saunders discussed the surety and the expired or soon to be expired bonds. Ms. Saunders explained Lydall's process to release their bond, but due to the amount of permits they have pulled it is difficult to make sure everything is closed out. Ms. Saunders explained that Pella Windows is completed and have received a certificate of occupancy, they just haven't requested their surety back. Ms. Saunders explained that staff is actively working with Village at Clark Brook for their as-builts. Ms. Saunders discussed Waste Management surety and the new employee that staff is working with to get caught up with all active permits.

Mr. Walker discussed the surety's that will be expiring soon and requested letters be sent.

X. Other Business

A. Planning Update

Ms. Saunders discussed that second interviews for the Planner I position will be conducted the first week in August.

B. Other

Mr. Richardson asked for an update on the Mobile Home Parks discussion. Ms. Saunders said a presentation will be brought to the board at the August Workshop meeting.

XI. Adjournment

Mr. Walker made a motion to adjourn the meeting at 7:32 p.m. Mr. Hamann seconded the motion. The motion carried by a unanimous voice vote.

Respectfully submitted,

Ashley Greene,
Administrative Assistant II

and

Shanna B. Saunders,
Director of Planning & Development